

## 2005 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB254)

Received: **04/15/2005**

Received By: **rkite**

Wanted: **04/21/2005**

Identical to LRB:

For: **Donald Friske (608) 266-7694**

By/Representing: **Tim**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - parks and forestry**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Friske@legis.state.wi.us**

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Changes regarding right to forest, cooperating foresters, inventory, and forestry emergencies

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#### Instructions:

See Attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 04/22/2005	lkunkel 04/22/2005		_____			
/1			pgreensl 04/22/2005	_____	Inorthro 04/22/2005	Inorthro 04/22/2005	
/2	rnelson2 04/25/2005	lkunkel 04/25/2005	jfrantze 04/25/2005	_____	Inorthro 04/25/2005	Inorthro 04/25/2005	
/3	rnelson2	lkunkel	pgreensl	_____	Inorthro	Inorthro	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
04/25/2005	04/25/2005	04/25/2005	04/25/2005 _____		04/25/2005	04/25/2005	

FE Sent For:

<END>

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1/3/mk 4/25  
 4/26 p 8

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/1			pgreensl 04/22/2005	_____	lnorthro 04/22/2005	lnorthro 04/22/2005	

12/mk 4/25  
20/4/25  
2/25  
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/?	rkite	1/mk 4/22/05	ps	4/22/05			
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ps

<END>

FE Sent For:

Tim in Friske's office  
Sub. to AB 254

exec on 4/26  
wants draft by next  
Thurs. -

take out provisions from AB 59 -  
"at to forest"

need to change language re: cooperating  
forester -  
doesn't want to use term "agent" - change "to  
contract w/" -  
committee website

3/29 - testimony  
see Paul De Long's testimony

issue report biennially - i.e. once every 2  
years instead of annually

can talk to Paul De Long or Tim Mulhern -  
wants to make clear that chief forester  
should step in in an emergency if  
DATCP does not -  
doesn't want to take responsibility away  
from DATCP

Tim will call back w/ more instructions

## Kite, Robin

---

**From:** Gary, Tim  
**Sent:** Wednesday, April 20, 2005 11:52 AM  
**To:** Kite, Robin  
**Subject:** Substitute Amendment Instruction Set #3

**Importance:** High

### Substitute Amendment Instruction Set #1

#### Emergency Authority

- Provide CSF equal power to declare an emergency to that possessed by DATCP
  - To be determined by LRB
- Maintain DATCP responsibility to implement containment practices
  - To be determined by LRB

#### Cooperating Foresters

- Remove designation as “agents”

#### Annual Allowable Harvest

- +/- 10% Report: Change from annually to biennially

#### Right to Forest

- Remove Entirely
- 

### Substitute Amendment Instruction Set #2

#### Continuous Inventory

- Clarify what is to be included in such an inventory
    - Pg 4 Lines 1&2: (2) The department shall undertake and maintain a current inventory **of the condition** of state forest **lands land forest resources**.
  - Recommends clarifying that “no active management” as used in the bill refers to a prohibition on timber harvesting and not necessarily other management activities (such as prescribed fire, invasive removal, etc.)
    - Pg 4 Lines 3 - 6: (3) If the department prohibits the use of **active management techniques timber harvesting** on any state forest land, the department shall prepare a report that contains a projection of the long-term forest health effects and a projection of the economic effects that result from the prohibition.
  - Should be clarified to relate only to state-owned forest land under DNR management
    - Pg 3 Lines 16 - 18: 23.135 Forest land inventory and report. (1) In this section, “state forest land” means any parcel of 10 or more contiguous acres of forested land owned **or and** managed by the department.
- 

### Substitute Amendment Instruction Set #3

#### Continuous Inventory

- ✓ ○ Insert public benefit language into reports
  - Pg 4 Lines 3 - 6: (3) If the department prohibits the use of **timber harvesting** on any state forest land, the department shall prepare a report that contains a projection of the long-term forest health effects and a projection of the economic effects **and a projection of the public benefits** that result from the prohibition.

#### Annual Allowable Harvests



○ Change property descriptions

▪ Page 4, Lines 13 - 24:

- 28.025 Allowable timber harvests. **(1) In this section, "forested properties" means lands owned and managed by the department that could generate timber sale receipts to be deposited in specific accounts within the Conservation Account including: (a) The Endangered Resources Account; (b) The Fish and Wildlife Account (c) The Forestry Account; and (d) The Parks Account;** **(2)** The department shall establish annual allowable timber harvests for **all forested properties in excess of 5,000 forested** acres of land owned **and** managed by the department. **The department shall establish allowable timber harvests for all other forested properties within each department region by segregated account source. Biennially,** by January 1, the department shall submit a report to the council on forestry specifying the total timber harvest on each of those **forested properties** for the previous **two years**. If the timber harvest for any of these **forested properties** in any **two years** is less than 90 percent, or more than 110 percent, of the allowable timber harvest established **for any of those forested properties,** the council on forestry shall prepare a report containing recommendations on methods of ensuring that the allowable timber harvest for that **forested property** is consistent with the allowable timber harvest established by the department. The council on forestry shall submit the report to the governor and to the appropriate standing committees of the legislature under s. 13.172 (3).

5,000 or more - these are state forests  
call Paul DeFong or Tim Mulhern -  
needs by Friday a.m. -  
or at latest by 11:00 a.m. on Monday -  
264-9224  
6-26-94

## Kite, Robin

---

**From:** Gary, Tim  
**Sent:** Thursday, April 21, 2005 12:07 PM  
**To:** Kite, Robin  
**Subject:** RE:

A reconscience ... or an inventory. Feel free to talk to Bob Mather or Tim Mulhern or Paul DeLong on that for the subtle nuance.... Bob: 7-1727 Tim: 6-2679 Paul 4-9224

---

**From:** Kite, Robin  
**Sent:** Thursday, April 21, 2005 12:05 PM  
**To:** Gary, Tim  
**Subject:** RE:

Tim:

What does "recon" mean?

Robin

-----Original Message-----

**From:** Gary, Tim  
**Sent:** Thursday, April 21, 2005 11:47 AM  
**To:** Kite, Robin  
**Subject:**

+/- 10% AAC

Recon Lands - Jan '07

Non-Recon Lands - Jan '09

Health Effects

Existing Properties - Jan 2010

New Properties - Upon approval of the property Master Plan

## Kite, Robin

---

**From:** Gary, Tim  
**Sent:** Thursday, April 21, 2005 11:57 AM  
**To:** Kite, Robin  
**Subject:** Emergency Declarations

Robin,

"shall not supersede" is acceptable for the chief state forester if we can place a mirror language in for DATCP.

Friske wants either chief state forester or DATCP with the authority to either independently or cooperatively declare an emergency.

He also wants to maintain the existing requirement for DATCP to lead and forestry to assist when an emergency is declared ... regardless of who declares the emergency.

Help? I hope so.

If not, please call.

Tim

2005

Date (time) needed

D-Note

Now

LRBs 0089 / 1

RNK: Imk: sld

SUBSTITUTE AMENDMENT [TO A BILL]

Use the appropriate components and routines developed for substitute amendments.

S (A) SUBSTITUTE AMENDMENT

TO 2005 SB (AB) 254 (LRB- / )

Repeal

AN ACT... [generate catalog] to repeal...; to renumber...; to consolidate and renumber...; to renumber and amend...; to consolidate, renumber and amend...; to amend...; to repeal and recreate...; and to create... of the statutes; relating to:

.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

Ink

# 2005 ASSEMBLY BILL 254

March 18, 2005 - Introduced by Representatives FRISKE, GARD, AINSWORTH, MEYER, MURSAU, M. WILLIAMS, GRONEMUS, KAUFERT, GUNDERSON, WIECKERT, BIES, FREESE, GUNDRUM, HAHN, KESTELL, KRAWCZYK, MCCORMICK, MONTGOMERY, MUSSER, OTT, OWENS, PETROWSKI, SUDER, TOWNSEND, UNDERHEIM, VAN ROY and SCHNEIDER, cosponsored by Senators KANAVAS, BRESKE and ZIEN. Referred to Committee on Forestry.

1 **AN ACT** *reagen* **to renumber and amend** 60.61 (2) (a); **to amend** 28.04 (2) (a), 28.04 (2)  
 2 (b), 28.04 (2) (c), 28.04 (3) (a), 28.04 (3) (b), 59.69 (4) (a) and 62.23 (7) (b); and  
 3 **to create** 23.114, 23.135, 28.025, 28.04 (1) (br), 28.05 (3), 94.025 and 823.075  
 4 of the statutes; **relating to:** managing state forest lands, harvesting of timber  
 5 from state forest lands, emergencies *cies* on state forest lands, actions against  
 6 forestry operations, providing an exemption from emergency rule procedures,  
 7 and requiring the exercise of rule-making authority. ✓

*certain forested properties*

*reagen*

### ***Analysis by the Legislative Reference Bureau***

This bill makes various changes to the laws relating to the management of state forest lands. Under current law, the administrator of the Division of Forestry in the Department of Natural Resources (DNR) is designated as the chief state forester. This bill provides that the chief state forester has the authority and responsibility to manage emergencies, as specified by DNR, that threaten state forest lands, other than emergencies declared by the governor as a state of emergency. The bill also specifies that the chief state forester must report directly to the secretary of DNR.

Under current law, state forest lands are generally managed by DNR. This bill specifies requires that the Division of Forestry within DNR manage state forest lands.

This bill also requires DNR to establish allowable timber harvests for every parcel of 10 or more contiguous acres of forested land owned or managed by DNR or

**ASSEMBLY BILL 254**

managed by a person under the direction of DNR. Under the bill, if the timber harvest for any of these lands falls below 90 percent or exceeds 110 percent of the established allowable timber harvest, the Council on Forestry must prepare a report containing recommendations on methods of ensuring that the timber harvest for that state forest land is consistent with the annual allowable timber harvest established by DNR.

The bill also requires DNR to maintain an inventory of every parcel of 10 or more contiguous acres of forested land that DNR owns or manages. The bill specifies that, if DNR prohibits the use of active management techniques on any of these lands, DNR must prepare a report every 15 years containing projections of the long-term forest health effects and the economic effects that result from that prohibition.

Under current law, if a business, property, or action of a person creates a public nuisance, the party damaged by that nuisance can bring an action for the damages caused by the nuisance or to abate the nuisance. A county or municipality may bring an action to abate a public nuisance. A "nuisance" is generally defined as an activity that annoys or disturbs a person in possession of his or her property and makes the use or occupation of that property physically uncomfortable. Currently, nuisances are defined to include dilapidated buildings, drug houses, and criminal gang houses.

This bill provides that a forestry operation may not be declared a nuisance if the forestry operation conforms to generally accepted forestry management practices. Under the bill, forestry operations include removal of vegetation or dead trees, noise from forestry equipment, and use of chemicals that are normally used in forestry operations. In addition, the bill provides that a forestry operation that conforms to generally accepted forestry management practices is not a nuisance regardless of any of the following:

1. Change in ownership or size of a forest.
2. Interruption of forestry operations.
3. Enrollment of part or all of the forest in governmental forestry programs.
4. Adoption of new forestry technology.

The bill also allows a person who is alleged to have committed the nuisance to receive his or her costs, including attorney fees, if he or she prevails in the action alleging a nuisance.

Under current law, cities, villages, towns that are authorized to exercise village powers, certain other towns, and counties (political subdivisions) are authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population, the location and use of buildings, structures, and land for various purposes, and the areas within which activities such as agriculture, forestry, and mining may be conducted.

Under this bill, no political subdivision may enact a zoning ordinance that prohibits forestry operations that are in accordance with generally accepted forestry management practices.

This bill also requires DNR to establish a program that allows private cooperating foresters to assist the state in the harvesting and sale of timber from

**ASSEMBLY BILL 254**

state forest lands. The bill requires DNR to appoint cooperating foresters as agents of DNR for the purpose of harvesting and selling timber from state forest lands and to allow those foresters to receive a portion of the proceeds from each timber sale.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 SECTION 1. 23.114 of the statutes is created to read:

2 **23.114 Duties of the chief state forester. (1)** (a) In this section, "state forest  
3 land" means all forested lands owned or managed by the department or managed by  
4 a person under the direction of the department.

5 (b) Except as provided in par. (c), the chief state forester shall manage,  
6 emergencies that threaten state forest lands. The department shall promulgate  
7 rules specifying those emergencies over which the chief state forester shall have  
8 management responsibility. The emergencies specified in the rules shall include  
9 invasive species or pest infestation, disease, and damage to timber from fire, snow,  
10 hail, ice, or wind.

11 (c) Paragraph (b) does not apply to a state of emergency declared by the  
12 governor under s. 166.03.

13 (2) The chief state forester shall report directly to the secretary of the  
14 department.

15 SECTION 2. 23.135 of the statutes is created to read:

16 **23.135 Forest land inventory and report. (1)** In this section, "state forest  
17 land" means any parcel of 10 or more contiguous acres of forested land owned  
18 managed by the department or managed by a person under the direction of the  
19 department.

*Handwritten notes:*  
- "this state and under the jurisdiction of" with a checkmark above it, pointing to the definition of state forest land.  
- "may declare, and" with a checkmark above it, pointing to the phrase "shall manage" in paragraph (b).  
- "does not" with a checkmark above it, pointing to the phrase "does not apply" in paragraph (c).  
- "and supersede the authority of the department of agriculture, trade and consumer protection under ch. 940" with a checkmark above it, pointing to the phrase "does not apply" in paragraph (c).  
- "by this state and under the jurisdiction of the" with a checkmark above it, pointing to the phrase "managed by a person under the direction of the department" in the definition of state forest land in section 2.

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SECTION 2

1 (2) The department shall undertake and maintain a current inventory of state  
2 forest lands. *The inventory shall specify the condition of the state forest  
lands and their forest resources.*

3 (3) If the department prohibits the use of *active management techniques* on  
4 any state forest land, the department shall prepare a report that contains a  
5 projection of the long-term forest health effects *and a projection of the economic*  
6 effects *and a projection of the public benefits* that result from that prohibition.

7 (4) ~~The department shall prepare each report required under sub. (3) *once*~~  
8 ~~every 15 years.~~ *not later than January 1, 2010 and*

9 (5) The department shall submit the report required under sub. (3) to the  
10 council on forestry and to the appropriate standing committee in each house of the  
11 legislature under s. 13.172 (3).

12 SECTION 3. 28.025 of the statutes is created to read:

13 **28.025 Annual allowable timber harvests.** ~~The department shall establish  
14 annual allowable timber harvests for every parcel of 10 or more contiguous acres of  
15 forested land owned or managed by the department or managed by a person under  
16 the direction of the department. *(3) By 2007* Annually by January 1, the department shall  
17 submit a report to the council on forestry specifying the total timber harvest on each  
18 of those parcels for the previous ~~year~~ *biennium*. If the timber harvest for any of these parcels~~

19 ~~in any year~~ *biennium* is less than 90 percent, or more than 110 percent, of the allowable timber  
20 harvest established ~~parcel~~ *under sub. (2)*, the council on forestry shall prepare a report containing  
21 recommendations on methods of ensuring that the timber harvest ~~for that parcel~~ is  
22 consistent with the annual allowable timber harvest established by the department. *under sub. (2)*

23 The council on forestry shall submit the report to the governor and to the appropriate  
24 standing committees of the legislature under s. 13.172 (3).

25 SECTION 4. 28.04 (1) ~~(br)~~ of the statutes is created to read:

insert 4-8

insert 4-19



**ASSEMBLY BILL 254**

1           28.04 (1) (br) "Division" means the division of forestry in the department.

2           **SECTION 5.** 28.04 (2) (a) of the statutes is amended to read:

3           28.04 (2) (a) The department division shall manage the state forests forest to  
4 benefit the present and future generations of residents of this state, recognizing that  
5 the state forests forest lands contribute to local and statewide economies and to a  
6 healthy natural environment. The department division shall assure the practice of  
7 sustainable forestry and use it to assure that state forests forest lands can provide  
8 a full range of benefits for present and future generations. The department division  
9 shall also assure that the management of state forests is consistent with the  
10 ecological capability of the state forest land and with the long-term maintenance of  
11 sustainable forest communities and ecosystems. These benefits include soil  
12 protection, public hunting, protection of water quality, production of recurring forest  
13 products, outdoor recreation, native biological diversity, aquatic and terrestrial  
14 wildlife, and aesthetics. The range of benefits provided by the department division  
15 in each state forest shall reflect its unique character and position in the regional  
16 landscape.

17           **SECTION 6.** 28.04 (2) (b) of the statutes is amended to read:

18           28.04 (2) (b) In managing the state forests, the department division shall  
19 recognize that not all benefits under par. (a) can or should be provided in every area  
20 of a state forest.

21           **SECTION 7.** 28.04 (2) (c) of the statutes is amended to read:

22           28.04 (2) (c) In managing the state forests, the department division shall  
23 recognize that management may consist of both active and passive techniques.

24           **SECTION 8.** 28.04 (3) (a) of the statutes is amended to read:

## ASSEMBLY BILL 254

## SECTION 8

1           28.04 (3) (a) The department division shall prepare a plan for each state forest  
2 that describes how the state forest will be managed. The department division shall  
3 work with the public to identify property goals and objectives that are consistent with  
4 the purposes under sub. (2). The department division shall identify in each plan the  
5 objectives of management for distinct areas of the state forest.

6           **SECTION 9.** 28.04 (3) (b) of the statutes is amended to read:

7           28.04 (3) (b) The department division shall establish procedures for the  
8 preparation and modification of these plans, including procedures for public  
9 participation. In preparing and modifying plans under this subsection, the  
10 department division shall use the best available information regarding the purposes  
11 and benefits of the state forests that the department division acquires through  
12 inventories, evaluations, monitoring and research. In evaluating such information,  
13 the department division shall consider both regional and local scales, including the  
14 impact on local economies. As new information becomes available, the department  
15 division shall adapt its management of the state forest and, if necessary, the plan for  
16 the state forest.

17           **SECTION 10.** 28.05 (3) of the statutes is created to read:

18           28.05 (3) COOPERATING FORESTERS. (a) The department shall, by rule, establish  
19 a program that allows private cooperating foresters to assist the state in the  
20 harvesting and sale of timber from state forest lands to meet the annual <sup>allowable</sup> timber  
21 harvest ~~goals~~ established under s. 28.025. The rule shall include provisions  
22 authorizing the department to ~~appoint~~ <sup>contract with</sup> cooperating foresters ~~as agents of the~~  
23 ~~department~~ for the purpose of harvesting and selling timber from state forest lands  
24 and authorizing cooperating foresters to receive a portion of the proceeds from each  
25 timber sale. The department shall establish in the rule a method for determining

**ASSEMBLY BILL 254**

1 what portion of the proceeds received from each timber sale shall be paid to the  
2 private cooperating foresters for their services in assisting the division in the  
3 harvesting and sale of timber from state forest lands. The division shall ask the  
4 council on forestry to recommend a method for determining what portion of the  
5 proceeds received from each timber sale shall be paid to private cooperating foresters  
6 under the rule.

7 (b) Each private cooperating forester *appointed as an agent* under par. (a) to  
8 harvest and sell timber from state forest lands shall be entitled to receive a portion  
9 of the proceeds from the sale of such timber in the amount determined by the  
10 department under par. (a).

11 **SECTION 11.** 59.69 (4) (a) of the statutes is amended to read:

12 59.69 (4) (a) The areas within which agriculture, forestry, industry, mining,  
13 trades, business and recreation may be conducted, except that no ordinance enacted  
14 under this subsection may prohibit forestry operations that are in accordance with  
15 generally accepted forestry management practices, as defined under s. 823.075 (1)  
16 (c).

17 **SECTION 12.** 60.61 (2) (a) of the statutes is renumbered 60.61 (2) (a) (intro.) and  
18 amended to read:

19 60.61 (2) (a) (intro.) Regulate, restrict and determine: ~~the~~ all of the following:

20 1. The areas within which agriculture, forestry, mining and recreation may be  
21 conducted; the, except that no ordinance enacted under this subsection may prohibit  
22 forestry operations that are in accordance with generally accepted forestry  
23 management practices, as defined under s. 823.075 (1) (c).

24 2. The location of roads, schools, trades and industries; the,

*with whom the  
department contracts*

## ASSEMBLY BILL 254

## SECTION 12

1       ~~3. The location, height, bulk, number of stories and size of buildings and other~~  
2 structures; ~~the.~~

3       ~~4. The percentage of a lot which may be occupied; the.~~

4       ~~5. The size of yards, courts and other open spaces; the.~~

5       ~~6. The density and distribution of population; the.~~

6       ~~7. The location of buildings designed for specified uses; the.~~

7       ~~8. The trades, industries or purposes that may be engaged in or subject to~~  
8 regulation; ~~and the.~~

9       ~~9. The uses for which buildings may not be erected or altered.~~

10       **SECTION 13.** 62.23 (7) (b) of the statutes is amended to read:

11       62.23 (7) (b) *Districts.* For any and all of said purposes the council may divide  
12 the city into districts of such number, shape, and area as may be deemed best suited  
13 to carry out the purposes of this section; and within such districts it may regulate and  
14 restrict the erection, construction, reconstruction, alteration or use of buildings,  
15 structures or land. All such regulations shall be uniform for each class or kind of  
16 buildings and for the use of land throughout each district, but the regulations in one  
17 district may differ from those in other districts. No ordinance enacted or regulation  
18 adopted under this subsection may prohibit forestry operations that are in  
19 accordance with generally accepted forestry management practices, as defined  
20 under s. 823.075 (1) (c). The council may with the consent of the owners establish  
21 special districts, to be called planned development districts, with regulations in each,  
22 which in addition to those provided in par. (c), will over a period of time tend to  
23 promote the maximum benefit from coordinated area site planning, diversified  
24 location of structures and mixed compatible uses. Such regulations shall provide for  
25 a safe and efficient system for pedestrian and vehicular traffic, attractive recreation

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1 and landscaped open spaces, economic design and location of public and private  
2 utilities and community facilities and insure adequate standards of construction and  
3 planning. Such regulations may also provide for the development of the land in such  
4 districts with one or more principal structures and related accessory uses, and in  
5 such districts the regulations need not be uniform.

6 **SECTION 14.** 94.025 of the statutes is created to read:

7 **94.025 Emergencies on state forest lands.** Notwithstanding ss. 94.01 and  
8 94.02, the chief state forester shall be the person with <sup>have</sup> the authority and  
9 responsibility to manage invasive species or pest infestations that threaten state  
10 forest lands as provided under s. 23.114.

11 **SECTION 15.** 823.075 of the statutes is created to read:

12 **823.075 Actions against forestry operations. (1)** In this section:

13 (a) "Department" means the department of natural resources.

14 (b) "Forest" means a parcel of land in which at least 80 percent of the parcel is  
15 producing or is capable of producing at least 20 cubic feet of merchantable timber,  
16 as defined in s. 77.81 (3), per acre per year.

17 (c) "Generally accepted forestry management practices" means forestry  
18 management practices that maximize sound management of a forest, as determined  
19 by the department by rule.

20 (2) A forestry operation is not a nuisance if the forestry operation alleged to be  
21 a nuisance conforms to generally accepted forestry management practices. Any of  
22 the following are examples of forestry operations that are not a nuisance if conducted  
23 in conformance with generally accepted forestry management practices:

24 (a) Removal of vegetation, dead or live trees, bark, foliage, or wood resulting  
25 in visual changes in a forest.

*to assist the department of agriculture, trade and  
consumer protection in managing*

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1 (b) Noise from forestry equipment.

2 (c) Removal of vegetation, dead or live trees, bark, foliage, or wood from a forest  
3 adjoining the property of another person.

4 (d) Use of chemicals that are normally used in forestry operations.

5 (3) A forestry operation that conforms to generally accepted forestry  
6 management practices is not a nuisance regardless of any of the following:

7 (a) A change in ownership or size of a forest.

8 (b) Cessation or interruption of forestry operations.

9 (c) Enrollment of all or part of the forest in governmental forestry or  
10 conservation programs.

11 (d) Adoption of new forestry technology.

12 (4) In any action in which a forestry operation is alleged to be a nuisance, if the  
13 party who was alleged to commit the nuisance prevails, the court may award that  
14 party the actual and necessary costs incurred in the action and, notwithstanding s.  
15 814.04 (1), reasonable attorney fees.

16 **SECTION 16. Nonstatutory provisions.**

17 (1) The department of natural resources shall submit in proposed form the  
18 rules required under sections 23.114 (1) (b) and 28.05 (3) of the statutes, as created  
19 by this act, to the legislative council staff under section 227.15 (1) of the statutes no  
20 later than the first day of the 6th month beginning after the effective date of this  
21 subsection, unless the secretary of administration requires the department of  
22 natural resources to prepare an economic impact report under section 227.137 of the  
23 statutes for the proposed rules.

24 (2) Using the procedure under section 227.24 of the statutes, the department  
25 of natural resources shall promulgate rules required under sections 23.114 (1) (b)

insert  
10-15

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1 and 28.05 (3) of the statutes, as created by this act, for the period before the effective  
2 date of the permanent rules submitted under subsection (1). Notwithstanding  
3 section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this  
4 subsection remain in effect until the date on which permanent rules take effect.  
5 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not  
6 required to provide a finding of emergency for a rule promulgated under this  
7 subsection.

8 **SECTION 17. Effective dates.** This act takes effect on the day after publication,  
9 except as follows:

10 (1) The treatment of sections 23.135 and 28.025 of the statutes takes effect on  
11 the first day of the 13th month beginning after publication.

12 (2) The treatment of sections 23.114 (1) (b) and 28.05 (3) of the statutes takes  
13 effect on the first day of the 4th month beginning after publication.

14 (END)

dn

**2005-2006 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0089/1ins.  
RNK:.....

**INSERT 4-8**

(4) (a) Except as provided in par. (b), if the department is required to prepare a report under sub. (3) for any state forest land, the department shall prepare that report by January 1, 2010, and every 15 years thereafter.

(b) If the department is required to prepare a report under sub. (3) for any state forest land for which a master plan has not been approved, the department shall prepare that report upon approval of the master plan and every 15 years thereafter.

**INSERT 4-19**

(1) In this section, "forested property" means forested property owned by this state and under the jurisdiction of the department from which timber is harvested.

(2) The department shall establish annual allowable timber harvests for each forested property. The department may establish a single annual allowable timber harvest that applies to 2 or more forested properties in a particular region of this state, as determined by the department, if each one of those forested properties is smaller than 5,000 acres and if all of the proceeds from the sale of timber harvested on those combined forested properties are credited to appropriations under s. 20.370 that provide funding for the same purpose, as determined by the department.

★ (3) (a) 1. By January 1, 2007, and biennially thereafter, the department shall submit a report to the council on forestry specifying the total timber harvest on each forested property for the previous biennium, except as provided under par. (b).

2. Notwithstanding subd. 1, the department shall submit its report to the council on forestry as required under subd. 1. by January 1, 2009, and biennially



thereafter, if the forested property that is the subject of the report has not been inventoried by the department under s. 23.135. ✓

(b) If, under sub. (2), the department establishes an annual <sup>allowable</sup> timber harvest for combined forest properties, the department may submit a report that specifies the total timber harvest for these combined properties. ✓

(c) If the department submits a report under this section that states that the timber harvest for forested property

INSERT 10-15

SECTION 1. 93.07 (12) of the statutes is amended to read:

93.07 (12) PLANT PESTS. To conduct surveys and inspections for the detection and control of injurious pests, make, modify and enforce reasonable rules needed to prevent the dissemination of pests, declare and manage emergencies relating to the detection and control of injurious pests, provided that such declaration does not supersede the authority of the chief state forester under s. 23.114, and suggest methods of control.

**History:** 1971 c. 125; 1975 c. 189, 323, 394; 1979 c. 34, 129, 221, 361; 1981 c. 20, 291; 1981 c. 391 s. 210; 1983 a. 410; 1985 a. 29; 1987 a. 27, 186; 1987 a. 399 ss. 307p, 443yx; 1987 a. 403; 1989 a. 56; 1991 a. 39, 269, 309; 1993 a. 216; 1995 a. 27 ss. 3554 to 3556, 9116 (5), 9145 (1); 1995 a. 79, 450; 1997 a. 27, 192; 1999 a. 107; 2001 a. 56, 107, 109.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0089/1dn

RNK:.....

Imk

(date)

This substitute amendment incorporates your series of instructions as explained further by Paul DeLong and Tim Mulhern at DNR. ✓ Given the complexity of the issues addressed in this substitute amendment, I ask that you please review this draft very closely to ensure that I have accurately expressed all of your requested instructions. ✓

Feel free to contact me if you have any questions. ✓

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0089/1dn  
RNK:lmk:pg

April 22, 2005

This substitute amendment incorporates your series of instructions as explained further by Paul DeLong and Tim Mulhern at DNR. Given the complexity of the issues addressed in this substitute amendment, I ask that you please review this draft very closely to ensure that I have accurately expressed all of your requested instructions.

Feel free to contact me if you have any questions.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.state.wi.us

## Hanaman, Cathlene

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**From:** Gary, Tim  
**Sent:** Friday, April 22, 2005 4:55 PM  
**To:** Hanaman, Cathlene  
**Subject:** FW: /2 substitute amendment

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**From:** Gary, Tim  
**Sent:** Friday, April 22, 2005 4:51 PM  
**To:** Kite, Robin  
**Subject:** /2 substitute amendment

Robin,  
After examining the draft and talking with some other people, I would like to make the following changes to the substitute amendment in a /2.  
Tim

### **Page 6 Line 23**

and control of ~~injurious~~ plant pests, make, modify, and enforce reasonable rules needed to  
(Explanation: plant is defined in the statute, injurious is not)

### **Page 6 Line 25**

detection and control of ~~injurious~~ plant pests, provided that such declaration does not  
(Explanation: plant is defined in the statute, injurious is not)

### **Page 7 Line 1**

supersede the authority of the chief state forester under s. 23.114, or the department of natural resources under section 26.30, and suggest  
(Explanation: Division wants to refine responsibilities under 23.144, but not 26.3)

### **Page 2, Lines 15-16**

forest lands. The inventory shall specify the condition of the state forest ~~lands~~ land ~~and their~~ forest resources.  
(Explanation: current language will create a labor intensive report (i.e. a full blown Environmental Impact Statement))

### **Page 3 Line 15**

~~smaller than 5,000~~ forested acres and if all of the proceeds from the sale of timber harvested  
Explanation: don't want to have to assemble AATH for non forested lands

### **Page 4 Line 7**

council on forestry shall prepare a report containing reasons for non-compliance and recommendations on methods of  
Explanation: Causes should be made known in addition to the sole information of non-compliance

### **Page 4, Lines 10**

submit the report to the governor, the department and the appropriate standing committees of the  
Explanation: Ensure the Secretary officially receive the information as well as the Guv & Legislature.

### **Page 6, Line 2**

the state forest lands.

✓ Explanation: Allow division to complete master plans faster than currently under law

**Page 5, Line 12**

28.04 (3)(a) The division shall prepare a plan plans for each ~~the state forest~~ forests

Explanation: Allow division to complete master plans faster than currently under law

**Page 4 Line 21**

The division shall also assure that the management of state ~~forests is~~ forest lands are

Explanation: Maintain consistency

**Page 5, Line 2**

provided by the division in each state forest land shall reflect its unique

Explanation: Maintain consistency