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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

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COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

State of Wisconsin
Department of Natural Resources
**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Board Order Number: FR-25-09

Clearinghouse Number: 09-103

Subject of Rules: Regulation of firewood that may be brought onto state lands

Date of Transmittal: 2/5/2010

Send a copy of any correspondence or notices pertaining to the rule to:

**Quinn Williams
DNR Bureau of Legal Services
LS/8, 101 South Webster**

An electronic copy of the proposed rule submittal may be obtained by contacting Dr. Andrea Diss-Torrance

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal NR 45.04(1)(g) and create NR 45.045 relating to regulation of firewood entering department lands and affecting small businesses.

FR-25-09

Analysis Prepared by the Department of Natural Resources

1. **Statutes interpreted:** Sections. 23.09(2)(intro), 23.091, 23.11(4), 23.17, 23.175, 23.22(2)(a), 23.28(3), 23.293 27.01(2)(i) and (j), and 28.04(2)Stats.
2. **Statutory authority:** Sections. 23.09(2)(intro), 23.091, 23.11(1), 23.22(2)(b) 1., 23.28(3), 27.01(2)(j) and 227.11(2)(a), Stats.
3. **Explanation of agency authority to promulgate the proposed rule under statutory authority:** Section 23.11(1), Stats., states that the department shall have and take general care, protection and supervision of all state parks, of all state fish hatcheries and lands used therewith, of all state forests, and of all lands owned by the state or in which it has any interests, except lands where the care and supervision of which are vested in some other officer, body or board; said department is granted such further powers as may be necessary or convenient to enable it to exercise the functions and perform the duties required of it by this chapter and by other provisions of the law. Sections 23.09(2)(intro), 23.091, 23.28(3), and 27.01(2)(j), Stats., describe department responsibilities on specific types of properties covered in s. 23.11(1), Stats.. The department interprets s. 23.22(2)(a), Stats., to require the department to establish a statewide program to control invasive species in this state. Rules to control the spread of emerald ash borer, and invasive species, are a part of that program. Finally, s. 227.11(2)(a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.
4. **Related statute or rule:** Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) ch. ATCP 21 regulates import and movement of firewood and other host material of the emerald ash borer, Asian longhorn beetle, hemlock woolly adelgid and sudden oak death. The Wisconsin Department of Natural Resources ch. NR 40 prohibits the movement of materials carrying specific invasive species, such as firewood with emerald ash borer (EAB) or asian longhorned beetle. This rule supports ch. ATCP 21 and NR 40.
5. **Plain language analysis:** This rule will prohibit anyone from bringing onto department managed lands firewood from greater than 25 miles from the campground or property, from outside of Wisconsin, or from areas quarantined by the state, a federal agency or tribal government or designated zones of infestation if the property is outside of the quarantine or infested zone. Exceptions to the rule are 1) firewood from a source approved by the Wisconsin DATCP, 2) if the wood is scraps of dimensional lumber that is free from bark, kiln dried and smoothed, or 3) the firewood is an artificially produced "fireplace log". The purpose of this rule is to reduce the risk of introduction and spread of EAB and other invasive insects and diseases of trees by reducing the distance firewood used on the properties is moved. Currently, EAB is moving primarily on firewood and parks and campgrounds in other states have been sites of new introductions as a result (Muirhead et al. 2006). This rule will provide additional protection for state parks and forests, set a good example for county, municipal and private campgrounds and reduce a reason people move firewood: for use while camping. While this rule may cause some inconvenience for campers, it is dwarfed by the cost of infestation or establishment of this pest to the public and the state. To minimize any inconvenience, the department is working with firewood dealers and the Wisconsin DATCP to assure a sufficient supply of safe and affordable firewood at department campgrounds.

Invasive, foreign pests and diseases are often very destructive as native trees typically have little resistance, there are rarely effective natural enemies to regulate infestations and effective pesticides may be unavailable. EAB is a dramatic example of this situation. Where it is established, it has eliminated all ash species in the region. Cities and

towns in southeastern Michigan have been stripped of street trees and lowland forests decimated as this beetle has killed the ash trees that dominate these landscapes. The cost of removal of hazardous dead trees alone has cost communities millions and they continue to suffer associated costs from reduced property values and increased energy and water costs. Wisconsin is at least as vulnerable to EAB as Michigan. Thirty percent of our community trees are ash and ash species are common to dominant in our northern hardwood, central hardwood and lowland forests. Dealing with EAB and other invasives once established is very expensive but EAB and many other invasives move slowly if not transported on firewood or other host material. If this artificial movement can be reduced, many communities and woodlands in Wisconsin need not suffer damage from EAB for many years. While federal and state quarantines on nursery stock and logs have been effective, those on firewood have largely failed to prevent movement of this pest. Most infestations distant from the core infestation in southeastern Michigan have been traced back to firewood as the source of the introduction. Recognizing this risk, the Wisconsin DATCP and DNR have proposed additional limits on movement of firewood into and within the state. This rule supports DATCP's external quarantine and DNR's NR 40. In addition, the further tightening of restrictions on firewood allowed into state properties sends a strong message that we need to be even more active in preventing spread of EAB now that it is in the state. In the event that an infestation of emerald ash borer is discovered on a department property, movement from that property of all infested host material including firewood would be halted by the DATCP and NR 40, minimizing the risk of spread.

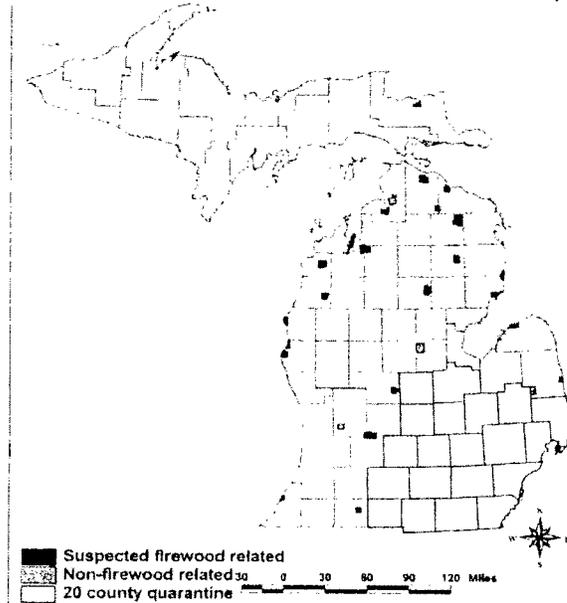
The regulation of firewood into department properties is supported by an intensive information and education program to reach campers who could be affected by the new regulation and to raise awareness of the risk posed by the movement of firewood. The department also reaches out to municipal and private campground managers to educate them on why we are taking this step and encourage and support them if they decide to do likewise. The department will also work with the DATCP and firewood dealers to ensure campers have a sufficient supply of safe and reasonably priced firewood.

6. Summary of, and comparison with, existing or proposed federal regulation: The Apostle Islands National Park has prohibited bringing any firewood into the park since 2006. The Chequamegon-Nicolet National Forest prohibits firewood from greater than 25 miles onto the forest. The Army Corp of Engineers regulates the firewood they allow onto their lands along the upper Mississippi.

7. Comparison with rules in adjacent states: Michigan prohibits movement of ash products including firewood from the quarantined counties. Campers from quarantined areas entering Michigan parks are questioned if they brought firewood from the quarantined area and if so, confiscation of firewood and fines could result. Minnesota state parks allow wood from approved vendors that are within Minnesota and within 100 miles of the park. To be approved, vendors must either exclude ash from their wood, heat treat or debark the wood. Firewood from EAB quarantined counties is not allowed into parks outside the quarantined area. Iowa state parks prohibit wood from EAB or gypsy moth quarantined areas unless carrying a USDA certificate stamp indicating the wood has been treated to prevent transmission of the pest. Illinois prohibits the movement of host materials including wood from the area quarantined for Asian longhorned beetle and is considering regulation of firewood entering state lands.

8. Summary of factual data and analytical methodologies: Firewood is generally recognized as a major source of new infestations of EAB (Muirhead et al 2006) and other invasives that infest wood. Figure 1. shows the outlying infestations of EAB in Michigan in 2005 and their probable source. Note that most of the colonies outside epicenter in the Detroit area were traced back to infested firewood brought in from the quarantined area. Quarantines on nursery stock and logs have been successful in discouraging exportation of infested host material from these sources. When such quarantines are broken, it is often detected quickly and material can be retrieved or at least the potentially infested area can be accurately delineated and treated. This happened in Maryland and Virginia where a dealer received an illegal shipment of nursery stock from Michigan. The Virginia introduction appears to have been successfully eradicated though the one in Maryland is still being treated. In contrast, much firewood is moved by individuals and there is little that can be done to regulate its movement out of a quarantined area except to try and educate the public to the risk. An external quarantine can add a second opportunity to intercept the infested host material and enforcement is often more vigorous since the people enforcing the quarantine are trying to protect their own resources.

Figure 1. 2005 Map of infestations of emerald ash borer and probable source of infestation.



One advantage we have in dealing with wood infesting pests and diseases is that many move slowly on their own, like EAB. If we can reduce the distance infested firewood moves, we can slow the spread of these invasives. Slowing the expansion of infestations and establishment of new populations has benefits. It buys time for the development of new control options. It delays the time when a community or forest will suffer impacts allowing time to prepare, minimizing losses. Once an invasive has become established in the state it is even more important to prevent spread, even locally. It is our communities and forests that directly benefit. Further restricting the distance from which firewood may be brought into state lands sends a strong message that we must increase our efforts to prevent spread of invasives like EAB and not give up just because it is now found in the state. Recently, Forestry staff working with a Forest Service scientist developed a model of the risk of introducing a wood borne invasive into Wisconsin state campgrounds given increasing numbers of populations of the invasive in the state and differing distances from which firewood was allowed into the property. Figure 2. shows the results of this model. As the number of populations of an invasive increases in Wisconsin, the number of state campgrounds that are at risk because a population of the pest is within the circumference for allowable firewood also increases. However, the rate at which the number of campgrounds at risk increases is very different for the four distances modeled. For example, at 8 populations of invasive X in Wisconsin, 54% of the state campgrounds were at risk in the 50 mile radius model, 21% were at risk in the 25 mile radius, and only 4% were at risk when only wood from 10 miles away was allowed into the campground. This model shows the importance of reducing the distance firewood moves in reducing the risk of introductions into our parks, communities and forests.

While risk of introduction of EAB or other wood borne pests and diseases would be minimized if we did not allow wood from outside the property to enter, that is not practical. Many state campgrounds could not supply wood from within their boundaries. We presented the results of our model to Parks program leaders and State Forest staff and asked for input on whether to reduce the distance from which wood could be brought into their properties. They responded that the distance should be reduced to reduce the risk of introduction and send the right message to the public but that they felt that they could not reliably supply enough firewood at all campgrounds if we reduced the distance below 25 miles. For these reasons, the DNR recommends that firewood be allowed onto state lands from no more than 25 miles from its point of origin.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: This rule is designed to reduce the spread of invasive forest pests and diseases such as the EAB which pose a grave threat to Wisconsin forest and urban landscapes. This rule will help protect Wisconsin

industries associated with tourism and forest products by protecting the resources on which they depend. Some firewood dealers may be initially impacted by this rule if they get firewood from greater than 25 miles from the state campgrounds or from out of state. Early analysis of a statewide survey of firewood dealers indicates that most dealers are obtaining their wood within 50 miles of the area where they sell it so fewer dealers may be impacted than might at first be thought. Dealers supplying firewood to state campgrounds have been able to segregate their wood into that from within the allowable distance and that from outside. DATCP has developed an approval process so that larger dealers that distribute over a wider area can have their wood approved for use on department properties using several treatments.

	Mean				Standard Deviation				
	10mi radius	25mi radius	50mi radius	100mi radius	10mi radius	25mi radius	50mi radius	100mi radius	
1	0.81	4.83	17.85	59.28	1	2.01	4.75	9.68	14.33
2	1.17	8.90	32.16	94.29	2	2.05	7.02	12.29	20.85
4	3.34	19.36	59.24	135.37	4	4.06	9.41	16.32	18.70
8	7.21	37.09	94.35	160.44	8	5.67	12.29	15.56	10.77
16	11.68	60.30	135.55	170.68	16	6.86	13.07	12.52	2.88
32	25.76	99.99	157.77	171.73	32	10.74	15.20	8.59	1.58
64	47.76	138.44	167.96	172.00	64	12.78	9.76	4.55	0.00

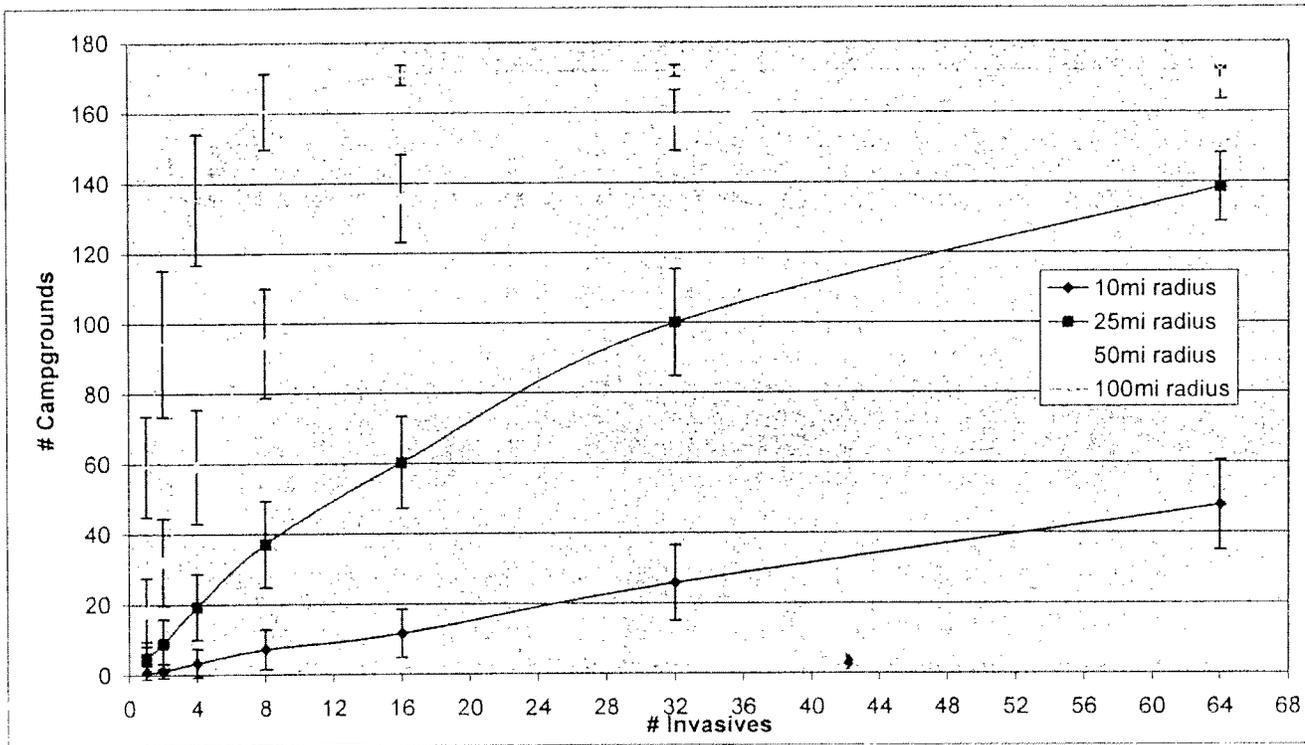


Figure 2. Mean number (+SD) of Wisconsin state campgrounds where a population of wood borne invasive X occurs within the distance firewood is allowed into the campground given a number of populations of invasive X (# Invasives) randomly distributed in Wisconsin. Four allowable distances were plotted; 100, 50, 25 and 10 miles from the campground. There are 172 state campgrounds used in this model.

While this rule will require campers to obtain firewood near their campsite, this small expense will be dwarfed by savings to individuals and private business in its contribution to preventing or delaying the establishment of EAB and other invasive pests and diseases. Where EAB has been introduced, homeowners must pay hundreds of dollars to remove yard trees killed by the beetle as well as suffer property value decline due to loss of the trees. Communities must bear the cost of removal and replacement of killed ash trees along streets and in parks. Michigan communities

have requested 6 million from Federal Emergency Management Agency to remove and replace street trees. Businesses that deal in nursery stock, logs and firewood are also impacted by establishment of EAB as markets outside the infested area no longer want their products or require costly inspections to show the shipment is pest free.

10. **Effect on small business:** We expect that this rule will increase demand for firewood near state campgrounds and be an opportunity for many small firewood dealers. Property managers have reached out to local firewood dealers to have lists of where campers can buy allowable firewood outside of each park. This list is available at the main office at each park or by calling the park directly. The DATCP has posted a list of firewood dealers whose wood is certified to be taken onto any state property.

11. **Agency contact person:** Dr. Andrea Diss-Torrance, 608-264-9247, Andrea.DissTorrance@wisconsin.gov

12. **Place where comments are to be submitted and deadline for submission:** The deadline for submission is Dec 31, 2009. Written comments may be submitted at the public hearings, by regular mail, fax or email to:

Dr. Andrea Diss-Torrance
Department of Natural Resources
Division of Forestry
PO Box 7921
Madison WI 53707
Fax: (608) 267-8576
dnrforestryrules@dnr.state.wi.us and include firewood in the subject line

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Web site at <http://adminrules.wisconsin.gov>.

SECTION 1. NR 45.04 (1)(g) and Note are repealed.

SECTION 2. NR 45.045 is created to read:

NR 45.045 FIREWOOD. (1) In this section, "firewood" includes limbs, branches, roots, unprocessed logs, lumber, slabs with bark, cut firewood and chips, intended for use on any property.

(2) No person may possess firewood that originates from any of the following:

(a) An area more than 25 miles from the campground, or the property itself if there is no campground, to which the firewood will be transported.

(b) An area outside the borders of the state.

(c) An area, outside of the property on which firewood will be used, where firewood is identified as a carrier of invasive terrestrial invertebrates and plant-disease causing microorganisms, including any of the following:

1. An area that is in a zone of infestation designated by the department under s. 26.30 (7), Stats.

2. An area quarantined by the department of agriculture, trade and consumer protection under s. 94.01, Stats.

3. An area quarantined by the U.S. department of agriculture and animal and plant health inspection service under

USC 7714 or 7715.

4. An area quarantined by an American Indian tribe within the reservation of the tribe.

(d) This section does not apply to firewood from sources approved by department of agriculture, trade and consumer protection, to dimensional lumber that is debarked, kiln dried and smoothed, or artificial fireplace logs.

(e) The department may seize and dispose of firewood possessed in violation of this paragraph.

Note: a list of firewood sources approved by Wisconsin Department of Agriculture, Trade and Consumer Protection can be obtained by contacting Robert Dahl, WI DATCP.

SECTION 3. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro), Stats.

SECTION 4. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on Jan 27, 2010.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J Frank, Secretary

(SEAL)

REPORT TO LEGISLATURE
NR , Wis. Adm. Code NR 45.045
Board Order No. FR-25-09
Clearinghouse Rule No. 09-103

Basis and Purpose of the Proposed Rule

DNR currently limits wood entering state lands to that wood originating from within 50 miles and within the state or from dealers that are certified by the state as treating their wood to prevent transmission of pests or diseases. A recently completed model suggests, however, that once an invasive is established at several sites within the state, this 50 mile radius may be too large to meaningfully reduce the risk of introduction of the invasive onto state lands. One of the most damaging invasives moving on firewood, the emerald ash borer (EAB), has been found at five sites in Wisconsin and may be present, undetected, at others. To improve protection for state lands from invasives that move in wood, such as EAB, it is necessary to reduce the distance from which wood is allowed into state lands. We propose the distance for allowable wood be reduced to 25 miles. This distance will increase protection while ensuring adequate firewood supplies for state campgrounds.

In addition to changing the allowable distance for firewood, we also address issues that have arisen in the implementation of the rule in the past three years. We propose adding a statement to allow properties outside areas quarantined or declared zones of infestation for wood borne invasive pests and diseases to exclude wood from these areas within Wisconsin that otherwise would be allowable. We also need to clarify the definition of firewood to include all raw wood even if it is not intended for use in a fire, for example, logs used as wheel chocks.

Summary of FR-25-09

The repeal of NR 45.04(1)(g) and creation of NR 45.045 includes,

- 1) reducing the distance from which allowable firewood may originate from 50 to 25 miles from the state campground or property to which it is transported,
- 2) prohibiting firewood from areas quarantined or declared zones of infestation from entering state properties not within the quarantine or infested zone,
- 3) defining firewood to include all raw wood used for any purpose,
- 4) and defining wood that is not prohibited regardless of location of origin: wood from DATCP certified vendors, dimensional lumber scraps and artificial fireplace logs.

Summary of Public Comments

Four public hearings were held on December 15 at 7:00-9:00 PM in Madison, Green Bay, Wausau and Eau Claire. Hearings in Green Bay, Wausau and Eau Claire were linked by video conference to the hearing in Madison and attendees in these distant sites were able to view, hear and participate in the hearing in the same way as attendees in Madison. There were six attendees, all at the Madison site. Comments were accepted up to Dec. 31, 2009. One email was received.

Significant comments made during the public testimony and the Department's responses are:

- COMMENT: Regulation of wood should be more restrictive than what is proposed. It was recommended that no wood be allowed in from outside the state property unless it was from a state certified dealer who treated it to prevent its harboring pests or diseases.
RESPONSE: In developing the proposed rule, state park managers were asked whether they would be able to supply adequate amounts of firewood for campers if the distance allowable wood could originate from was reduced to 25, 10 or 0 miles. Parks managers were confident they could ensure enough wood at state campgrounds where it is currently available at the 25 mile limit but not at all of these parks if the limit was reduced to 10 or 0 miles. Some parks would not be able to supply enough wood from their own property and as there are currently only six state certified firewood dealers, the Parks program staff didn't think they would be able to make up the shortfall with certified wood. It is important that parks be consistent in

- their firewood regulation to avoid confusing the public and thus reducing their compliance with the protective regulations. For this reason, we decided to reduce the allowable distance for all state properties from 50 to 25 miles at this time. We reserve the option to further reduce the allowable distance in the future if certified wood becomes more available.
- COMMENT: Skepticism was voiced that parks couldn't supply enough wood from certified dealers and their own properties.
RESPONSE: The presenter has asked the Parks program to give specific information from five parks on how much firewood is needed, how much they could supply on a sustainable basis from the property and if certified firewood dealers would be able to make up the shortfall.
 - COMMENT: Concern was voiced that loggers in counties quarantined for EAB who usually sell logs for pulp are now selling them to firewood dealers. What was being done to ensure this firewood is not moving out of the quarantined area?
RESPONSE: Anna Healy from DATCP was able to address this concern. Firewood is covered by the federal and state quarantines and if a business outside of the quarantine is buying logs from quarantined areas, they must have entered a compliance agreement with the state which would require that the wood be treated to kill any EAB by the end of April among other requirements. Firewood dealers taking logs from a quarantined area which are not in compliance are in violation of the quarantine and at risk of heavy fines and or jail time.
 - COMMENT: What about firewood coming in from other states? Why is that allowed over the border?
RESPONSE: This rule only regulates firewood that enters state properties. Firewood from quarantined counties or states can only come into other states if they are certified by the USDA Animal and Plant Health Inspection Service as having been treated to their specifications for the pest for which the area is quarantined. Firewood from non-quarantined counties or states may move freely across state boundaries.
 - COMMENT: Why only regulate wood that goes onto state lands? Shouldn't we regulate firewood entering private campgrounds?
RESPONSE: The DNR can only regulate firewood on our own properties; we don't have authority to regulate wood entering private campgrounds. Our example has influenced private campground owners, counties and municipalities that have campgrounds and many of them now regulate what wood may enter their properties.
 - COMMENT: If you go to 0 miles, you will hurt the people who live close to the park by making them pay for wood.
RESPONSE: Wood that is from close by is unlikely to introduce pests that are not already present in the park. Wood that has been treated to kill any pests in it poses no possibility of introducing pests. While it may require some people to buy wood they might not otherwise, the cost is small compared with the cost of the damage invasive pests can do to the park these people enjoy.
 - COMMENT: As part of a camping registration fee, provide a small amount of free firewood to those who would want it.
RESPONSE: I will discuss this idea with the Parks Bureau staff as a way to encourage compliance with the regulations. It would, however, require getting approval to increase camping fees.
 - COMMENT: Don't charge dealers to become certified.
RESPONSE: The charge for certification is \$50/year which is fairly low already. The major cost of becoming certified is that for equipment to treat wood. A kiln to heat treat wood can cost thousands of dollars for example. We have included one treatment for certification, aging the wood for two years which doesn't require the purchase of special equipment.
 - COMMENT: Write the regulations to allow firewood from certified dealers to be taken into campgrounds no matter the distance.
RESPONSE: This is already the case in the rule.

Modifications Made

No changes were made as a response to public comments for the reasons given above.

Appearances at the Public Hearing

Dec 15, 2009

Madison

In support:

Harold Norselien, 4732 Hwy 78, Black Earth, WI

Anna Healy, DATCP EAB Regulatory Officer, 2811 Agriculture Dr. Madison, WI 53708-8911

In opposition:

Jan Primus, 4801 Starker Ave., Madison, WI 53716

As interest may appear:

Duane Kitzerow, 8099 Leuth Rd., Sauk City, WI 53583

Chad Zeman, 59805 Hwy 12, Prairie Du Sac, WI 53578

Bob Tomesh, 1515 Sunden Dr. Madison, WI 53706

Green Bay, Wausau, Eau Claire – no appearances

Changes to Rule Analysis and Fiscal Estimate

No changes were made as a response to public comments for the reasons given above. The fiscal effect remains the same.

Response to Legislative Council Rules Clearinghouse Report

All Clearinghouse structural changes were accepted and the rule revised accordingly. Not incorporated into the rule was the substantive change recommended removing the specific statement defining state campgrounds as the point from which to measure distance to firewood origin unless there was no campground on the property in which case the property boundary would be used. This definition must be retained in order to ensure intended protection for campgrounds on very large state properties. For example, if the distance to firewood origin were measured from the borders of the Northern Highland American Legion State Forest instead of the state campgrounds within the Forest, wood would have to be allowed into those campgrounds from much greater than the intended 25 miles. This would put the campgrounds in this State Forest at a greater risk of introduction of wood borne invasive pests than a campground in a much smaller property.

Final Regulatory Flexibility Analysis

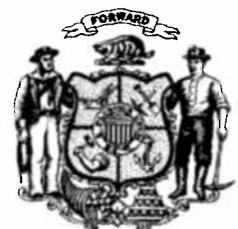
Small businesses potentially affected by the rule. Small firewood dealers that get their wood more than 25 miles from state lands where they wish to sell wood could be affected by the change in the allowable distance from which wood may be brought onto these lands. Currently, firewood dealers that contract with state properties have been able to continue with their contracts by providing wood from within the allowable distance if they segregate that wood from non-allowable wood.

Reporting required by the rule. When campers check into state campgrounds they are asked if they brought wood and if so where it is from. This has been done for three years now but the responses are not recorded unless there is a quarantine violation that is passed onto DATCP or USDA Animal and Plant Health Inspection Service. If a business decides to become certified by DATCP for treating its wood to prevent transmission of wood borne pests or diseases, they will keep records of the agreed on treatment for that purpose but it is not required as part of this rule.

Types of skills necessary for compliance with the rule. The rule requires visitors to state lands to know where their wood originated from and to be able to distinguish dimensional lumber scraps or artificial fireplace logs from raw or minimally processed wood. The department provides a visual guide to what sort of wood is allowed and not allowed onto state lands at <http://dnr.wi.gov/invasives/firewood/>.



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **09-103**

AN ORDER to create NR 45.04 (1) (g), relating to regulation of firewood entering department lands and affecting small businesses.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

11-05-2009 RECEIVED BY LEGISLATIVE COUNCIL.

12-03-2009 REPORT SENT TO AGENCY.

RS:DWS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-103

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

There are numerous structural problems in the rule. The text of the rule should be rewritten as follows:

SECTION 1. NR 45.04 (1) (g) and Note are repealed.

SECTION 2. NR 45.045 is created to read:

NR 45.045 FIREWOOD. (1) In this section, "firewood" includes limbs, branches, roots, unprocessed logs, lumber, slabs with bark, cut firewood, and chips intended for use on any property.

(2) No person may possess firewood that originates from any of the following:

(a) An area more than 25 miles from the property to which the firewood will be transported. [Note: There appears to be no need to make a specific statement regarding a campground; a campground is included in the notion of property.]

(b) An area outside the borders of this state.

(c) An area, outside of the property on which firewood will be used, where firewood is identified as a carrier of invasive terrestrial

invertebrates and plant-disease causing microorganisms, including any of the following:

1. An area that is in a zone of infestation designated by the department under s. 26.30 (7), Stats.
2. An area quarantined by the department of agriculture, trade and consumer protection under s. 94.01, Stats.
3. An area quarantined by the U.S. department of agriculture and animal and plant health inspection service under 7 USC 7714 or 7715.
4. An area quarantined by an American Indian tribe within the reservation of the tribe.

(d) This section does not apply to firewood from sources approved by the department of agriculture, trade and consumer protection, to dimensional lumber that is debarked, kiln dried, and smoothed, or to artificial fireplace logs.

(e) The department may seize and dispose of firewood possessed in violation of this section.

5. Clarity, Grammar, Punctuation and Use of Plain Language

In item 9. of the rule preface, the word "then" in the third sentence should be replaced by the word "than."