

**Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item**

**SUBJECT:**

Request that the Board adopt Board Order FR-20-12, proposed rules affecting NR 45.045(2) (a), (b), (d), and (e) related to decreasing the distance from which firewood may be brought onto state lands from 25 to 10 miles and allowing wood from out of state to enter state lands if originating within 10 miles.

**FOR: January 2014 Board meeting**

**PRESENTER'S NAME AND TITLE:** Andrea Diss-Torrance, Plant pest and disease specialist

**SUMMARY:**

Reducing the distance firewood moves minimizes the spread of emerald ash borer (EAB) and other wood infesting invasive species even in counties that are quarantined. By minimizing the spread of EAB and other pests and diseases, we buy time for the development of new control tools and delay the day when communities and woodlots become infested and start taking losses from the invading pest. The actions taken by the state on its public campgrounds and the level of concern shown regarding the risk posed by wood infested with invasive pests and diseases is taken seriously by the public. Surveys of campers and private campground owners show that what is modeled at the state properties influences the choices the public makes in how far they move wood and the steps they take to protect their own properties from infestation. The department started regulating wood that may enter state lands in 2006, prohibiting firewood from out of state. In 2007, the NRB approved adding a 50 mile limit to that prohibition and in 2010, the regulation was further tightened to 25 miles. Currently, wood that was cut from within 25 miles of the state campground or property is allowed into the campground or property. The primary change being proposed is to reduce that distance to 10 miles. A risk model shows a significant reduction in risk of introduction of a wood borne invasive species with this change from 25 to 10 miles, especially as the number of infestations in the state increases, as it has with emerald ash borer in 2013.

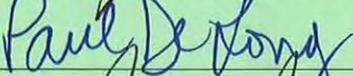
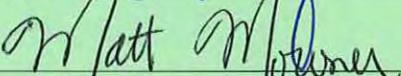
The current prohibition against firewood from other states is proposed for removal as it will not significantly add to the reduction of the risk of introduction of a wood borne invasive pest or disease if the distance limit is reduced to 10 miles.

The impact on small business is expected to be minimal (level3). The changes proposed to this rule would affect firewood vendors. Those within 10 miles of state properties and those that are certified as treating their wood to kill infesting organisms would be benefited by these changes. Those vendors getting their wood from less than 25 miles but more than 10 miles and who are not certified would lose sales to campers going to the state campground.

**RECOMMENDATION:** That the Board adopt Board Order FR-20-12.

**LIST OF ATTACHED MATERIALS (check all that are applicable):**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> background memo   | <input type="checkbox"/> Attachments to background memo               |
| <input checked="" type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement |
| <input checked="" type="checkbox"/> Response summary  | <input checked="" type="checkbox"/> Board order/rule                  |

Approved by	Signature	Date
Bob Mather, Bureau Director, Forest Management		12/16/2013
Paul DeLong, Division administrator, Forestry		12/17/13
Cathy Stepp, Secretary		12/19/13

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: Dec. 10, 2013

TO: All Members of the Natural Resources Board

FROM: Cathy Stepp, Secretary

SUBJECT: Background memo on Board Order FR-20-12, relating to adoption of revisions to NR 45.045(2)

**1. Subject of Proposed Rule:** regulation of firewood that may be brought onto state properties.

**The proposed rule revision addresses:** decreasing the distance from which firewood may be brought onto state lands from 25 to 10 miles and allowing wood from out of state to enter state lands if originating within 10 miles.

**2. Background:**

Since 2006, the department has regulated firewood that may enter state lands to help prevent introduction of a variety of wood borne invasive pests and diseases of trees. This regulation has provided direct protection by excluding wood from distant areas where pests and diseases not present on the property may be established and infesting the wood. It has also provided an opportunity for property staff to educate visitors on the risk of moving firewood and the pests that may infest it. Surveys of campers have shown that awareness of the issue and movement of firewood has decreased steadily in the years regulation and education have been active. As the risk from invasive pests and diseases that move on firewood in Wisconsin and nearby states has increased since 2006, the NRB approved increasing restrictions on firewood that may enter state lands. One year after out of state wood was prohibited, the department prohibited wood cut from more than 50 miles from the destination state property or campground. In 2010, that allowable distance was decreased to 25 miles to provide better protection in response to detection of emerald ash borer (EAB) and beech scale at several sites within the state. With recent increases in the EAB population in the southeastern counties, detections far from previously known populations, and the threat of thousand cankers disease of walnut, a further constriction of the allowable distance is warranted.

**3. Why is the rule revision being proposed?**

In order to provide better protection from introduction of wood borne invasive pests and diseases, the proposed change to NR45.045(2)(a) would reduce the distance from the state campground or property from which allowable firewood may originate from 25 to 10 miles. The proposed elimination of NR45.045(2)(b) would remove a regulation that would no longer provide significant additional protection if the change to (a) is approved.

**4. Summary of the rule.**

DNR currently limits firewood entering state lands to that wood originating from within 25 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. In response to concerns from the public, we propose to reduce the allowable distance to 10 miles. A model of the changing risk of introduction of an invasive pest with decreasing allowable distance shows a significant reduction in level of risk between 25 and 10 miles and that difference in reduction in risk is greater with increasing numbers of infestations in Wisconsin. With the establishment of emerald ash borer and beech bark disease at several sites in Wisconsin and the new threat of thousand cankers disease of walnut, reducing the allowable distance for wood brought onto state lands is a prudent step to take.

If the allowable distance is reduced to 10 miles, the prohibition of out-of-state wood will no longer provide the additional protection it once contributed. If a pest is established within 10 miles, it will be a short time before it can spread on its own onto the property. Regulation that doesn't provide a benefit should be dropped. We also expect a long term benefit of simplifying the message that safe wood is local or treated and avoiding the appearance of blaming other states for invasive pests.

**5. How does this proposal affect existing policy?**

It would reduce the distance from which wood allowed onto state properties could originate from that property or campground from 25 miles to 10 miles. It would remove the prohibition on wood from out of state that was otherwise allowable.

**6. Has Board dealt with these issues before?**

Yes. Since 2006, the Board has approved several amendments gradually increasing protective restrictions as the threat of introduction of destructive wood borne invasive species has become greater.

**7. Who will be impacted by the proposed rule? How?**

The changes proposed to this rule would affect firewood vendors. Those within 10 miles of state properties and those that are certified as treating their wood to kill infesting organisms would be benefited by these changes. Those vendors getting their wood from less than 25 miles but more than 10 miles and who are not certified would lose sales to campers going to the state campground.

**8. Soliciting public input on economic impact synopsis**

Firewood vendors on the state certified vendors list and those that sell wood near state campgrounds were asked to comment on the proposed changes to this rule as they would be directly affected by it. None responded by the deadline. Comments that came in later were included in the public comments regarding the rule itself and not just the Economic Impact Analysis.

**9. Environmental Analysis**

Other than its effect of reducing the spread of wood borne invasive species, this rule amendment would have no effect on the environment.

**10. Small Business Analysis**

Small vendors just outside state campgrounds are already getting their wood from close by given the current 25 mile limit on allowable wood. For this reason, we do not anticipate an additional significant impact on these vendors with the decrease to 10 miles. It may have a beneficial effect on vendors who are certified as treating their wood by the Department of Agriculture, Trade and Consumer Protection as it could increase the convenience of their product since it can be brought onto any state property, regardless of where it originated.

Response Summary  
Proposed Revisions to Ch. NR 45.045, Wis. Adm. Code  
Board order FR-20-12

**General Summary**

The department scheduled four public hearings on Oct 29, 2013 in Madison, Green Bay, Wausau and Eau Claire. Two people attended the meetings and gave oral testimony in addition to written statements before or after the hearings. Public comments were accepted until Nov. 4 2013. The official notice that the department was taking comments was published on Oct 2. Additionally, a press release on Sept 24 and letters that went out on July 25 soliciting comments on the Economic Impact Assessment for the proposed changes also encouraged comments to be sent. The department received 14 comments, four were in favor of the proposed revisions, two were opposed to the proposed changes because they were too lenient, and six were opposed to changing the regulation preferring that the allowable distance remain at the current 25 miles. Two additional comments were concerned with the cost of wood and advocated that the price be lowered as a way to discourage movement of firewood.

All commenters were replied to and if their comment included a question or misunderstanding, those were addressed in the reply.

**In favor of the changes proposed**

- John Hermanson, Board Member Clean Water Action Council of Northeastern Wisconsin- Green Bay

The Clean Water Action Council of Northeastern Wisconsin as a 501C3 nonprofit environmental educational organization would like to go on record of supporting the proposed *FR-20-12* change reducing the distance 'firewood' is allowed to be sourced from 25 miles to 10 miles from state lands. Also CWAC supports the change of the provision that wood can be sourced outside state borders provided it is within this proposed 10 miles distance.

With the change in the population and variety of threatening disease and insect pest to Wisconsin forests the conclusion to change this ruling is justified. This rule change balances the accessibility of firewood from certified sources beyond the proposed 10- mile limit while providing reasonably safe firewood to parkland visitors.

In viewing what other adjoining states take as precautions it appears that these changes are not extreme one way or the other.

Secondarily this rule change will act as a proactive measure by keeping the message in front of the public that moving wood threatens resources that they directly enjoy.

Please accept these comments on behalf of our membership.

- Daniel Wortman  
I received your letter outlining the proposed changes to the regulations for firewood entering state lands. First of all, thank you for including the certified vendors in this discussion.

I actually was under the impression that the distance for allowable firewood was down to 10 miles now. As it evidently is not, I would support that change. The problem that I see in my area

is the retail sales of firewood at the local gas stations, convenience stores, ect. Many of the gas stations are corporate stores with offices (and Warehouses) in Minnesota. Some stores are selling local wood from non-certified vendors. When the park office is closed, campers are directed to town to purchase firewood. Who is policing this supply of wood? Some of the corporate store wood is labeled as being MN DNR approved. Are MN regulations comparable to WI DNR regulations? DATCP regulations? I thought that interstate commerce of firewood required USDA certification.

Until we have uniform regulations on both sides of the borders and between agencies, I don't think that easing any firewood regulations at this time is appropriate. A case in point is the Emerald Ash Borer infestation found along the Mississippi River. Wisconsin has an ash borer quarantine in the southeast corner of the state. Minnesota has an infestation in the Twin Cities. It's highly unlikely that the river infestation came from southeast Wisconsin without leaving a trail across the state.

Thank You for your efforts on behalf of our forests.

- Dan Behnke – Lindsey

I TOTALLY SUPPORT THE CHANGED REG. Anna Healey is 100% correct when she called the spread of damaging insects like emerald ash borers, "a people problem." (Country Today, 10/16/13, 6C). We have a very real problem with us humans thinking only of ourselves, ---our comfort, and our pleasure, and failing to consider long-range implications of many of our decisions and actions. Many of the ecological problems in Wisconsin and indeed around the world are totally human-caused, no matter what the deniers say. Thank you for your diligence, your commitment, and your efforts to safe-guard our wonderful state of Wisconsin.

- Samuel VanderZee - Onalaska

Imagine what it would be like to hike through the woods without seeing the familiar oak or ash trees. If we don't do more to prevent the spread of diseases, many trees in our forests will die. The Wisconsin DNR has proposed a change to the firewood transport distance limit for state lands. The new regulation would change the maximum allowable distance to transport firewood to public property from 25 miles to 10 miles. I support tighter firewood transport regulations in Wisconsin because they will help prevent the spread of insects that could potentially harm trees. The proposed regulations will help slow the spread of these many insects that are lethal to trees. The pests that cause this damage cannot move very far or fast. Because of this, reducing the firewood transport distance limit to a 10 mile radius could help to contain them.

Education about the issue of firewood transport is just as important as regulation. Many people are unaware that there are regulations, or that moving firewood can spread these tree-killing insects and diseases. The public needs to know more about the effect that moving firewood has on trees.

Everyone needs to be aware of the emerald ash borer and other pests that harm trees. Two things we can do to slow the spread of these diseases and keep our forests and woodlands healthy are to tighten the existing regulations and to make sure the public is educated about the issue.

**Against the changes proposed, favors more stringent regulation**

- Harald Norslien- Black Earth  
This proposed change does not go far enough to provide protection for our state lands from invasive pests. Only wood that is certified as having been treated to kill any pests infesting it should be allowed into state lands. No untreated wood should be allowed in no matter how close it was cut to the state property.
- Dave Schneider – Pardeeville  
Personally hope the DNR moves quicker than it has in the past to reduce the distance firewood can be transported. Part of the problem is people are selling firewood within 10 miles of a state property that originated from 60-150 miles away. I know for a fact that some local firewood being sold along the side of the road near Pardeeville came from 60-100 miles away. People buy it thinking they are buying local wood but they are not. The rule should be zero miles and everyone should be buying certified kiln dried wood only for state parks and any public or private campground in the state. I hope enough certified suppliers can be established to make this happen.

**Against the changes proposed, favors leaving the regulation as it is.**

- Lance and Sue Olson – Fish Creek  
Our family has run the wood yard at Peninsula State Park for the past 30 years. Since the restrictions have begun, our sales have nearly doubled due to the fact that people are no longer able to bring their own firewood. My husband bought a firewood processor to keep up with the demand, but when the miles were once again reduced from 50 miles to 25 miles, the processor became obsolete. This is because we are in Northern Door County and most of the land is surrounded by water and the wooded land is bought up by tourist. There are five state parks in Door County and over a dozen large campgrounds. The wood supply is dwindling. We are having a hard time at the 25 mile limit finding the wood to provide for the campers. In the past years, we have had to put limits on the number of bundles that campers could purchase per night just to make sure that we had enough wood for the season. If the restriction moves to ten miles, Northern Door County will not be able to supply the campers and residents with the firewood that they would like. Currently, we cut most of our wood within the park, but with the restrictions, it is becoming impossible for us to keep up with the demand. Due to Door County's geographical location, please consider alternative restrictions for our area.
- John Hillery – Pewaukee  
Our camping group has an annual state park outing once a year and has a source of firewood within the current 25 mile radius of the State Park. Reducing the current 25 mile radius to 10 miles would put our group in a bind and force us to buy expensive firewood from a local vendor within the 10 mile radius. Furthermore, we don't feel that the 15 mile reduction would be a significant factor in reducing the Emerald Ash Borer threat. So we are for retaining the 25 mile limit. In addition, we would like to see some clarification on certifying camp firewood within the 25 mile radius. Thanks
- Andrew Vitalis - Dresser  
The "less than 10 miles" may limit wood suppliers to those who only have kilns making it a bit of a monopoly- that's the only concern I would have on that at this point.
- Craig Holl - New Berlin

This is my comment regarding the proposal to reduce the wood travel radius from 25 miles to 10 miles. I think it is a bad idea. The 25 mile restriction is already too much. My reasoning is that this is only slowing the Emerald Ash Borer. But it is in no way stopping it, as evidenced by all the areas that are now infected. It is only a matter of time before it is in every county and every park. This wood moving ban is accomplishing nothing except inconveniencing people.

I vote no on further wood movement restrictions.

Thank you for your time and consideration of my thoughts.

- Rick Lamal - Green Bay

I recently read that the WDNR wants to decrease the allowable firewood range from 25 miles to 10 miles for state parks. A few years ago I filled out a lengthy survey about this issue and stand by my original disapproval of this plan. If the DNR would make firewood available at a reasonable cost it might be more acceptable but the cost of a bundle of firewood that isn't even dried is ridiculous. Mixed in to this firewood is popple and other cheap grades of wood. I know that the State hires vendors for their firewood sales and the vendors are given limited space to operate which doesn't help the drying time. They are there to make a profit only and don't care about the campers. I camp at Peninsula State Park each year and have for 45 years and get my firewood from a family member that lives in Ellison Bay. That would be outside of your 10 mile range. There is very little chance that the EAB would reach Ellison Bay before it reaches the park. If it does, then the park is going to eventually get the EAB anyway. Thanks for listening to my concerns and I hope that you leave the range as is.

- Kristi Rice - Sister Bay

My husband, Morgan, and I operate a farm in Sister Bay in Door County, Wisconsin. We first began our small business about 11 years ago on 100 acres of land owned by his family for many generations. We are young farmers, now in our early 30s. In addition to growing market vegetables and over 70 varieties of pumpkins, squash, and gourds, we sell bundled firewood in northern Door County. We sell approximately 10,000 bundles each year to small businesses including convenience stores, grocers, and campgrounds. Our largest accounts are in the villages surrounding Peninsula State Park. Our 25 mile service area includes Peninsula, Rock Island, and Newport State Parks and extends to the Sturgeon Bay shipping canal. Morgan works full-time on the farm, and I work full-time for a local land conservation organization and help at the farm after work.

We have adjusted our firewood practices with the each new mandate by the state over the years, and have received compliments from state officials who confirm we are following the rules, even down to the small, yet important, details of how we label our firewood.

In our early years we harvested logs from our own land, but as business grew we found the increased harvest unsuitable to our land which includes much wetland and cedar forest plus hardwood forest along the North Bay State Natural Area. We now purchase logs 1-2 years in advance from a logging company who harvests the hardwood within 25 miles of our farm, most from managed forest lots intended and suitable for timber harvesting. The current 25 mile radius reaches the forested portions of central Door County, which is wider geographically than northern Door County and is home to more harvestable timber. We have chosen not to purchase ash logs in recent years to avoid the possibility of spreading the Emerald Ash Borer. We work mostly with birch and maple logs.

Door County is a unique narrow peninsula, surrounded by water, and causes us the need to be very strategic in where our logs are harvested to follow the current 25 mile rule. If a 10 mile rule were implemented in Door County, there will be increased harvest pressure on woodlots surrounding Peninsula State Park, and within the park itself. The 10 mile radius of Peninsula State Park includes well over a half dozen State Natural Areas that include pristine lands and wetland gems which are not suitable for timber harvesting. This harvest pressure will have a negative effect on this environment.

Establishing a 10 mile rule for firewood brought into state parks in Door County is not practical and will negatively affect our small business. This rule will not further protect our state parks from invasive species than the current 25 mile rule. Homes and many private campgrounds in the area do not currently follow the rule, and we do not expect they will follow the proposed 10 mile rule. The rule constricts our firewood practices to the point that we will not be able to provide wood to retail outlets serving the visitors of our state parks, resulting in a loss of over \$20,000 of our sales annually. Local retail outlets will need to turn to purchasing higher-priced kiln dried wood from hundreds of miles outside of Door County. The price increase would be passed to the consumer. The demand for bundled firewood in the tourist season is extremely high, and the logistics of purchasing from a non-local source for kiln dried wood are due to fail in keeping up with supply. Spending \$75,000-\$100,000 on a kiln and the heavy equipment accessories needed to kiln dry our firewood is beyond our means.

Please consider the uniqueness of Door County and our situation in any decision you make regarding the mileage limits on firewood for our state parks.

#### **Lower the price of firewood to reduce firewood movement**

- Kyle Schwarm

Isn't there a way the DNR could subsidize firewood at State Parks to discourage the transportation of it? Or, hire college students to clear out dead timber and prepare it for campers at a cost lower than the current vendor system? This would encourage individuals to purchase wood at the parks for much less. Firewood has become so expensive (more than \$1 a piece) that it encourages campers to sneak their own wood into campgrounds. I've seen it over and over again. The restriction is not working. All it does is punish the honest while the dishonest continue to violate the rules and threaten species. I understand the insect is not restricted to state park users, but this would help.

- Kevin Pitts

I saw in the Green Bay paper that you were taking comments on firewood. Here are my thoughts:

1. I recently camped with my daughter at Devil's Lake campground. The wood that was sold at the campground is sold at about \$1.00/piece. You buy bundles wrapped in plastic (that goes in the garbage) at the campground. Wood in the Green Bay area goes right now at \$65 /face cord. Based on these inflated prices a face cord would go at about \$500-\$600 / face cord at this campground. This is why people bring their own wood in. People who camp are demographically trying to save money. With the firewood system of the state parks we are getting gouged. I was going to bring down three year old poplar but my daughter talked me out of it. Instead I spent \$10/ night to have a campfire. I am 62 years old and have been cutting

wood since I was a teenager. I know my wood. I am willing to pay a reasonable price but the price charged here amounts to robbery!

2. You promote the idea that all wood that moves throughout the state needs to be certified. We have trainloads of both hardwood and softwood sitting on the tracks for weeks at a time in the Green Bay area. The farmer in Oconto County trying to sell oak in Green Bay is under one set or restrictions but the railroads / paper mills have no restrictions. This is inconsistent.

I am all for saving the ash trees. I have seen the demise of the elm trees and now the oak trees in my area. I will do what it takes to try and stop this insect. I just want consistency in policy and fairness on the woods sales. The wood at the campgrounds can be wrapped in burnable twine and sold at a fair price.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original    Updated    Corrected

2. Administrative Rule Chapter, Title and Number

NR 40.045 Firewood

3. Subject

Regulation of firewood that may enter state lands

4. Fund Sources Affected

GPR    FED    PRO    PRS    X SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.370(1)(mv)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

9. Policy Problem Addressed by the Rule

In order to provide better protection from an increasing threat from wood borne invasive pests and diseases to forests of the state, the proposed change to NR 45.045(2)(a) would reduce the distance from the state campground or property from which allowable firewood may originate from 25 to 10 miles. The proposed elimination of NR45.045(2)(b) would remove a regulation that would no longer provide significant additional protection if the change to (a) is approved.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

WDATCP certified firewood vendors and firewood vendors near state campgrounds identified by State Park and Forest staff. We assembled a package of a letter with the solicitation for input on the EIA, a copy of the proposed rule and a draft of the EIA. This package was sent to all certified firewood vendors and state campgrounds were asked to give packets to the firewood vendors outside the property.

11. Identify the local governmental units that participated in the development of this EIA.

None, as this rule change is unlikely to affect local governments

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The changes proposed to this rule would affect some firewood vendors. Those sourcing their wood within 10 miles of state properties where they sell and those that are certified as treating their wood to kill infesting organisms would be benefited by these changes. Those vendors getting their wood from less than 25 miles but more than 10 miles and who are not certified would lose sales to campers going to the park.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Firewood vendors within 10 miles of state properties and those that are certified as treating their wood to kill infesting organisms would be benefited by these changes. Campers at state campgrounds near the borders of WI would have a greater choice of firewood vendors. The alternative is to leave the distance from a state campground or property from which allowable firewood may originate at 25 miles.

14. Long Range Implications of Implementing the Rule

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

These changes would slow the spread of wood borne invasive pests and diseases onto state lands, delaying losses and damage and allowing more time to prepare and deal with them . By delaying establishment of pests in state properties, we will benefit from development of management tools such as pesticides, biological controls and resistant trees. Modeling a cautious approach to the movement of firewood can also influence the behavior of the public as we have seen already from the current regulation. As more people get their wood from local sources or from vendors who treat the wood to prevent infestation, the rate of spread of all pests and diseases moving on firewood will be slowed to the general benefit of the residents and forests of WI.

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15. Compare With Approaches Being Used by Federal Government

The Apostle Islands National Park has prohibited all firewood into the park since 2006. The Chequamegon-Nicolet National Forest prohibits firewood from south of Route 29 or from outside Wisconsin. The Army Corps of Engineers allows only firewood certified or approved by a state or federal agency to enter their camping area at Blackhawk in WI.

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16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Minnesota only allows wood from approved vendors for the state property the wood will be entering. Illinois state properties prohibit wood from state and federally quarantined counties and also the counties bordering the quarantined area for EAB. Michigan state properties prohibit ash firewood and also enforce the state and federal EAB quarantines on all hardwood firewood. Iowa state properties enforce state and federal quarantines for EAB on hardwood firewood and requires all firewood to be labeled with county and state of origin. Indiana only allows state or federally certified treated wood, lumber scraps or debarked wood onto its state properties

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17. Contact Name

Andrea Diss-Torrance

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18. Contact Phone Number

608-264-9247

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
REPEALING, RENUMBERING, AMENDING, REPEALING AND RECREATING, AND CREATING  
RULES**

The statement of scope for this rule, SS-055-12, was approved by the Governor on 7/25/12, published in Register No.680, on 8/14/12, and approved by the Natural Resources Board on 10/24/12. This rule was approved by the Governor on -date-.

The Wisconsin Natural Resources Board proposes an order to repeal NR 45.045(2) (b); to renumber NR 45.045(2). (d) and (e); and to amend NR 45.045 (2) (a) relating to decreasing the distance from which firewood may be brought onto state lands from 25 to 10 miles and allowing wood from out of state to enter state lands if originating within 10 miles.

FR-20-12

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:**

Chap 23.09(2intro): Departmental rules; studies; surveys; services; powers; long-range planning. The department may promulgate such rules, inaugurate such studies, investigations and surveys, and establish such services as it deems necessary to carry out the provisions and purposes of this section. The department shall establish long-range plans, projects and priorities for conservation. The department may:

Chap 23.09(2m)(b): Forest land plans and management. The department shall manage forest land under its jurisdiction in a manner that is consistent with, and that furthers the purpose of, the designation of that forest land as a state forest, southern state forest, state park, state trail, state natural area, state recreation area, or similar designation.

Chap 23.09(10): Conservation easements and rights in property. Confirming all the powers hereinabove granted to the department and in furtherance thereof, the department may acquire any and all easements in the furtherance of public rights, including the right of access and use of lands and waters for hunting and fishing and the enjoyment of scenic beauty, together with the right to acquire all negative easements, restrictive covenants, covenants running with the land, and all rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public. The department also may grant leases and easements to properties and other lands under its management and control under such covenants as will preserve and protect such properties and lands for the purposes for which they were acquired.

Chap 23.091(1): Designation. The department may acquire, develop, operate and maintain state recreation areas. State lands and waters may be designated as state recreation areas that are environmentally adaptable to multiple recreational uses, or are so located to provide regional or urban recreational opportunities or for preservation.

Chap. 23.11(1): General powers. In addition to the powers and duties heretofore conferred and imposed upon said department by this chapter it shall have and take the 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 the care and supervision of which are vested in some other officer, body or board; and 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 law. But it may not perform any act upon state lands held for sale that will diminish their salable value.

Chap 23.11(4): The department shall have police supervision over all state-owned lands and property under its supervision, management and control, and its duly appointed agents or representatives may arrest, with or without warrant, any person within such area, committing an offense against the laws of this state or in violation of any rule of the department in force in such area, and deliver such person to the proper court of the county wherein such offense has been

committed and make and execute a complaint charging such person with the offense committed. The district attorney of the county wherein such offense has been committed shall appear and prosecute all actions arising under this subsection.

Chap 26.30(2): Powers. The department is vested with authority and jurisdiction in all matters relating to the prevention, detection and control of forest pests on the forest lands of the state, and to do all things necessary in the exercise of such authority and jurisdiction, except that this shall not be construed to grant any powers or authority to the department for the silvicultural control of forest pests on any land. This section shall apply only to the detection and control of forest pests on forest lands and does not affect the authority of the department of agriculture, trade and consumer protection under chs. 93 and 94. The action of the department under sub. (4) shall be coordinated with the department of agriculture, trade and consumer protection in accordance with s. 20.901. The secretaries of natural resources and agriculture, trade and consumer protection shall execute annually a memorandum of agreement to enable the coordination of pest control work of their departments.

Chap 27.01(2)(i): Establish and operate in state parks such services and conveniences and install such facilities as will render such parks more attractive for public use and make reasonable charges for the use thereof.

Chap 27.01(2)(j): Promulgate rules necessary to govern the conduct of state park visitors, and for the protection of state park property, or the use of facilities, including the use of boats and other watercraft on lakes or rivers within the limits of a state park, and the use of roads, trails or bridle paths.

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

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

Chap 227.11(2)(a): Rule-making authority is expressly conferred as follows: Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

### **3. Explanation of agency 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 statutes or rules:**

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 long-horned beetle. This rule supports ch. ATCP 21 and NR 40.

#### **5. Plain language analysis:**

DNR currently limits firewood entering state lands to that wood originating from within 25 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. In response to concerns from the public, we propose to reduce the allowable distance to 10 miles. A model of the changing risk of introduction of an invasive pest with decreasing allowable distance shows a significant reduction in level of risk between 25 and 10 miles and that difference in reduction in risk is greater with increasing numbers of infestations in Wisconsin. With the establishment of emerald ash borer and beech bark disease at several sites in Wisconsin and the new threat of thousand cankers disease of walnut, reducing the allowable distance for wood brought onto state lands is a prudent step to take.

If the allowable distance is reduced to 10 miles, the prohibition of out-of-state wood will no longer provide the additional protection it once contributed. If a pest is established within 10 miles, it will be a short time before it can spread on its own onto the property. Regulation that doesn't provide a benefit should be dropped. We also expect a long term benefit of simplifying the message that safe wood is local or treated and avoiding the appearance of blaming other states for invasive pests.

#### **6. Summary and comparison with existing and proposed federal regulations.**

The Apostle Islands National Park has prohibited all firewood into the park since 2006. The Chequamegon-Nicolet National Forest prohibits firewood from south of Route 29 or from outside Wisconsin. The Huron-Manistee National Forest in Michigan prohibits bringing ash firewood onto the forest. The Army Corps of Engineers regulates firewood they allow onto their lands in Wisconsin.

#### **7. Comparison of similar rules in adjacent states:**

Michigan prohibits movement of ash products including firewood from quarantined counties from entering state properties in un-quarantined areas. 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 DNR approved vendors: wood must not include ash, be from within Minnesota and from within 50 miles of the destination park or be certified by MN Department of Agriculture as being treated to EAB standards. 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 ash wood out of counties quarantined by the state for EAB and individual parks may have firewood regulations. Indiana prohibits all wood except from certified vendors.

#### **8. Summary of factual data and analytical methodologies:**

These changes are being made in response to requests from the public to do more to protect state lands, the increasing threat from highly damaging invasive pests moving on firewood and a model of risk of introduction of invasive pests on firewood.

#### **9. Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis:**

We are directly contacting firewood dealers who could be affected by these changes to solicit their input in the development of the EIA: those who sell wood close to state campgrounds and those who are certified by WI DATCP as treating their wood to kill infesting organisms.

**10. Effect on small business:**

The changes proposed to this rule would affect firewood vendors. Those within 10 miles of state properties and those that are certified as treating their wood to kill infesting organisms would be benefited by these changes. Those vendors getting their wood from less than 25 miles but more than 10 miles and who are not certified would lose sales to campers going to the state campground.

**11. A copy of any comments and opinion prepared by the Board of Veterans Affairs under s. 45.03 (2m), Stats., for rules proposed by the Department of Veterans Affairs:** [if not applicable, so state]  
Not applicable

**12. Agency Contact (include email and telephone number):**

Andrea Diss-Torrance  
PO Box 7921  
Madison, WI 53707  
608-264-9247  
[Andrea.DissTorrance@wisconsin.gov](mailto:Andrea.DissTorrance@wisconsin.gov)

**13. Place where comments are to be submitted and deadline for submission.**

The deadline for input to the Economic Impact Assessment is Aug 15, 2013. No other deadlines are currently scheduled.

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**SECTION 1. NR 45.045(2) is amended to read:**

**NR 45.045(2) (a)** No person may possess firewood that originates from any of the following:  
(a) An area more than ~~25~~ 10 miles from the campground, or the property itself if there is no campground, to which the firewood will be transported.

**SECTION 2. NR 45.045(2)(b) is repealed.**

**SECTION 3. NR 45.045(2)(d) is renumbered NR 45.045(3)**

**SECTION 4. NR 45.045(2)(e) is renumbered NR 45.045(4) and amended to read:**

**NR 45.045(4)** The department may seize and dispose of firewood possessed in violation of this paragraph ~~section~~.

**SECTION 5. EFFECTIVE DATE.** This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats

**SECTION 6. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Cathy Stepp, Secretary

(SEAL)