



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Plant Pest Import Controls and Quarantines
Adm. Code Reference: ATCP 21
Rules Clearinghouse #: 11-001
DATCP Docket #: 10-R-6

Rule Summary

This rule restricts the import of certain plants, wood and wood products to prevent the introduction of thousand cankers disease of walnut trees (“thousand cankers disease”) into this state. This rule restricts the import of affected materials from states and nations that are known to be infested with thousand cankers disease (there are certain exemptions).

Background

Thousand cankers disease is an emerging fungal disease that can be carried by the walnut twig beetle (the beetle is native to this country). The disease poses a serious threat to black walnut trees, an important forest species in Wisconsin. Black walnut is known for its highly valuable lumber, which is used for finished products such as furniture, musical instruments and gun stocks. There are approximately 18.5 million black walnut trees in Wisconsin, with over 13% of them located in the southwestern part of the state. Wisconsin businesses export over \$4 million in black walnut products annually.

Thousand cankers disease was first observed in New Mexico in the 1990’s. The disease has spread throughout the western United States, causing dieback and mortality in black walnut trees. In July, 2010, the disease was also confirmed in the Knoxville, Tennessee area. The Tennessee infestation is the first confirmed infestation east of the Mississippi River, the native range of the black walnut tree. The disease is currently known to exist in the states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Tennessee, Utah and Washington. Thousand cankers disease has not yet been found in Wisconsin.

Thousand cankers disease may be spread by the movement of firewood, nursery stock, and unfinished or untreated wood products. Subject to certain exemptions, this rule restricts the movement of potential host materials into Wisconsin, if those materials originated from or were exposed to the environment in an area where thousand cankers disease is known to exist.

¹ This analysis includes, but is not limited to, a small business analysis (“regulatory flexibility analysis”) under s. 227.114, Stats..

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Rule Content

Plant Pests; Import Prohibition

Under this rule, no person may knowingly import the walnut twig beetle or the fungal pathogen *Geosmithia morbida* sp. Nov into this state, except pursuant to a special DATCP permit (for controlled scientific research or other limited purposes that pose no significant disease risk).

Host Materials; Import Prohibition

Under this rule, no person may import any of the following host materials into this state from an infested nation, state or area (as determined by the United States department of agriculture):

- Firewood from any species of tree.
- Living or dead plants or plant parts of the genus *Juglans* (walnuts). This prohibition applies, for example, to nursery stock, budwood, scionwood, green lumber, logs, stumps, roots, branches, composted chips and uncomposted chips.

Exemptions

The prohibition against the importation of host materials does *not* apply to any of the following:

- Nuts, nut meats or nut hulls.
- Processed lumber, with square edges, which is 100% bark-free and kiln-dried.
- Finished wood products without bark (for example, finished furniture, musical instruments or gun stocks).
- Materials that are accompanied by a written certificate, signed by a pest control official in the infested area, which describes the materials and states at least one of the following:
 - The materials have not been exposed to thousand cankers disease. The certificate must explain the basis for the official's statement.
 - The materials have been effectively treated to destroy thousand cankers disease. The certificate must specify the date and method of treatment.
 - The materials have been produced, processed, stored, handled or used under conditions, described in the certificate, which effectively preclude the transmission of thousand cankers disease.

- Materials imported in compliance with a written agreement between the importer and DATCP. The agreement must include all of the following:
 - The name and address of the importer.
 - The type and volume of material that may be imported under the agreement.
 - The locations from which the material may be imported under the agreement.
 - The names and addresses of the persons to whom, and the locations to which, the material may be imported under the agreement.
 - The method by which the material may be imported.
 - The time period covered by the agreement.
 - The importer's commitment to keep complete records of each import shipment under the agreement, and to submit those records to DATCP for inspection and copying upon request.
 - Specific import terms and conditions that will, in DATCP's opinion, effectively ensure that materials imported pursuant to the agreement will not introduce thousand cankers disease into this state.
 - A provision authorizing DATCP to terminate the agreement without prior notice, for any reason.

Business Impact

This rule will benefit Wisconsin wood industries by helping to preserve Wisconsin's economically important black walnut forest resource. Black walnut is a highly valuable tree, prized for the quality of its wood. Black walnut is used to make furniture and other important value-added wood products. There are approximately 18.5 million black walnut trees in Wisconsin, with over 13% of them located in the southwestern part of the state. Wisconsin businesses export over \$4 million in black walnut products annually.

This rule will not have a significant adverse impact on small businesses or other businesses in this state. This rule restricts the import of certain untreated firewood and untreated black walnut wood products from areas *outside* this state, but does not otherwise restrict the distribution or sale of wood or wood products. This rule will restrict the activities of a small number of businesses in this state, and offers ways for those businesses to minimize any potential adverse impacts. This rule will not impose significant new costs, recordkeeping, reporting or professional service requirements on affected businesses in this state.

Accommodation for Small Business

This rule will not have a significant impact on small businesses in this state. This rule does not exempt small businesses from the import restrictions under this rule, because the spread of thousand cankers disease is unrelated to business size. This rule provides certain import exemptions and alternatives that are available to businesses of all sizes.

Conclusion

This rule will help to protect Wisconsin's black walnut resource, on which many Wisconsin wood processing businesses depend. This rule will not have significant adverse effects, or impose significant costs, on businesses in this state. Costs, if any, are outweighed by the need to protect Wisconsin's black walnut forest resource from destruction by thousand cankers disease.

Dated this _____ day of _____, 2011

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
John Petty, Administrator
Division of Agricultural Resource Management