

Report to
Legislative Council Rules Clearinghouse
NR 45.075, Wis. Adm. Code
Natural Resources Board Order No. FR-09-07

Wisconsin Statutory Authority

ss. 23.114 and 227.11(2)(a), Stats., interpreting s. 23.114, Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

In 2005 Wisconsin Act 166 which created s. 23.114, Stats., the Department was directed to promulgate rules to implement a rule pertaining to the chief state forester's authority to specify emergencies on forested lands under the jurisdiction of the Department. Act 166 provides that the rules shall be initially adopted through the emergency rule process followed by promulgation of the permanent rule. Natural Resources Board Emergency Order No. FR-11-07(E) became effective on February 6, 2007. The Act also provides the emergency rule shall not lapse prior to promulgation of the permanent rule and required no finding of emergency.

The proposed rule and the emergency rule describe causes of unforeseen damage or threat of damage to trees that could lead the chief state forester to declare an emergency on forested lands under department jurisdiction and take management authority. Included in the list of damaging agents that could lead to the declaration of an emergency are those required by the legislature: invasive species, pest infestation, disease and damage to timber from fire, snow, hail, ice or wind. The rule states that when declaring and responding to an emergency, the chief state forester shall consider the purpose and management plan for the affected property in his or her decisions. This rule, however, would allow the chief state forester to take actions not described in the management plan for a property if that were the most appropriate response to the emergency. Finally, this rule described the processes by which the declaration of the state of emergency shall be made effective, canceled or modified.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Contacts

Andres Diss-Torrance, Division of Forestry – 264-9247
Quinn Williams, Bureau of Legal Services – 266-1318
Carol Turner, Bureau of Legal Services - 266-1959

Submitted on February 7, 2007