

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis

Rule Subject: Voluntary Certification of Firewood Dealers
Adm. Code Reference: ATCP 21
Rules Clearinghouse #: 11-051
DATCP Docket #: 10-R-05

Background

The Department of Agriculture, Trade and Consumer Protection (DATCP) has administered a voluntary certification program for firewood dealers since 2008. The purposes of the program are to prevent the spread of pests such as Emerald Ash Borer (EAB) and to enable firewood dealers to sell firewood for use in state parks and other state lands. DATCP is proposing changes to the certification program based on its experience administering the program. The Wisconsin Department of Natural Resources (DNR) has adopted rules limiting the use of firewood from *uncertified* sources in Wisconsin state parks and other state lands. Firewood from a *certified* dealer, if treated and labeled according to our rule, may be used in Wisconsin state parks and other state lands.

Contents of this Proposed Draft Rule

This rule makes changes to the voluntary certification program for firewood dealers that will do the following:

- Alters the definition of firewood so that some forms of wood such as slabs and trimmings from saw mills will now be considered firewood when used as firewood.
- Alters the definition of a firewood dealer to provide that a minimum annual distribution of 20 cords is required to meet the definition in order to limit certification to commercial operations.
- Provides that, in addition to the certification number, the firewood label must identify the treatment method and the state and county where the wood was harvested and requires a minimum font size for the certification number on the label.
- Changes the expiration date of the certification from December 31 to the anniversary date of the initial certification.
- Provides for a fee of \$200 to a dealer for each additional test DATCP must observe for certification for heat treatment when the dealer does not meet the time and temperature requirements during the first observed run.
- Eliminates fumigation as a treatment option. Currently, Wisconsin has no commercial fumigation facilities and there are no plans for one to be built in the future.
- Terminates bark removal as a treatment option after 2014.
- Lowers the heat treatment temperature and time from 160° to 140° F and 75 to 60 minutes. New research has found that heating to 140° F for 60 minutes is effective in killing EAB. The federal standard is now 140° F for 60 minutes and surrounding states have adopted the federal standard.

- Requires a dealer that employs heat treatment to have time and temperature recording equipment and retain records of each run for three years at a central location.

Business Impact

This rule will not have an impact on firewood dealers. The record keeping requirements may produce a minor expense for certified firewood dealers, as will the fee for additional heat treatment run exams. However, certification remains voluntary. The time and temperature reductions for heat treatment may result in a savings for dealers using the heat treatment method and the reduced expense will enable more businesses to become certified. The changes proposed by the rule will benefit firewood dealers.

Steps to Assist Small Business

Many firewood dealers are “small businesses.” This rule does not make special provisions for “small businesses,” because pest infestations are unrelated to business size. Firewood dealers with a minimum distribution size of 20 cords may be certified under this rule, provided that they are capable of implementing acceptable firewood treatment options. Chapter ATCP 1, Subch. VII, contains special provisions for the application of all DATCP rules to small businesses.

As a practical matter, certification will be attractive mainly for larger firewood dealers who can afford to implement acceptable treatment options (most of those larger firewood dealers may still meet the statutory definition of “small businesses”). This rule includes a range of treatment options, some of which may be more economical for small businesses.

Conclusion

This rule amends a voluntary certification program, which benefits some firewood dealers in this state. This rule will not have any adverse impact on firewood dealers in this state and may have positive impacts for firewood dealers who heat treat as the treatment temperature is lower than previously. The certification program is open to all firewood dealers with a minimum distribution size of 20 cords in this state, including those that qualify as “small businesses.”

This rule will not have a significant adverse effect on “small businesses,” and is not subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 2012.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
John Petty, Administrator,
Division of Agricultural Resource Management