



State of Wisconsin  
2005 - 2006 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 254**

April 25, 2005 – Offered by Representatives FRISKE and MURSAU.

1     **AN ACT** *to amend* 28.04 (2) (a), 28.04 (2) (b), 28.04 (2) (c), 28.04 (3) (a), 28.04 (3)  
2           (b) and 93.07 (12); and *to create* 23.114, 23.135, 28.025, 28.04 (1) (br), 28.04 (1)  
3           (ds) and 28.05 (3) of the statutes; **relating to:** managing state forest lands,  
4           harvesting of timber from certain forested properties, emergencies on state  
5           forest lands, providing an exemption from emergency rule procedures, and  
6           requiring the exercise of rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

7           **SECTION 1.** 23.114 of the statutes is created to read:  
8           **23.114 Duties of the chief state forester. (1)** (a) In this section, “state forest  
9           land” means all forested lands owned by this state and under the jurisdiction of the  
10          department.  
11          (b) Except as provided in par. (c), the chief state forester may declare, and shall  
12          manage, emergencies that threaten state forest lands. The department shall

1 promulgate rules specifying those emergencies over which the chief state forester  
2 shall have management responsibility. The emergencies specified in the rules shall  
3 include invasive species or pest infestation, disease, and damage to timber from fire,  
4 snow, hail, ice, or wind.

5 (c) Paragraph (b) does not apply to a state of emergency declared by the  
6 governor under s. 166.03 and does not supersede the authority of the department of  
7 agriculture, trade and consumer protection under ch. 94.

8 (2) The chief state forester shall report directly to the secretary of the  
9 department.

10 **SECTION 2.** 23.135 of the statutes is created to read:

11 **23.135 Forest land inventory and report.** (1) In this section, “state forest  
12 land” means any parcel of 10 or more contiguous acres of forested land owned by this  
13 state and under the jurisdiction of the department.

14 (2) The department shall undertake and maintain a current inventory of state  
15 forest lands. The inventory shall specify the condition of the forest resources in state  
16 forest lands.

17 (3) If the department prohibits the use of timber harvesting on any state forest  
18 land, the department shall prepare a report that contains a projection of the  
19 long-term forest health effects, a projection of the economic effects, and a projection  
20 of the public benefits that result from that prohibition.

21 (4) (a) Except as provided in par. (b), if the department is required to prepare  
22 a report under sub. (3) for any state forest land, the department shall prepare that  
23 report by January 1, 2010, and every 15 years thereafter.

1 (b) If the department is required to prepare a report under sub. (3) for any state  
2 forest land for which a master plan has not been approved, the department shall  
3 prepare that report upon approval of the master plan and every 15 years thereafter.

4 (5) The department shall submit the report required under sub. (3) to the  
5 council on forestry and to the appropriate standing committee in each house of the  
6 legislature under s. 13.172 (3).

7 **SECTION 3.** 28.025 of the statutes is created to read:

8 **28.025 Annual allowable timber harvests.** (1) In this section, “forested  
9 property” means forested property owned by this state and under the  
10 jurisdiction of the department from which timber is harvested.

11 (2) The department shall establish annual allowable timber harvests for each  
12 forested property. The department may establish a single annual allowable timber  
13 harvest that applies to 2 or more forested properties in a particular region of this  
14 state, as determined by the department, if each one of those forested properties is  
15 smaller than 5,000 forested acres and if all of the proceeds from the sale of timber  
16 harvested on those combined forested properties are credited to appropriations  
17 under s. 20.370 that provide funding for the same purpose, as determined by the  
18 department.

19 (3) (a) 1. By January 1, 2007, and biennially thereafter, the department shall  
20 submit a report to the council on forestry specifying the total timber harvest on each  
21 forested property for the previous biennium, except as provided under par. (b).

22 2. Notwithstanding subd. 1, the department shall submit its report to the  
23 council on forestry as required under subd. 1. by January 1, 2009, and biennially  
24 thereafter, if the forested property that is the subject of the report has not been  
25 inventoried by the department under s. 23.135.

1 (b) If, under sub. (2), the department establishes an annual allowable timber  
2 harvest for combined forest properties, the department may submit a report that  
3 specifies the total timber harvest for these combined properties.

4 (c) If the department submits a report under this section that states that the  
5 timber harvest for forested property in any biennium is less than 90 percent, or more  
6 than 110 percent, of the allowable timber harvest established under sub. (2), the  
7 council on forestry shall prepare a report containing the reasons for noncompliance  
8 and recommendations on methods of ensuring that the timber harvest is consistent  
9 with the annual allowable timber harvest established by the department under sub.  
10 (2). The council on forestry shall submit the report to the governor, to the  
11 department, and to the appropriate standing committees of the legislature under s.  
12 13.172 (3).

13 **SECTION 4.** 28.04 (1) (br) of the statutes is created to read:

14 28.04 (1) (br) "Division" means the division of forestry in the department.

15 **SECTION 5.** 28.04 (1) (ds) of the statutes is created to read:

16 28.04 (1) (ds) "State forest land" has the meaning given in s. 23.135 (1).

17 **SECTION 6.** 28.04 (2) (a) of the statutes is amended to read:

18 28.04 (2) (a) The department division shall manage the state forests forest  
19 lands to benefit the present and future generations of residents of this state,  
20 recognizing that the state forests forest lands contribute to local and statewide  
21 economies and to a healthy natural environment. The department division shall  
22 assure the practice of sustainable forestry and use it to assure that state forests  
23 forest lands can provide a full range of benefits for present and future generations.  
24 The department division shall also assure that the management of state forests  
25 forest lands is consistent with the ecological capability of the state forest land lands

1 and with the long-term maintenance of sustainable forest communities and  
2 ecosystems. These benefits include soil protection, public hunting, protection of  
3 water quality, production of recurring forest products, outdoor recreation, native  
4 biological diversity, aquatic and terrestrial wildlife, and aesthetics. The range of  
5 benefits provided by the department division in each state forest land shall reflect  
6 its unique character and position in the regional landscape.

7 **SECTION 7.** 28.04 (2) (b) of the statutes is amended to read:

8 28.04 (2) (b) In managing the state forests, the department division shall  
9 recognize that not all benefits under par. (a) can or should be provided in every area  
10 of a state forest land.

11 **SECTION 8.** 28.04 (2) (c) of the statutes is amended to read:

12 28.04 (2) (c) In managing the state forests forest land, the department division  
13 shall recognize that management may consist of both active and passive techniques.

14 **SECTION 9.** 28.04 (3) (a) of the statutes is amended to read:

15 28.04 (3) (a) The department division shall prepare ~~a plan~~ plans for each the  
16 state forest lands that describes how the state forest lands will be managed. The  
17 department division shall work with the public to identify property goals and  
18 objectives that are consistent with the purposes under sub. (2). The department  
19 division shall identify in each plan the objectives of management for distinct areas  
20 of the state forest land.

21 **SECTION 10.** 28.04 (3) (b) of the statutes is amended to read:

22 28.04 (3) (b) The department division shall establish procedures for the  
23 preparation and modification of these plans, including procedures for public  
24 participation. In preparing and modifying plans under this subsection, the  
25 department division shall use the best available information regarding the purposes

1 and benefits of the state forests forest land that the department division acquires  
2 through inventories, evaluations, monitoring and research. In evaluating such  
3 information, the department division shall consider both regional and local scales,  
4 including the impact on local economies. As new information becomes available, the  
5 department division shall adapt its management of the state forest land and, if  
6 necessary, the ~~plan~~ plans for the state forest lands.

7 **SECTION 11.** 28.05 (3) of the statutes is created to read:

8 28.05 (3) COOPERATING FORESTERS. (a) The department shall, by rule, establish  
9 a program that allows private cooperating foresters to assist the state in the  
10 harvesting and sale of timber from state forest lands to meet the annual allowable  
11 timber harvest established under s. 28.025. The rule shall include provisions  
12 authorizing the department to contract with cooperating foresters for the purpose of  
13 harvesting and selling timber from state forest lands and authorizing cooperating  
14 foresters to receive a portion of the proceeds from each timber sale. The department  
15 shall establish in the rule a method for determining what portion of the proceeds  
16 received from each timber sale shall be paid to the private cooperating foresters for  
17 their services in assisting the division in the harvesting and sale of timber from state  
18 forest lands. The division shall ask the council on forestry to recommend a method  
19 for determining what portion of the proceeds received from each timber sale shall be  
20 paid to private cooperating foresters under the rule.

21 (b) Each private cooperating forester with whom the department contracts  
22 under par. (a) to harvest and sell timber from state forest lands shall be entitled to  
23 receive a portion of the proceeds from the sale of such timber in the amount  
24 determined by the department under par. (a).

25 **SECTION 12.** 93.07 (12) of the statutes is amended to read:

1           93.07 (12) PLANT PESTS. To conduct surveys and inspections for the detection  
2 and control of ~~injurious~~ pests injurious to plants, make, modify, and enforce  
3 reasonable rules needed to prevent the dissemination of pests, declare and manage  
4 emergencies relating to the detection and control of pests injurious to plants,  
5 provided that such declaration does not supersede the authority of the chief state  
6 forester under s. 23.114 or the department of natural resources under s. 26.30, and  
7 suggest methods of control.

8           **SECTION 13. Nonstatutory provisions.**

9           (1) The department of natural resources shall submit in proposed form the  
10 rules required under sections 23.114 (1) (b) and 28.05 (3) of the statutes, as created  
11 by this act, to the legislative council staff under section 227.15 (1) of the statutes no  
12 later than the first day of the 6th month beginning after the effective date of this  
13 subsection, unless the secretary of administration requires the department of  
14 natural resources to prepare an economic impact report under section 227.137 of the  
15 statutes for the proposed rules.

16           (2) Using the procedure under section 227.24 of the statutes, the department  
17 of natural resources shall promulgate rules required under sections 23.114 (1) (b)  
18 and 28.05 (3) of the statutes, as created by this act, for the period before the effective  
19 date of the permanent rules submitted under subsection (1). Notwithstanding  
20 section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this  
21 subsection remain in effect until the date on which permanent rules take effect.  
22 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not  
23 required to provide a finding of emergency for a rule promulgated under this  
24 subsection.

