



# DAVID CRAIG

STATE REPRESENTATIVE

CHAIRMAN, ASSEMBLY COMMITTEE ON FINANCIAL INSTITUTIONS

Assembly Committee on Environment and Forestry  
Public Hearing, February 17, 2015  
Assembly Bill 25  
Representative David Craig, 83<sup>rd</sup> Assembly District

Chairman Mursau and Committee Members,

Thank you for holding this public hearing on Assembly Bill 25. I introduced this legislation with Senator Lasee, in response to the Environmental Protection Agency's (EPA) updated New Source Performance Standards (NSPS) for wood-burning appliances.

Under these new regulations, the overwhelming majority of wood stoves available now on the market would not meet the new standards. Wisconsin is among the top ten states with the highest number of wood and pellet stoves. For many Wisconsinites who use wood-burning stoves as an affordable heat source alternative, the updated federal standards will likely make that heat source cost-prohibitive due to the increased expense required to meet the updated standards for manufacture of new wood-burning appliances.

As Maine's Democratic Governor, Paul LePage, pointed out in an op-ed at the Wall Street Journal last year:

"The EPA's proposal is unlikely to reduce the amount of harmful wood smoke in the air. It may do just the opposite. The rule would make it prohibitively expensive for homeowners to purchase a new, more efficient stove. ... many people will just hold on to their old stoves, which only exacerbates the potential health threat from smoke."

In a public hearing on the EPA's updated NSPS for wood-burning appliances early last year, Jack Goldman, President & CEO of Hearth, Patio & Barbecue Association outlined the difficulties these new standards will impose on an industry that is "populated overwhelmingly by small businesses."

"The current price tag of up to \$4,000.00 for a wood stove has a payout that consumers can understand and realize. Consumers will conclude that investing in a wood stove that costs significantly more will not pay for itself soon enough, so the replacement of older, dirtier wood stoves will stop in its tracks and significant progress in lowering wood stove and wood smoke emissions by replacing the old polluting stoves, where the real potential for lowering emissions is, will come to a screeching halt. This unintended consequence is precisely what we do not want to happen."

In order to protect our residents from this federal government overreach, our proposal would prohibit the state Department of Natural Resources from promulgating a rule or enforcing a federal regulation that would stipulate a more stringent standard for the emissions of wood heaters than was in effect on

December 31, 2014. This would effectively prohibit the EPA from using Wisconsin tax dollars to enforce its inconsistent policy on woodstoves.

I ask you to support this legislation and protect Wisconsinites utilizing this affordable heating alternative. Thank you and I would be happy to answer any questions you may have on this bill.



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott Walker, Governor  
Cathy Stepp, Secretary

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### Testimony to the Wisconsin Assembly Committee on Environment and Forestry Assembly Bill (AB) 25

**By David Bizot**  
**Chief, Wisconsin Department of Natural Resources, Bureau of Air Management,**  
**Regional Pollutants and Mobile Sources Section**

Thank you, Chairman Mursau and Committee members for the opportunity to provide testimony today. My name is David Bizot. I am the Chief of the Air Program's Regional Pollutants and Mobile Sources Section for the Department of Natural Resources (DNR). I am testifying for information only regarding AB 25. The bill under discussion today would prohibit DNR from promulgating a rule, or enforcing a federal regulation, that specifies a new source performance standard (NSPS) or other emission standard for residential or commercial wood stoves that is more stringent than any NSPS standard in effect on December 31, 2014.

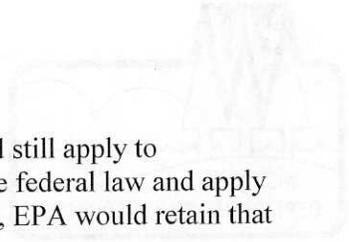
The federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to establish new source performance standards to limit emissions from categories of sources that cause or contribute significantly to air pollution that may endanger public health or welfare. An NSPS does not apply to any source or unit already in existence when EPA establishes the standard. For example, in this case the NSPS only applies to units manufactured or sold after certain future dates established by the rule.

In 1988, EPA established a NSPS for certain wood-burning appliances used for residential heating, commonly called residential wood stoves. In February of 2015, EPA finalized a rule that updates the NSPS to apply to more types of residential wood heaters and also makes the emission limits for these devices more stringent. The updated NSPS standards apply to manufacturers, retailers, and operators of the categories of wood heating devices subject to EPA's rule. The rule will not affect existing woodstoves and other wood-burning heaters currently in use in people's homes.

Current state law provides that, when EPA promulgates a NSPS standard, the DNR must promulgate by rule a NSPS standard, which must be no more restrictive than EPA's standard. For example, DNR promulgated a NSPS standard for residential wood stoves at s. NR 440.642, Wis. Adm. Code based on EPA's 1988 rule.

The bill under discussion today would prohibit DNR from promulgating a rule, or enforcing a federal regulation, that specifies a NSPS or other emission standard for residential or commercial wood stoves that is more stringent than any NSPS standard in effect on December 31, 2014. In effect, this would mean DNR would be prohibited from implementing or enforcing EPA's recently updated NSPS for these devices.

EPA has formally delegated to our state the authority to implement and enforce NSPS regulations. The terms of this delegation require the state to incorporate federal NSPSs into state rule before the state is given full enforcement responsibility. It is unknown how EPA might interpret this legislation in light of our delegation.



If the NSPS is not incorporated into the state administrative code, the NSPS would still apply to manufacturers, retailers, and operators of these devices because these standards are federal law and apply nationally. If DNR was prohibited by statute to implement and enforce this NSPS, EPA would retain that authority.

Thank you for the opportunity to provide information on AB 25. I would be happy to answer any questions you have at this time.

Chief Wisconsin Department of Natural Resources, Bureau of Air Quality

The Wisconsin Department of Natural Resources is pleased to provide this information to you. We are currently reviewing the proposed rule and will provide a final response by the end of the month. We appreciate your interest in this issue and your patience while we complete our review.

The proposed rule is being reviewed by the Department of Natural Resources and the Department of Transportation. We are currently reviewing the rule and will provide a final response by the end of the month. We appreciate your interest in this issue and your patience while we complete our review.

In 1992, the Wisconsin Department of Natural Resources was authorized to regulate air quality. This authority was granted by the Wisconsin Legislature. The Department of Natural Resources is currently reviewing the proposed rule and will provide a final response by the end of the month. We appreciate your interest in this issue and your patience while we complete our review.

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### Fiscal Estimate — 2015 Session

<input checked="" type="checkbox"/> Original  <input type="checkbox"/> Corrected	<input type="checkbox"/> Updated  <input type="checkbox"/> Supplemental	LRB Number 1189/2  Bill Number 25	Amendment Number if Applicable   Administrative Rule Number
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**Subject**

An Act to create 285.27 (5) of the statutes relating to regulating air pollution from residential and commercial wood heaters.

**Fiscal Effect**

State:  No State Fiscal Effect  
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- |  |   |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation        |   |

Increase Costs — May be possible to absorb within agency's budget.  
 Yes     No

Decrease Costs

Local:  No Local Government Costs  
 Indeterminate

1.  Increase Costs  
 Permissive     Mandatory
2.  Decrease Costs  
 Permissive     Mandatory

3.  Increase Revenues  
 Permissive     Mandatory
4.  Decrease Revenues  
 Permissive     Mandatory

5. Types of Local Governmental Units Affected:
- Towns     Villages     Cities  
 Counties     Others \_\_\_\_\_  
 School Districts     WTCS Districts

**Fund Sources Affected**

GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Chapter 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

**Rule Summary:**

The federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to establish regulations (called new source performance standards, or NSPS) to limit air pollution from categories of air pollution sources that cause or contribute significantly to air pollution that may endanger public health or welfare. A NSPS standard does not apply to a source that is in existence when EPA establishes the standard. The Clean Air Act authorizes EPA to delegate to a state the authority to implement and enforce the NSPS standard; Wisconsin has received such delegation. In 1988, EPA established a NSPS standard for certain wood-burning appliances used for residential heating, commonly called residential wood stoves. In 2015, EPA updated the NSPS standards to apply to more types of residential wood heaters and also make them more stringent. The updated NSPS standards apply to both manufacturers and retailers of the regulated wood heaters. Current state law provides that, when EPA promulgates a NSPS standard, the Department of Natural Resources (DNR) must promulgate by rule a NSPS standard, which must be no more restrictive than EPA's standard. DNR promulgated a NSPS standard for residential wood stoves in 1990. This bill prohibits DNR from promulgating a rule, or enforcing a federal regulation, that specifies a NSPS standard or other emission standard for residential or commercial wood stoves that is more stringent than any NSPS standard in effect on December 31, 2014.

**State Fiscal:**

EPA has formally delegated to Wisconsin the authority to implement and enforce NSPS regulations. The terms of this delegation require the state to incorporate federal NSPSs into state rule. It is unknown how EPA might interpret this legislation in light of our delegation or if this legislation could potentially imperil the Federal funding the DNR receives to implement Federally-required Clean Air Act programs. DNR is currently discussing this issue with EPA. DNR is not aware of EPA taking action against either Michigan or Missouri after those states passed similar legislation. This fiscal estimate assumes that Federal funding to the state will not be affected by this law.

**Long-Range Fiscal Implications**

DNR does not foresee long-term fiscal implications from this legislation, unless EPA determines that the state has violated the terms of its delegation and that Federal funding may therefore be withheld.

<b>Prepared By:</b>  Joe Polasek	<b>Telephone No.</b>  266-2794	<b>Agency</b>  Department of Natural Resources
<b>Authorized Signature</b>	<b>Telephone No.</b>  266-2794	<b>Date (mm/dd/ccyy)</b>

## Fiscal Estimate — 2015 Session

### Page 2 Assumptions Narrative Continued

LRB Number 1189/2	Amendment Number if Applicable
Bill Number 25	Administrative Rule Number

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#### Assumptions Used in Arriving at Fiscal Estimate – Continued

##### Private Sector Fiscal:

Even if the NSPS were never incorporated into the state administrative code, the NSPS would still apply to both manufacturers and retailers of these devices because the NSPS standards are federal law. If a state agency was prohibited by statute to implement and enforce the NSPS, it is likely that EPA would retain that authority. Therefore, amending Wisconsin statutes to prohibit the state from promulgating or enforcing NSPS standards for residential wood heaters would not create a different economic impact to private sector businesses because the federal rule will apply to wood heater manufacturers regardless.

## Fiscal Estimate Worksheet — 2015 Session

Detailed Estimate of Annual Fiscal Effect

- Original       Updated  
 Corrected       Supplemental

LRB Number 1189/2	Amendment Number if Applicable
Bill Number 25	Administrative Rule Number

**Subject**

An Act to create 285.27 (5) of the statutes relating to regulating air pollution from residential and commercial wood heaters.

**One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

None

Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations — Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( FTE )	( FTE )
State Operations — Other Costs	0	-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>Total State Costs by Category</b>	\$ 0	\$ -
<b>B. State Costs by Source of Funds</b>		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>Total State Revenues</b>	\$	\$ -

**Net Annualized Fiscal Impact**

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 0	\$
Net Change in Revenues	\$	\$

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature	Telephone No. 266-2794	Date (mm/dd/ccyy)