

Clearinghouse Rule 07-026

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, RENUMBERING, AMENDING, REPEALING AND RECREATING, AND CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to repeal NR 45.04(3)(h); to repeal and recreate NR 1.29, 45.07(1), 45.10(3)(a)1., 45.12(4)(g)7; to renumber NR 45.04(3)(i) to (t); to create NR 45.03(9g), (19m), (23m) and (27), 45.04(2)(a)4., 45.05(1)(g),(h), and (i) and (5), 45.09(8), 45.12(1)(b)10., 45.13(8g) and (26); to amend NR 1.30(1)(e), 1.71(4)(b)4., 45.03(16), (16v), (1)(f), 45.06(1), 45.10(1)(m), 45.12(2)(b)3.and 5., (3)(c)1. and (4)(g)6., 45.13(17)(d), and 51.73(1) relating to use of department properties.

LF-17-07

Summary Prepared by the Department of Natural Resources

Statutory Authority: ss. 23.091, 23.09(2)(intro), 23.11(1), 23.28(3), 23.293, 27.01(2)(j), 27.01(10)(b) and (f) and 227.11(2)(a), Stats.

Statutes Interpreted: ss. 23.091, 23.09(2)(intro.), 23.11(4), 23.17, 23.175, 23.28(3), 23.293, 27.01(2)(i) and (j), 27.01(10)(f) and 28.04(2), Stats.

Explanation of Agency Authority: In addition to the general authority granted by s. 227.11(2)(a), Stats., to implement and interpret its statutory authority, the Department of Natural Resources has specific grants of rule making authority in chs. 23 and 27, Stats., to manage its properties.

Related statute or rule: None. All Wisconsin DNR property management regulations are found in this chapter.

Plain Language Analysis: Chapter NR 45 is the principal rule governing the conduct of visitors to properties and facilities owned, acquired by easement, or leased by the Department. This chapter is reviewed and revisions proposed by staff on a regular basis. This rule revision contains a number of fee and policy changes relative to camping and other uses of Department land. The increased fees are needed to address the continued costs of providing quality services.

A rule has been created to clarify the purpose and management standards of State Ice Age trail areas.

The annual State trail pass is increased from \$15 to \$20. An amendment to an existing rule clarifies which trails are designated as State trails. New additions to the State trails system are included, as is clarification regarding allowed uses on State trails.

A rule has been amended to allow non-permanent employees of the department to serve as director or officer of a Friends' group.

The definitions, for purposes of use on department lands, of off-road motorcycle, dual sport motorcycle, and small off-road motorcycle have been updated and requirements governing their use are added. Inaccurate language governing the operation of motorcycles on department properties is repealed.

Definitions of "Yurt" and "Tepee" are added and a rule is created to allow the department to charge a fee for yurts and tepees.

Hours of operation are established for Lakeshore State Park and a permit requirement has been created to allow the possession or consumption of alcohol only at organized events at Lakeshore State Park.

The spring season ban on drinking or possessing intoxicating liquor or fermented malt beverages that existed on certain department property types has been eliminated.

An amendment to a rule clarifies the existing prohibition for operating an ATV on a non-designated area.

A new rule prohibits the use of electric personal assistive mobility devices ("Segways") on department lands unless authorized in the property's master plan or posted open for their use.

Pets are not permitted inside any department rental tent, tepee, or yurt and pets must be on a leash at Point Beach State Forest.

An existing rule is amended to clarify which property types and areas allow small fires for the purpose of cooking and warming outside of established fire rings or fire pits.

Limits are placed on the butchering of large game animals at state park or state forest campsites or campgrounds to within a camping unit.

A new group camp area at the Turtle Flambeau Scenic Waters Area required a camping permit, reservation, and payment of a daily fee.

A rule is created to define the required length of stay during certain three day holiday periods.

A rule is created to add a new fee area (Old Veterans Lake) at the Peshtigo River state forest.

The rule permitting additional weekend and holiday family camping fees for Type A and B campgrounds has been amended to eliminate fee differences based on time of year, and Castle Mound Campground at the Black River state forest has been added to the list of campgrounds subject to the potential for an increased fee on an annual basis.

Seven properties are added to the list of properties that charge an additional \$3.00 fee for camping due to local market conditions and the fee differential is now applied year-round for the listed properties.

Certain reservation periods are now aligned with family camping reservation. This change allows the public to reserve picnic areas, shelters, auditoriums, amphitheatres, tepees and yurts up to 11 months in advance.

A rule is created to codify regulations pertaining to Inch Lake Natural Area as required under the terms of the acquisition of the property.

The list of allowable uses at Bong State Recreation Area has been updated to reflect current terminology and more accurately portray existing permitted uses.

Federal Regulatory Analysis: N/A

Comparison with Adjacent States:

Illinois:

- Family campsite fees range from \$10 per night to \$20 per night
- Illinois pricing varies by location
- There is no mention of fee differentials due to market forces

Minnesota:

- Family campsite fees range from \$12 per night to \$18 per night

- Minnesota sets a range of pricing for different type of state parks
- Minnesota prices their "Familiar Favorites" campsites at the \$18 fee.

Iowa:

- Family campsite fees in Iowa range from \$11 to \$16 per night
- Iowa charges a camping differential fee based on the time of the year

Michigan:

- Family campsite fees in Michigan range from \$10 to \$33 per night
- Campsite prices do not vary by season or day of the week

Summary of Factual Data and Analytical Methodologies:

Seven parks are added to the current eight state parks (all Tier 1 state parks) where fees will be raised by \$3 per night for market conditions. The new state parks added to this list are: Copper Falls, Council Grounds, Governor Dodge, High Cliff, Newport, Pattison, and Potawatomi. A 2001 *Future of Camping Study* completed by the WiDNR-Bureau of Parks and Recreation identified several significant "hot" spots in Wisconsin where camping demand often exceeds supply. These areas include the border areas near Illinois and Minnesota (Twin Cities area), Lake Michigan and Lake Superior properties, the Dells area, along major travel routes and near other major tourism areas. All seven parks and forests being adjusted are located in these markets, and all seven properties have continuously high rates of occupancy during the camping season. A survey of the markets surrounding the seven properties being adjusted for market conditions reveals that prices are much higher for non-state park campsites per night compared to state park and forest sites:

Park Fees:

- Copper Falls - \$17- \$25
- Council Grounds - \$17- \$25
- Governor Dodge - \$17- \$25
- High Cliff - \$17- \$25
- Newport - \$17- \$25
- Pattison - \$17- \$25
- Potawatomi - \$17- \$25

Surrounding Market Pricing:

- \$21 - \$29
- \$21 - \$29
- \$18.50 - \$50
- \$25 - \$50
- \$25 - \$110
- \$18 - \$35
- \$29.50 - \$40.50

Anticipated Private Sector Costs: Fees are increased for certain uses of department lands and those increased costs will be incurred by the users. Because the fees correspond to activities that are for the most part, most commonly used on a relatively infrequent basis, and the increases are modest, the fee increases are not anticipated to be burdensome for most users.

Effect on Small Business: None Anticipated

Analysis and Documents supporting determination of Small Business Effect: No effects anticipated.

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Written Comments: Kathryn Fitzgerald LF/6, PO Box 7921, Madison Wisconsin 53707. The deadline for written comments in May 4, 2007. Comments may also be electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>.

SECTION 1. NR 1.29 is repealed and recreated to read:

NR 1.29 Ice Age and North Country trails. (1) The Ice Age trail and North Country trail shall be managed primarily as footpaths for pedestrian use.

(2) (a) Definition. 1. In this section, "State Ice Age trail areas" mean lands purchased by the department under the authority of s. 23.09 (2) (d) 10., Stats., for the support of the Ice Age trail, except when purchased as part of another department project.

2. In this section, "Ice Age trail" has the meaning designated in s. 23.17(2), Stats. When the Ice Age trail is within a department property not purchased specifically for the Ice Age trail, the Ice Age trail for management purposes shall be the trail tread and 10 feet on either side.

(b) *Management.* State Ice Age trail areas shall be managed for the Ice Age trail designated in s. 23.17 (2), Stats.

1. *Purpose.* The primary purpose of State Ice Age trail areas is to permanently protect segments of the Ice Age Trail. The desired future condition is natural communities composed of native plants and animals. Management for larger and older trees is desirable on forested sites, unless otherwise provided for in a master plan.

2. *Primary uses and activities.* The permissible uses on the Ice Age trail are walking, hiking, long-distance backpacking, snowshoeing, cross-country skiing, nature study, and berry picking.

3. *Other activities.* Ice Age trail objectives shall receive major consideration in management planning for State Ice Age trail areas. Other objectives can be accommodated when they are compatible and do not detract from the primary purpose of State Ice Age trail areas.

a. Secondary activities within the greater Ice Age trail area to these primary activities may include: hunting for vegetative management or controlling deer numbers, timber harvesting, and other forest management activities to benefit the desired future vegetative condition of the Ice Age trail area.

b. Other non-motorized recreational uses may be allowed to take place within the State Ice Age trail area which do not interfere with the primary purpose of the State Ice Age trail area.

c. Other uses of State Ice Age trail areas may include mountain bicycling and horse riding if the property is of sufficient size to allow these activities to take place not less than 150 feet away from the Ice Age trail. Intersections and other activities less than 150 feet from the Ice Age trail may be allowed as an exception on a case-by-case basis when needed as a connector for a larger trail system. No coincident use of the Ice Age trail may be allowed for any uses other than those primary uses listed in this section.

4. *Vehicles.* Vehicles shall be prohibited on the Ice Age trail except as provided for in s. NR 45.14(1), Stats., and except for snowmobiles where deemed appropriate by the secretary of the department of the interior and the managing authority responsible for the segment as permitted by 16 U.S.C. 1241.

(3) Dispersed camping on state Ice Age trail areas and on lands purchased for the North Country trail may be allowed.

SECTION 2. NR 1.30(1)(e) is amended to read:

NR 1.30(1)(e) *State trails.* Continuous corridors not associated with a state park or other type of department property, utilized for recreation, that are listed in s. NR 51.73.

SECTION 3. NR 1.71(4)(b)4. is amended to read:

NR 1.71(4)(b) 4. ~~Department~~ Permanent department employees may be members of a friends group, but may not serve as directors or officers of the group. Department employees may, incidental to their regular duties, sell items on behalf of the friends group.

SECTION 4. NR 45.03(9g) is created to read:

NR 45.03(9g) "Dual-sport motorcycle" means a street-legal motorcycle that meets the definition of a Type 1 motorcycle in s. 340.01(32), Stats., and can be ridden to varying degrees off-road, and is designed by the manufacturer for both on and off-road use.

SECTION 5. NR 45.03(16) is amended to read:

NR 45.03(16) "Off-road motorcycle" means a motor vehicle not more than 45 inches in overall width designed to travel on not more than 2 wheels in contact with the ground ~~transporting a maximum of~~

~~2 people, having an unaltered U.S. forest service approved spark-arrester muffler emitting a sound level not to exceed 102 decibels (dba) measured at a distance of 20 inches from the exhaust outlet at an engine speed one-half of red line. The microphone shall be at an angle of $45^{\circ} \pm 10^{\circ}$ from the vertical plane through the exhaust system centerline and is designed or modified for off-road use and is not eligible for registration with the Wisconsin department of transportation for on-road use.~~

SECTION 6. NR 45.03(16v) is amended to read:

NR 45.03(16v) “Physically disabled person” means a person who has been issued a disabled registration plate or special identification card by the department of transportation for a disability that will last greater than one year or who has been issued an approval under s. 29.193, Stats., for a disability that will last greater than one year.

Note: The procedures for DOT special identification cards are found in s. ~~353.54~~, 343.51, Stats., and ch. Trans 130.

SECTION 7. NR 45.03(19m) is created to read:

NR 45.03(19m) “Small off-road motorcycle” means an off-road motorcycle that has either an engine certified by the manufacturer of no more than 90 cubic centimeters or an equivalent power unit.

SECTION 8. NR 45.03(23m) is created to read:

NR 45.03(23m) “Tepee” means a cone-shaped tent supported by poles which run from the ground through the apex of the cone, and is used for overnight camping by a family or non-family group as defined in this section.

SECTION 9. NR 45.03(27) is created to read:

NR 45.03(27) “Yurt” means a circular, tent-like structure supported on a lattice framework with a window or windows and a hinged door and is used for overnight camping by a family or non-family group as defined in this section.

SECTION 10. NR 45.04(2)(a)4. is created to read:

NR 45.04(2)(a)4. Lakeshore state park. Lakeshore state park hours of operation are between 6.00 a.m. and 10:00 p.m. except for persons actively engaged in fishing, persons moving through the park on designated trails, or registered guests at the marina leaving or returning to their boats.

SECTION 11. NR 45.04(3)(h) is repealed.

SECTION 12. NR 45.05(1)(f) is amended to read:

NR 45.05(1)(f) No person may operate a motor vehicle as defined in s. 340.01 (35), Stats., off highways and parking lots while under the influence of an intoxicant or a controlled substance ~~or without a valid driver's license issued by this or another state or province.~~

SECTION 13. NR 45.05(1)(g) to (i) are created to read:

NR 45.05(1)(g) No person may operate a motor vehicle as defined in s. 340.01 (35), Stats., off highways and parking lots without a valid driver's license issued by this or another state or province, except for off-road motorcycling in areas authorized for off-road motorcycling use.

(h) No person may operate an all-terrain vehicle off the developed portion of a designated all-terrain vehicle trail.

(i) Electric personal assistive mobility devices as defined in s. 340.01 (15pm), Stats., are prohibited on department lands except where authorized in the property master plan or posted open for their use.

SECTION 14. NR 45.05(5) is created to read:

NR 45.05(5) OFF-ROAD MOTORCYCLES AND DUAL-SPORT MOTORCYCLES. (a) *Noise and exhaust.* Off-road motorcycles and dual-sport motorcycles must have an unaltered U.S. forest service approved spark-arrester muffler emitting a sound level not to exceed 96 decibels on the A scale when measured in the manner prescribed in the reaffirmed 1998–07, Society of Automotive Engineers Standard J1287, titled *Measurement of Exhaust Sound Levels of Stationary Motorcycles*.

Note: Copies and amendments of the Society of Automotive Engineers Technical Report 1998–07, Society of Automotive Engineers Standard J1287, titled *Measurement of Exhaust Sound Levels of Stationary Motorcycles*, is available for inspection in the following offices: (A) The Department of Natural Resources, 101 S. Webster St., Madison, Wisconsin 53707. (B) The Revisor of Statutes Bureau, 131 W. Wilson St., Madison, Wisconsin. (C) The Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

(b) *Rules.* 1. No person may operate or be a passenger or allow a person to operate or be a passenger on an off-road motorcycle or dual-sport motorcycle without wearing protective headgear of the type required under s. 347.485 (1)(a), Stats., and with the chin strap properly fastened.

2. Minimum age for the operation of an off-road motorcycle or dual-sport motorcycle is 12 unless operating a small off-road motorcycle on designated off-road motorcycle trails while accompanied by their parent or legal guardian.

Note: Accompanied means being subject to continuous verbal direction or control and not necessarily accompanied on the same machine.

3. No operator may refuse to stop their off-road motorcycle or dual-sport motorcycle after being requested or signaled to do so by a law enforcement officer.

4. Any crash that results in an injury requiring treatment by a physician or a fatal incident shall be reported as soon as possible to a law enforcement officer.

5. All operators of off-road motorcycles or dual-sport motorcycles 16 years of age or older shall have in their possession a valid state trail pass, if the property requires a state trail pass.

SECTION 15. NR 45.06(1) is amended to read:

NR 45.06 Animals. (1) No person may allow a dog, cat or other pet in any building, in any department rental tent, teepee or yurt, or on any swimming beach, or on any Great Lakes shoreline zone as posted, picnic area, playground, fish hatchery ground, or Paradise Springs area in the southern unit Kettle Moraine state forest. Dogs, cats and other pets shall be kept on a leash not more than 8 feet long and under control at all times in all other state park areas, headquarters areas, ranger stations, campgrounds, state natural areas, in Point Beach state forest, in designated use areas in other state forests and the intensive use zone within the Richard Bong state recreation area. No person may allow his or her dog, cat or other pet to interfere in any manner with the enjoyment of the area by others.

SECTION 16. NR 45.07(1) is repealed and recreated to read:

NR 45.07(1) No person may start, tend or maintain any fire on the ground or burn any refuse except in designated fireplaces or fire rings, except for small cooking and warming fires at the following locations:

- (a) Sandbars on the Lower Wisconsin state riverway.
- (b) On the northern flowage properties and in non-designated use areas in the northern state forests.
- (c) Authorized camping areas without designated fireplaces or fire rings, in wildlife areas, the Pine-Popple wild river, state forests, and the Menomonee River natural resources area.

SECTION 17. NR 45.09(8) is created to read:

NR 45.09(8) No person may butcher large game animal, i.e. deer, elk or bear, in any state park or state forest campsite or campground unless the butchering takes place entirely within a camping unit.

SECTION 18. NR 45.10(1)(m) is amended to read:

NR 45.10(1)(m) Camping permits are not required and payment of daily camping fees is waived when camping on state-owned islands in the Mississippi river or state-owned islands or sandbars in the Lower Wisconsin state riverway, on other state-owned islands outside state forest boundaries when the island is posted open to camping, designated campsites on the Willow flowage and designated watercraft campsites in the northern state forests, Turtle-Flambeau scenic waters area, Chippewa flowage or Menominee River natural resources area except a camping permit, reservation and fee are required on campsites B3, B4, B5, B6, B7 and B8 in the Turtle-Flambeau scenic waters area.

SECTION 19. NR 45.10(3)(a) 1. is repealed and recreated to read:

NR 45.10(3)(a) 1. Family sites: 2 days, except 3 days during the holiday weekends of Memorial Day, Fourth of July and Labor Day. On Labor Day and Memorial Day weekends, the reservation shall be comprised of at least Friday, Saturday and Sunday nights. When the Fourth of July occurs on a Monday the 3 days acceptable for a reservation shall be Friday, Saturday and Sunday. When the Fourth of July falls on a Friday the 3 days shall be Thursday, Friday and Saturday of that weekend.

SECTION 20. NR 45.12(1)(b)10. is created to read:

NR 45.12(1)(b) 10. Peshtigo River state forest
a. Old Veteran's Lake

SECTION 21. NR 45.12(2)(b) 3. is amended to read:

NR 45.12(2)(b)3. Additional ~~weekend and holiday~~ family camping fees may be charged for Type A and B campgrounds in the state parks or southern state forests and the Clear Lake, Crystal, Firefly Lake and Muskie Lake campgrounds in the Northern Highland-American Legion state forest beginning Memorial Day weekend through Labor Day, and the Castle Mound Campground at the Black River state forest.

SECTION 22. NR 45.12(2)(b) 5. is amended to read:

NR 45.12(2)(b) 5. Based on local market conditions, additional camping fees of ~~\$3~~ \$3.00 per campsite per night shall be charged at the following campgrounds ~~from Memorial Day weekend through Labor Day and on weekends in September and October:~~

- a. Devil's Lake state park
- b. Kohler-Andrae state park
- c. Mirror Lake state park

- d. Peninsula state park
- e. Big Bay state park
- f. Point Beach state forest
- g. Willow River state park
- h. Hartman Creek state park
- i. Copper Falls state park
- j. Council Grounds state park
- k. Governor Dodge state park
- L. High Cliff state park
- m. Newport state park
- n. Pattison state park
- o. Potawatomi state park

SECTION 23. NR 45.12(3)(c)1. is amended to read:

- NR 45.12(3) TRAIL FEES (c)** The state trail pass system consists of the following admission fees:
- 1. Annual ~~\$15.00~~ \$20.00
 - 2. Daily \$4.00

SECTION 24. NR 45.12(4)(g) 6. is amended to read:

NR 45.12(4)(g) 6. Other reservable facilities such as amphitheaters, overlooks, ~~and~~ boat mooring areas, teepees and yurts: Fees to be established by the department.

SECTION 25. NR 45.12(4)(g) 7. is repealed and recreated to read:

NR 45.12(4)(g)7. Reservations are made directly with property staff and may be accepted up to 11 months in advance of the rental date. Applicants who cancel a reservation at least 21 days in advance shall receive a refund of 50% of the facility rate payment less a \$10.00 reservation fee. Refunds will not be given for cancellation requests received less than 21 days before the facility was to be rented.

SECTION 26. NR 45.13(8g) is created to read:

NR 45.13(8g) INCH LAKE STATE NATURAL AREA. (a) No person may possess or transport live fishing bait within 50 feet of the shoreline of Inch lake on Inch Lake state natural area.

(b) No person may possess fish harvested from the waters of Inch lake on Inch Lake state natural area.

(c) No person may possess or transport a watercraft motor or motorized watercraft within 50 feet of the shoreline of Inch lake on Inch Lake state natural area.

Note: These conditions are required by the Articles of Dedication and Conservation Easement for Inch Lake state natural area accepted by the department at the time of acquisition.

SECTION 27. NR 45.13(17)(d) is amended to read:

- NR 45.13(17)(d) Permitted recreational uses.**
- 1. Bird watching
 - 2. Cross-country skiing
 - 3. Dog sledding
 - 4. Dog training
 - 5. Dog trials
 - 6. Falconry
 - 7. Foot racing

8. Hang gliding
9. Hiking
10. Horseback riding, competition and horse drawn vehicles
11. Hot air ballooning
12. Hunting
13. Land sailing
14. Model aircraft flying
15. Model rocket flying
16. Nature study
17. Scout jamborees
18. Sky diving
19. Sleigh riding
20. Snowmobiling
21. Steeplechase events
22. ~~Trail biking~~ Off-road motorcycling
23. Trapping
24. All-terrain vehicles
25. Off-road bicycling (mountain biking)

SECTION 28. NR 45.13(26) is created to read:

NR 45.13(26) LAKESHORE STATE PARK. No person may drink or possess any intoxicating liquor or fermented malt beverage except by transient boat campers in designated boat slips or by permit. Permits are available at the park office and shall be requested at least 24 hours in advance. The cost of a permit is \$25.00. The department may deny a permit based on user conflicts or other public safety considerations.

SECTION 29. NR 51.73(1) is amended to read:

NR 51.73 Designation. (1) The 400, Ahnapee, Amery to Dresser, Badger, Bearskin, Buffalo River, Capital City, Cattail, Chippewa River, Devil's River, Eisenbahn, Elroy-Sparta, Fox River, Friendship, Gandy Dancer, Glacial Drumlin, Great River, Green Circle, Hank Aaron, Hillsboro, La Crosse River, Mascoutin Valley, Military Ridge, Mountain-Bay, Nicolet, North Country, Oconto River, Old Abe, Pecatonica, Red Cedar, Saunders, Sugar River, Tomorrow River, Tuscobia, ~~Urban~~, White River, Wild Goose, Wild Rivers, ~~and~~ Wiouwash, and Wolf River trails are designated as state trails.

SECTION 30. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register.

SECTION 31. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)