



NR 1.93

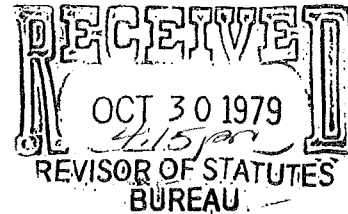
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

IN REPLY REFER TO: \_\_\_\_\_

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES ) ss



TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. X-19-78 was duly approved and adopted by this Department on July 27, 1978. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 30<sup>th</sup> day of October, 1979.

*Anthony S. Earl*  
\_\_\_\_\_  
Anthony S. Earl, Secretary

(SEAL)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

.....  
 IN THE MATTER of creating section NR 1.93 .  
 of the Wisconsin Administrative Code .  
 pertaining to fees for vehicular access . X-19-78  
 to lakes and streams .  
 .....

Analysis Prepared by Department of Natural Resources

This administrative rule provides a definition of reasonable access fees, a means for cities, towns, villages or counties to petition for higher fees than those determined as being reasonable within our definition, and those expenses and costs the Department will consider in the determination as to whether higher fees are reasonable or not.

The legislature has provided, in sec. 29.50, Stats., that the Department shall not furnish fish or fry from state hatcheries and shall not plant them in waters where the general public is now allowed the rights and privileges enjoyed by any individual. Further, in sec. 30.77, Stats., the legislature has provided that a municipality may charge only "reasonable fees" for the use of public boat launching facilities owned or operated by it. In the past, the Department has interpreted "reasonable fees" for the providing of public access to waters for purposes of administering sec. 29.50, Stats., to be those charged for daily entrance to state forests and parks. Recently, there has been voiced concern that the fees charged for daily entrance are not adequate to pay for the establishment and continued maintenance of public access sites. Responding to this concern, the Natural Resources Board has proposed section NR 1.93, Wis. Adm. Code, to provide a process by which cities, towns, villages or counties may provide information to be considered and request that a higher fee than those charged as daily entrance fees be recognized by the Department as reasonable.

The various expenses of operation or maintenance of a public access site which the Department will consider are enumerated in subsection (2)(b). Upon consideration of the expenses for maintenance and establishment of a facility, the Department is then empowered by this rule to consider higher fees as reasonable if:

- 1) Such fees are related directly to the expenses of the operation and maintenance of the access site and are reasonable, taking into consideration the use and demand on the body of water and the access sites thereto, and
- 2) The fees and access management are not designed or intended to restrict or prohibit members of the public from using the body of water, and
- 3) The charging of the fees on the body of water affected will not significantly restrict public access.

-----

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 23.09, 23.11, 29.50, 30.77, 33.01 and 227.014, Stats., the State of Wisconsin Natural Resources Board hereby creates rules as follows:

SECTION 1 - Section NR 1.93 is created to read:

NR 1.93 Fees for vehicular access. (1) The department finds that charging excessive or unreasonable boat launching fees serves to restrict or prohibit public access to and use of navigable bodies of water in the state. A reasonable fee for the use of a vehicular access site to navigable lakes and streams, including parking fees assessed the users of the access site, is that currently charged an individual vehicle for daily entrance to state park and forest areas. Access fees charged in excess of such daily entrance fees are unreasonable unless the department has approved them in accordance with this section.

(2) (a) A city, village, town or county may petition the department in writing for approval of launching fees in excess of the fee established in sub. (1). Documentation of expenses directly attributable to the operation and maintenance of the access site, fees collected for the use of a site for the 5 years preceding the petition, the fees proposed, and such other information as it deems pertinent or the department requests shall be submitted along with the petition.

(b) Expenses of operation or maintenance of a site may include:

1. Installation and maintenance of a pier useful for boat control, loading and unloading.
2. Clean-up and trash pick-up.
3. Installation and maintenance of a roadway and ramp serving the access site.
4. Installation and maintenance of access user parking facilities.
5. Signs and directional devices guiding or assisting access users.
6. Installation and maintenance of toilet facilities assignable to the access use.
7. Traffic management at heavily used sites.

8. Land acquisition including interest on deferred payments. Acceptable interest rates are those encountered in normal government borrowing.

9. The proportionate share of boat policing costs not covered by state aids. The proportionate share shall be based on estimates of the number of access site users.

10. Such other costs as are directly attributable to the access site operation and use.

(3) Within 30 days of the receipt of the petition and supporting information under sub. (2)(a), the department shall schedule the petition for hearing in the area affected by the access site. The hearing shall be conducted as a class 1 proceeding under s. 227.01(2)(a), Stats., and the determination on the petition shall be issued within 30 days from the date that the hearing is closed.

(4) (a) In making its determination, the department shall consider:

1. The past and present use of the body of water upon which the site is located; and

2. The adequacy of public access sites on that body of water according to the standards in sections NR 1.90 and NR 1.92.

(b) The department shall approve a fee higher than such daily entrance fees if it finds that:

1. Such fees are related directly to the expenses of the operation and maintenance of the access site and are reasonable, taking into consideration the use and demand on the body of water and the access sites thereto; and

2. Such fees and access management are not designed or intended to restrict or prohibit members of the public from using the body of water upon which the site is located; and

3. The charging of such fees on the body of water affected will not significantly restrict public access to those waters.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on July 27, 1978.

The rules contained herein shall take effect upon publication as provided in sec. 227.026, Stats.

Dated at Madison, Wisconsin October 30, 1979

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl  
Anthony S. Earl, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

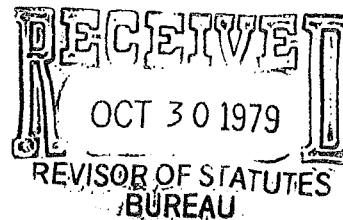
Anthony S. Earl  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

October 30, 1979

IN REPLY REFER TO: 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
411 West  
C A P I T O L




Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. X-19-78. These rules were submitted to the Assembly and Senate Natural Resources Committee pursuant to sec. 227.018, Stats. Upon the request of the Assembly Natural Resources Committee, an Attorney General's Opinion was requested concerning the authority of the Department to adopt this rule. OAG 77-79 was issued on August 30, 1979 confirming the Department's authority under the statutes.

You will note that this order takes effect upon publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

  
Anthony S. Earl  
Secretary

Enc.