

Report From Agency

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 renumber NR 45.04(3)(i) to (t); to amend NR 1.29(1), 1.30(1)(e), 1.71(4)(b)4., 45.03(16) and (16v), 45.05(1)(f), 45.06(1), 45.10(1)(m), 45.12(2)(b)3. and 5., (c)1. and (4)(g)6., 45.13(17)(d) and 51.73(1); to repeal and recreate NR 45.07(1), 45.10(3)(a)1., 45.12(4)(g)7.; to create NR 45.03(9g), (23m) and (27), 45.04(2)(a)4., 45.05(1)(g), (h), and (i), 45.05(5), 45.12(1)(b)10., 45.13(8g) and 45.13(26) 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 modified to define the purpose of the State Ice Age trail.

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-highway motorcycle and dual-sport motorcycle, have been updated. Requirements governing the use of these motorcycles including a requirement to wear protective head gear and a minimum age requirement for unaccompanied riders are added. Inaccurate language governing the operation of motorcycles on department properties is repealed. The noise standards previously contained in the definition section have been moved to the substantive section on motorcycles and the allowed decibel level is decreased.

Definitions of “Yurt” and “Teepee” 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.

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, amphitheaters, 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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SECTION 1. NR 1.29(1) is amended 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. The purpose of the Ice Age trail is to provide premiere

hiking and backpacking experiences and to preserve and interpret Wisconsin's glacial landscape and other natural and cultural resources through which the trail passes.

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 off-highway motorcycle"~~ "Off-highway 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° ± 10° 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)(note) 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(23m) is created to read:

NR 45.03(23m) "Teepee" 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.

SECTION 8. 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.

SECTION 9. 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 10. NR 45.04(3)(h) is repealed.

SECTION 11. 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 12. 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-highway motorcycles in areas authorized for off-highway motorcycles.

(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 13. NR 45.05(5) is created to read:

NR 45.05(5) OFF-HIGHWAY MOTORCYCLES AND DUAL-SPORT MOTORCYCLES. (a) *Noise and exhaust.* Off-highway motorcycles and dual-sport motorcycles shall 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-highway 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-highway motorcycle or dual-sport motorcycle is 12 years unless accompanied by his or her parent, legal guardian, or certified safety instructor.

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-highway 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-highway 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 14. 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, tepee 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 15. 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 16. 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 or the Turtle-Flambeau scenic waters 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 17. NR 45.10(3)(a) 1. is repealed and recreated to read:

NR 45.10(3)(a) 1. Family sites: 2 nights, except a minimum of 3 nights for any of the following:

- a. On Labor Day and Memorial Day weekends, the stay shall include Friday, Saturday and Sunday nights.
- b. When the Fourth of July is on a Friday. The stay shall include Thursday, Friday and Saturday nights of that weekend.
- c. When the Fourth of July is on a Monday. The stay shall include Friday, Saturday and Sunday nights of that weekend.

SECTION 18. 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 19. NR 45.12(2)(b) 3. is amended to read:

NR 45.12(2)(b)3. Additional ~~weekend and holiday~~ family camping fees 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 20. 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 21. 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 22. NR 45.12(4)(g) 6. is amended to read:

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

SECTION 23. 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 24. 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 25. 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-highway motorcycling

23. Trapping

24. All-terrain vehicles

25. Off-road bicycling (mountain biking)

SECTION 26. 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 27. 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 28. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register.

SECTION 29. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on August 15, 2007.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary

(SEAL)