

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES
BOARD AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to repeal and recreate s. NR 1.29, create s. NR 45.10 (1) (a) 6., and amend ss. NR 45.10 (1) (m) and (n), relating to the Ice Age and North Country Trails.

PR-36-10

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation: In promulgating this rule, s. 27.01 (2) (c) and (j), ss. 23.09 (2) (d) 10. and 12., and s. 27.01 (10) (f), Stats., have been interpreted as providing the department with the authority to make these changes to provide guidance and direction on the management and development of lands for the Ice Age and North Country Trails.

Statutory Authority and Explanation of Agency Authority: The statute that authorizes the promulgation of this rule order is s. 27.01 (2) (c) (j), Stats. (in addition to the general authority under ss. 227.10 and 227.11, Stats). These sections grant rule making authority to the department to establish rules governing properties. Further, ss. 23.09 (2) (d) 10. and 12., Stats. authorize purchase of lands by the department for the Ice Age Trail and North Country Trails, s. 27.01(2)(c), Stats. instructs the department to plan for these properties, s. 23.17 (4), Stats. authorizes the development of department lands for the Ice Age Trail, and s. 27.01 (10) (f), Stats. allows the department to waive camping fees. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Related Statute or Rule: There are no state rules or statutes currently under promulgation that directly relate to the provisions that are proposed in this administrative order.

Plain Language Rule Analysis: The Bureau of Parks and Recreation recommends promulgating administrative rules that modify a section of s. NR 1.29 related to management of lands purchased for the Ice Age and North Country Trails.

Currently, there are no rules to specifically guide the management and development of this classification of land.

These rules would provide property managers and other department staff guidance on the management of lands purchased for the Ice Age and North Country trails. The proposed rules guide and permit some management of these lands such as selective timber harvest, invasive species removal, installation of the Ice Age and North Country trails, and minor support facilities and amenities such as small parking lots and informational kiosks.

The Bureau of Parks and Recreation also recommends promulgating administrative rules that modify a section of s. NR 45.10 to allow camping along the Ice Age and North Country Trails for long-distance hikers.

Federal Regulatory Analysis: These state rules will help to carry out federal conditions placed on lands purchased for the Ice Age and North Country Trails using federal funds.

Comparison with Rules in Adjacent States: These rule change proposals do not represent significant policy changes and, when comparisons can be made, do not differ significantly from

surrounding states. The Ice Age Trail is unique to Wisconsin and does not have a counterpart in surrounding states. Michigan and Minnesota manage the North Country Trail in a similar manner to what is being proposed.

Summary of Factual Data and Analytical Methodologies: The department owns approximately 75 properties which would be affected by this proposed rule. The rule would allow the department and trail partners to proceed with development and management of these properties and to ensure appropriate public access in accordance with the intended use of the properties.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Business: These rules are applicable only to state properties and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule.

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Deadline for Written Comments: The deadline for written comments is November 5, 2010. Comments may also be submitted electronically 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) FOOTPATHS. The Ice Age Trail and North Country Trail shall be managed primarily as footpaths for pedestrian use: walking, hiking, backpacking, snowshoeing, and ungroomed cross-country skiing.
- (2) *PURPOSE.*
 - (a) The purpose of the Ice Age Trail is to provide premier hiking and backpacking experiences and to preserve and interpret Wisconsin's glacial landscape and other natural and cultural resources in areas through which the trail passes.
 - (b) The purpose of the North Country Trail is to provide premier hiking and backpacking experiences as it meanders through a variety of northern landscapes, linking scenic, natural, historic, and cultural areas in seven states from New York to North Dakota.
- (3) *DEFINITIONS.*

In this section:

 - (a) "Dispersed camping area" has the meaning given in s. NR 45.03 (9c).
 - (b) "Ice Age Trail" has the meaning given in s. 23.17 (2), Stats. When the Ice Age Trail is within a property other than a State Ice Age Trail Area, the Ice Age Trail for management purposes shall be the treadway, which is the trail tread and the land 25 feet adjacent to both sides of the trail tread.
 - (c) "Master plan" has the meaning given in ch. NR 44.03 (8).

(d) "State Ice Age Trail Areas" mean lands purchased by the department for the Ice Age Trail under the authority of s. 23.09 (2) (d) 10., Stats., except when purchased as part of another department project.

(4) *Dispersed camping and trail construction.* On State Ice Age Trail Areas and on lands purchased for the North Country Trail, construction of the Ice Age and North Country trails and dispersed camping areas are authorized prior to the approval of a master plan for the property as allowed by department criteria and approval processes.

(5) *Vehicles.*

(a) Vehicles shall be prohibited on the Ice Age trail except as provided for in s. NR 45.14 (1), which shall also apply to this section, 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.

(b) Vehicles shall be prohibited on the North Country Trail except as provided for in s. NR 45.14 (1), which shall also apply to this section.

(6) *State Ice Age Trail Areas.*

(a) *Purpose.* Ice Age Trail Areas permanently protect lands to provide for segments of the Ice Age Trail; preserve Wisconsin's glacial landscape features and other natural and cultural resources associated with the trail route; and, where possible, offer a primitive atmosphere of relative solitude and perceived remoteness where visitors may experience a quiet connection with nature. In suburban areas or other developed areas, and on smaller parcels of land, not all of the Ice Age Trail Area purposes may be realized; however, they shall be maximized to the degree practicable at the site.

(b) *Recreational Use and Management*

1. *Objectives.* The purpose of the Ice Age Trail as provided in sub. (2) (a), and further defined by the Ice Age Trail Vision Statement and Attributes, shall receive primary consideration in the master planning for State Ice Age Trail Areas. All uses included in sub. (1) and sub. (2) (a), and facilities that directly support these uses shall be allowed. Compatible, non-Ice Age Trail related objectives may be accommodated; however, they may be limited in scope of time and location to avoid interference with primary Ice Age Trail purpose.

Note: The Vision Statement and Attributes is part of the Memorandum of Understanding between the National Park Service, Ice Age Trail Alliance (née Ice Age Park and Trail Foundation), and the department concerning the Ice Age Trail.

2. *Allowable non-Ice Age Trail related recreational uses and facility development.*

a. To determine the suitability of secondary uses as listed in subd. (6) (b) 2.

b. to d. on a State Ice Age Trail Area, the specific characteristics of each Ice Age Trail Area, including the size, topography, vegetation, and sustainability, shall be considered. Conditions specific to funding sources used for the property shall also be upheld.

b. Depending on conditions including topography and sight lines, bicycling and horse riding may take place on a State Ice Age Trail Area. Location of these trails shall not detract from the purpose of the property as provided in sub. (6) (a). In general, such use shall take place not less than 200 - 500 feet away from the Ice Age Trail tread.

c. Snowmobile, and ATV and similar motorized recreational use may be established if conditions including topography and sight lines allow the use to

exist without detracting from the purpose of the property as provided in sub. (6) (a), provided that use is more than ¼ mile from Ice Age Trail tread, and if the solitude and quiet experience of the Ice Age Trail user is not compromised by that use.

d. Intersections of motorized trails and the Ice Age Trail may not be allowed, except as provided in sub. (5). Intersections of non-motorized non-hiking trails and the Ice Age Trail are avoided; exceptions may be allowed on a case-by-case basis when necessary to accommodate or maintain a larger, regional trail system.

e. Hunting in accordance with ss. NR 10.275 (4) and NR 45.09 (11).

f. No coincident use of the Ice Age Trail tread may be allowed for any uses other than those primary uses listed in sub. (1) and sub. (2) (a).

3. *Vegetation Management.* The desired future vegetation condition is natural communities composed of native plants and animals. Prescriptive management plans shall be designed to meet the goals of the desired future condition. When developing the vegetation management component of the property master plan, the specific characteristics of each State Ice Age Trail Area shall be considered, including the pre-settlement vegetation, soil types, and feasibility of the department and its partners to maintain the ecosystem.

4. *Pre-master plan.* Prior to the approval of the property master plan, management activities and uses on State Ice Age Trail Areas shall be limited to the following:

a. *Recreational Use and Facility Development.*

- 1) All uses and activities allowed in subs. (1) and (4).
- 2) Pre-existing crossings of the Ice Age Trail by designated state or county trails.
- 3) Hunting in accordance with ss. NR 10.275 (4) and NR 45.09 (11).
- 4) Motorized vehicles use as described in sub. (5).
- 5) Small, lightly developed parking areas, such as a gravel parking lot, may be constructed.
- 6) Signage may be installed for marking the Ice Age Trail; regulatory uses; property management, including boundaries; and general property or Ice Age Trail information, such as a kiosk.

b. *Vegetation Management.* Native community types existing at the time of acquisition shall be retained or enhanced.

- 1) Vegetative management shall focus on enhancing the scenic and natural values along the Ice Age Trail. Cropped lands may be planted with a permanent grass cover. Tree plantations may be thinned to create a more natural appearing condition.
- 2) Invasive species may be removed or controlled.
- 3) Any proposed forest management requires consultation with the managing bureau of the property to ensure that scenic values along the Ice Age Trail are being preserved or enhanced.

SECTION 2. NR 45.10 (1) (a) 5. is amended and NR 45.10 (1) (a) 6. is created, and NR 45.10 (1) (a) (5), and (1) (m) and (n) are amended to read:

NR 45.10 Camping.

(1) GENERAL.

(a) Camping is prohibited except as follows:

1. Within designated camping areas.
2. On state-owned islands in the Mississippi river.
3. On state-owned islands and sandbars in the Lower Wisconsin state riverway.
4. On other state-owned islands outside of state forest boundaries when the island is posted open to camping.
5. In state Ice Age trail areas as defined in s. NR 1.29 (3) (d) and on lands purchased for the Ice Age Trail by those hiking the Ice Age trail where the trail segment is posted open to camping.
6. On properties purchased for the North Country Trail by those hiking the North Country Trail where the trail segment is posted open to camping.

(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, in properties described in sub. (1) (a) 5. and 6., designated campsites on the Willow flowage and designated watercraft campsites in the northern state forests, Chippewa flowage, 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.

(n) Camping is restricted to one day only at designated watercraft campsites in northern state forests, and in properties described in sub. (1) (a) 5. and 6., up to 3 days as posted on state-owned islands outside state forest boundaries, to 3 days on state-owned islands and sandbars in the Lower Wisconsin state riverway and to 10 days at designated campsites on the northern flowage properties. Camping at these locations is restricted to persons and their equipment arriving by watercraft only.

SECTION 3. Effective dates. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

SECTION 4. Board adoption. This rule order was approved and adopted by the State of Wisconsin Natural Resources Board on January 26, 2011.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)