

SUBJECT: Adoption of Order LF-17-07, revisions to Ch. 1, 45, and 51, Wis. Adm. Code

FOR: AUG. 2007 **BOARD MEETING**

TO BE PRESENTED BY: Peter Biermeier, Section Chief for External Relations, Trails and Planning

SUMMARY:

The Natural Resources Board approved holding public hearings on this rule package related to the use of Department properties at the February 2007 meeting. The Department held public hearings on the package in April 2007 in Fitchburg, Milwaukee and Wausau. Comments were also received through the Department's internet site, posted to the DHFS Administrative Rules website, and received as a result of media coverage. The package contained a number of changes affecting fees and reservations in state parks and forests, an increase of the annual State Trail Pass fee from \$15 to \$20, rules on the management and use of State Ice Age Trail Areas (SIATAs), requirements for off-road and dual-sport Motorcycles, some property specific rules, as well as some amendments designed to improve or clarify existing rules.

Almost 100 comments were received and considered. The vast majority of comments were in support of the proposed changes. Some comments asked for modifications to the language related to off-road and dual sport motorcycles. There were only four comments on the fee proposals and those all pertained to the proposed increase in the annual state trail pass. Many comments were received which supported the language on SIATA management with some wanting the inclusion of additional protections. The Department evaluated all comments and some changes were made to the proposed motorcycle provisions in response to the input provided.

The proposed changes to NR 1.29 regarding state Ice Age trail areas have been amended in this version of the rule package. The focus has been narrowed to define the purpose of the Ice Age Trail (IAT) and no longer includes requirements on the management and use of the IAT and SIATAs.

RECOMMENDATION: Adoption of LF-17-07, revisions to Ch. 1, 45, and 51, Wis. Adm. Code

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

/S/	7/12/07
_____ Bureau Director, Peter Biermeier (Acting)	_____ Date
/S/	7/13/07
_____ Administrator, Laurie Osterndorf, Division of Land	_____ Date
/S/	7/13/07
_____ Secretary, Scott Hassett	_____ Date

- | | | |
|---------------------------|----------------------|---------------------|
| cc: Laurie J. Ross - AD/5 | Tom Hauge- WM/6 | Mike Lutz - LS/5 |
| Amy Arthur - AD/5 | Kate Fitzgerald-LF/6 | Carol Turner - LS/5 |
| Laurie Osterndorf - AD/5 | Paul DeLong - FR/4 | |
| Peter Biermeier - PR/6 | Bob Mather - FR/4 | |
| Signe Holtz - ER/6 | Jim Warren - FR/4 | |

DATE: July 10, 2007

TO: Natural Resources Board Members

FROM: Scott Hassett

SUBJECT: Revision to Chapters NR 1, NR 45 and NR 51

The Natural Resources Board approved holding public hearings on this rule package related to the use of Department properties at the February 2007 meeting. The Department held public hearings on the package in April 2007 in Fitchburg, Milwaukee and Wausau. Comments were also received through the Department internet site. The package was posted to the DHFS Administrative Rules website and the package was also electronically delivered to interested parties. Additionally, the proposals were covered by the media.

Summary of Public Comments:

Overall, the vast majority of comments were in support of the proposed changes. The most comments received pertained to the proposed language regarding State Ice Age Trail Areas (SIATA) in NR1.29, and the proposed rules governing Off-Road motorcycles in NR 45. Most comments supported the proposed language regarding SIATAs, though a few asked for additional protections for these properties and a few expressed concern that the proposed language would limit the likelihood of horses being permitted on these areas. Some comments asked for modifications to the language related to motorcycles. Comments were received both in support and against the annual Trail Pass fee increase.

The Department evaluated all comments and changes were made to the off-road motorcycle language in response to public input. Attachment A provides a summary of the comments including a tally of comments (in favor, against, or other).

Summary of substantive changes made since version approved for hearing in February, 2007:

NR 1.29(1) regarding SIATAs has been amended in this version of the rule package. The focus has been narrowed to define the purpose of the Ice Age trail (IAT) and no longer includes requirements on the management and use of the IAT and SIATAs. Although there was external support of the language originally proposed, upon further internal review, department staff felt that there was not a need to have such prescriptive language in the code. This change in approach was due in part to a recent determination by department legal staff that the state Ice Age Trail and Ice Age trail areas are Wisconsin state parks. The state park designation affords these IAT and IATA lands certain protections that make some of the originally proposed rule language unnecessary. It was felt that the remaining management and use considerations can be addressed when the properties undergo the master planning process and internal policies.

Some of the proposed rules governing motorcycles on department lands have been changed as a result of input from the users. Specifically, the term off-road motorcycle has been changed to "off-highway" motorcycle due to the expressed preference of the users (NR45.03(16),

NR45.05(5)). The proposed engine displacement requirements have been eliminated as there is not enough of a consistent relationship between engine size and available power thus greater displacement does not always translate to a greater potential for safety issues. (NR45.03(19m)) An addition to the rule allowing children under the age of 12 to operate a motorcycle if accompanied by a parent or legal guardian would also allow the child to operate a motorcycle if a certified safety instructor accompanies the child. (NR45.05(5)(b.)2.)

Wisconsin Legislative Council Rules Clearinghouse Comments:

All required technical changes have been made.

Summary of the proposed Rule:

Chapter NR 45, Wis. Adm. Code is the chapter that contains the Administrative Rules for the use of lands or facilities owned, acquired by easement or leased by the Department. Department staff regularly review Chapter NR 45 approximately every two years and suggest revisions designed to ensure the health and safety of people using department properties, propose use regulations necessary for the protection of natural resources on the properties, adjust fees, and clarify existing rules. This rule package contains these proposed revisions as well as some changes to NR 1 and NR 51. The proposed revisions to NR 1 and NR 51 relate specifically to trails. The intent is to codify the purpose of the Ice Age trail, and to update the State trail list. This rule revision contains a number of fee increases and policy changes for camping and other uses on Department property. The increased fees are needed to address the continued costs of providing quality services.

Details of the proposals:

Lakeshore State Park:

One rule would prohibit alcohol consumption at Lakeshore except by permit. Another would close the park at 10:00 p.m. vs. the typical state park time of 11:00 p.m. to remain consistent with municipal park rules along the City of Milwaukee lakefront.

Changes to state park and forest camping fees and fee structure:

These changes include the addition of seven properties to the list of state parks which charge an additional \$3.00 per day for camping due to local market conditions. Additionally, it is proposed that this \$3.00 fee differential would now apply all year rather than just in the summer season. This change would increase this list to a total of 15 state parks that would charge this fee differential. The current additional camping fees on weekends, as well as the fee differential for time of year, would be eliminated in order to simplify the fee structure. This simplification has been requested by park users. The department is also requesting the authority to establish fees for yurts and teepees in state parks.

State trail fee increase:

A code revision raises the annual State trail fee \$5 from \$15 to \$20 to meet increasing trail costs. This fee has not been raised since 2004.

Reservations:

A change in facility reservations would allow reservations to be made 11 months in advance for picnic areas, shelters, auditoriums, amphitheaters, tepees and yurts. The current rule allows reservations to be taken on the first business day in January. The change is intended to improve customer service, allow longer lead time for users to plan events, and match the campsite reservation time frame.

Ice Age Trail Areas:

A rule has been created to define the purpose of the Ice Age trail.

Other Miscellaneous Changes:

The spring season ban on drinking or possessing intoxicating liquor or fermented malt beverages that existed on certain department property types has been eliminated because property managers have determined it is no longer needed.

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.

An existing rule is changed to clarify which trails are designated as State trails.

The new additions to the State trails system are included, as is rule clarification regarding allowable uses on State trails.

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

The definitions for off-highway motorcycle and dual-sport motorcycle have been updated as it applies to use on department lands. Requirements governing their use on department lands 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.

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

The rule regarding pets has been amended so that pets are not allowed 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.

The butchering of large game animals at state park or state forest campsites or campgrounds is limited to within a camping unit.

An amendment to a current rule will allow a new group camp area at the Turtle Flambeau Scenic Waters Area to require 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.

Due to a recent acquisition, a rule is created to add a new fee area (Old Veterans Lake) at the Peshtigo River State Forest.

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.

Rule Development:

These rules were developed with the assistance of the Division of Forestry and the Bureaus of Parks and Recreation, Wildlife Management, Legal Services, Endangered Resources, and Facilities and Lands.

Environmental Analysis:

This is a type III action under Chapter 1.50, Wis. Adm. Code, and neither an environmental impact statement nor an environmental assessment is required.

Action Requested of the Natural Resources Board:

The Department is asking the Board's approval of the proposed rule package.

* * *

Attachment A: Comments for proposed changes to Chapters NR 1, NR 45, and NR 51, Wis. Adm. Code

Support/Oppose Code Change	# Comments	Summary/Comments
Other - Add Equestrian Use to DNR lands	1	Supports modifying existing trail rules to include horsebackriding on any trail managed by the DNR that runs through land that has a history of equestrian use.
Other - Opposes alcohol on trails	1	Opposes the permission of alcohol on any trail managed by the DNR. "I believe allowing alcohol consumption on state trails is not in the best interest of public safety."
Supports NR 1.29	37 1 late	"I support the proposed rewording of NR 1.29 because I believe it will clarify the guidelines by which DNR manages lands it owns for the Ice Age Trail, known as State Ice Age Trail Areas (SIATAs). Replacing the inconsistent management that exists currently along the Ice Age Trail with a consistent set of rules will improve the public's enjoyment of the Ice Age Trail which will in turn increase public access to Wisconsin's outstanding natural resources."
Supports NR 1.29	10	Supports NR 1.29 rewording and because it will make it easier to get overnight/primitive camping along the Ice Age Trail
Supports NR 1.29 with changes	1	Support NR 1.29 but it does not go far enough. Public hunting should not be allowed along the Ice Age Trail. Horses and Mountain Bikes should not be allowed in areas with sensitive soils or rare plants and animals.
Other - Add Equestrian use to NR 1.29	1	Letter sent to Secretary Hassett and Governor Doyle. McNutt Property in Cross Plains should be open to horses. "I could not support spending millions of dollars of taxpayers money for thousands of acres of land, knowing that the tax paying public would then be kicked off the land they have paid for. This policy has to change or there will be no support for Ice Age property in the future."
Supports NR 1.29 if open for other uses	4	Supports NR 1.29 which would allow other recreation trail needs to be explored on land purchased by the DNR for the Ice Age Trail including Horseback Riding
Supports NR 1.29 with changes	1	Supports NR 1.29. Two recommended changes. "I would not designate mountain biking specifically - just state bicycling. Second, I recommend that item #3 should state "dispersed designated."
Supports NR 1.29	2	Does not want IAT open for general hunting, only for vegetative and population control purposes. Sustainable forestry, not clear cutting. Does not want the trail open for horseback riding and mountain biking, but should allow for crossings.
Add Equestrian use to NR 1.29	2	IAT should be open for horses because..... 1) historic use, 2) wording of the national trails act, 3) DNR's promise of a master planning process, 4) Economic Interests....."To tell me I can not ride where I live is unacceptable."
Other - Define Hunting for SIATAs	1	Text does not state clearly who "makes the call" on vegetative management and does not provide a clear direction or opportunity for hunting to be added as a use.
Supports NR 1.29	1	Text for IAT is good. It is a good idea to keep other users 150 feet away.
Other - Fees for IAT	2	Both comments were written relating to the Ice Age Trail, but commenters may have been commenting on the trail pass increase. "I don't think hikers would object to a fee but it would be hard to collect. It would be an honor system."....."I don't know how you would ever charge. I would like to keep the price down. I hate to discourage users."
Supports NR 1.29	1	"I agree with the rule which increases the size of the trail tread."

Relating to the Ice Age Trail

Attachment A: Comments for proposed changes to Chapters NR 1, NR 45, and NR 51, Wis. Adm. Code

Support/Oppose Code Change	# Comments	Summary/Comments
Supports NR 45.03	1	Supports definitions of dual-sport and small motorcycle.
Supports NR45.05(5) with changes	2	"Please consider no engine displacement limit based on age. This is an ATV based rule that does not fit the reality of motorcycles. If you put someone learning to ride on a motorcycle that is too big, they will 1) fall over when they stop, 2) not be able to dab if need be, 3) not feel confident and limit their speed, and most importantly 4) request a smaller bike. The proposed 80cc limit does not reflect the available motorcycles."
Supports NR45.05(5) with changes	7	"I feel the accompanied by an adult is a good thing and should be required. I propose that the rule should only stipulate accompanied by an adult and leave it to the adult to determine what is an acceptable size of motorcycle for the child. Off road motorcycles are considerably different than atv's and small riders will not be able to ride bikes that are too big for them."
Supports NR45.05(5) with changes	8	"I would like to add wording allowing a certified DNR ATV Instructor or MSF Dirt Bike School Instructor to also be allowed to take school groups onto the trails. I teach MSF "Introduction to Trail Riding" classes at various locations in the State of Wisconsin and have received permission from the local State Forestry and Recreation Officials to run schools on their trails. Is this covered under "Legal Guardian?" If not I would like to see this added to the regulation.".....MSF instructors' have helped get both of these locations accepted as an official MSF training site and I have arranged with the MSF to provide \$2Million in insurance to the area, specifically naming the trail system, Forest Service, and County on the insurance policy.
Supports NR45.05(5) with changes	4	"The 90cc rule does not take into consideration the type of motor; i.e. two stroke vs. four stroke, which has a dramatic affect on the power of the engine and type of motorcycle. Four strokes typically require twice as much cc as a two stroke to generate the same amount of power. I suggest that consideration be given to either eliminate the reference to the engine size or stipulate in the small motorcycle description that a small motorcycle would be either under 90cc two stroke or 180cc four stroke. Four strokes are typically considered more environmentally friendly since they do not have as much polluting exhaust emission and they also can be made to run much quieter typically than two strokes."
Oppose NR 45.05 (5) 2. unless changed	7	Off-highway motorcycles are self-regulating. Young people can not ride an OHM on which they can not touch the ground when the vehicle is stationary. An OHM that is too large for a young person quickly tips over. If this rule is a spin-off from concerns with ATVs, the situation is not the same. It is possible for a young person to climb on and operate an ATV that is physically too large for them since height and balance are not an issue with a vehicle that has four wheels.
Supports NR 45.03(9g)	7	Supports section as written
Supports NR 45.05 with text changes	9	The term, "off-road motorcycle" is not a correct definition for motorcycles designed for recreation use off of paved highways. Recreation trail systems often depend on non-paved roads to link designated trails and at times to offer an off-highway recreation experience where no designated trails exist. The term infers that these motorcycles only do or should travel "off-road" and contradicts use of these motorcycles on roads open to their use. Requested revision: We ask that the term, "off-road" be revised to "off-highway" throughout all Proposed Rules.

Relating to Off-Highway Vehicles and Motorcycles

Attachment A: Comments for proposed changes to Chapters NR 1, NR 45, and NR 51, Wis. Adm. Code

	Support/Oppose Code Change	# Comments	Summary/Comments
Relating to Off-Highway Vehicles cont'd	Oppose NR 45.03(19m)	7	This new section and identity is unnecessary.
	Oppose NR 45.05 (5)(b) unless changed	7	This proposed rule contradicts Wisconsin state law as the state does not require protective headgear when riding a motorcycle. NR 45.05 (5) (b) could be supported if and only if the rule is revised to read. Requested revision: "No person, under the age of 18 years, may operate or be..."
	Support NR 45.05 (5) 3., 4., and 5.	7	Supports rules as written
	Oppose NR 45.13(17)(d) unless changed	9	The Wisconsin SCORP recognizes 4WD as a recreation activity. The Rule must also recognize and list 4WD driving as a permitted recreational use. Requested revision: Add 4WD driving to the list of permitted recreational uses and revise 22 to read "off-highway motorcycling"....."Off-Highway 4-Wheel driving must be included in the list of permitted uses."
	Oppose NR 45.13(17)(d) unless changed	1	"Also add side-by-side ATVs and Sand Rail Trucks, gator, mule - similar to state of Michigan."
	Other - OWI laws for Motorized Vehicles	1	"I want to make sure that snowmobiles and the AT V's are covered by the OWI law."
	Oppose NR 45.05 (5)	1	"I don't wear a helmet when teaching my children how to drive. I am against the accident reporting requirement."

Attachment A: Comments for proposed changes to Chapters NR 1, NR 45, and NR 51, Wis. Adm. Code

	Support/Oppose Code Change	# Comments	Summary/Comments
Relating to Fee Increases	Other - Make Camp fees the same for all users	1	Make camping fees the same for "in" versus "out" of state users. "I was surprised to find that you charge non-residents more to enter your parks and stay there. We camp in other states and have not found that other places. I would suggest you make your fees the same for residents and non-residents."
	Other - Increase camp fees for out-of-state users	2	Increase camping fees to out-of-state users. "As an in-state user, it is extremely frustrating to know that I am often turned away because of park use by out-of-state users. Eliminating the "time of year fees" is clearly only a way to increase park revenue. The times with lower fees often account for times when the park staff is minimal, water availability is questionable, and park program are nearly non-existent."....."If you need to increase the rates, fine, but increase the rates for the people outside of Wisconsin FIRST."
	Opposes 45.12(3)(c)1. unless changed	1	Opposes an increase in trail pass fees but would support it if all users paid. "I am against increases in the trail pass fee. Hikers do not have to pay anything. Hikers laugh at bikers who have to pay. Hikers should pay. I would agree to pay an increase if everyone paid"
	Supports 45.12(3)(c)1	1	Most of our supporters have no problem with raising the trail pass fee.
	Opposes 45.12(3)(c)1. unless changed	1	"I would agree to increased trail fees only with the following conditions; 1) all trail fees go only to trail creation and maintenance, 2) ban ATVs from Wisconsin, 3) for bicycles to safely access trails, mandate all state and county roads should have 3 foot paved shoulders."
	Opposes 45.12(3)(c)1. unless changed	1	"I would support the State Trail Pass Fee increase if 80% of the revenue generated would be returned to the trail operators to be used on trail maintenance, repair, or even acquisition. The state trail pass fees should be returned on a per mile basis similar to the distribution of snowmobile and atv registration money. Non-motorized trail users are bullied and the trail use discussions are driven to predetermined conclusions by the fact that non-motorized users do not help pay for trails. I oppose the fee increase and suggest it is too high now if nothing is going to change. Non-Motorized bike trails must also remain separate from motorized trails or I would not support the fee increase."

Note: No comments were received through the DHFS Administrative Rule web site.

Fiscal Estimate — 2003 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number NR 45

Subject
N.R. 45 updates-Parks

Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		<input checked="" type="checkbox"/> Increase Costs — May be possible to absorb within agency's budget. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Create New Appropriation	<input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	
Local: <input checked="" type="checkbox"/> No Local Government Costs		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Chapter 20 Appropriations 20.370 (1) (mu)

Assumptions Used in Arriving at Fiscal Estimate

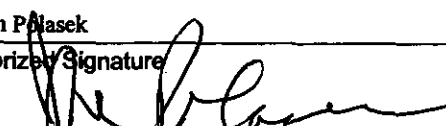
This Administrative Code package makes a number of changes to existing rules in NR 45. Most revisions are fiscally neutral in their impact. Some changes will likely result in increased enforcement costs; however, these costs are indeterminable and the department will likely be able to absorb them within its existing budget.

The Department is proposing to add seven properties to the existing list of high-demand properties, and proposes the elimination of the seasonal limitation on this fee. In addition, the Department is proposing to increase the state trail fee from its current price of \$15 per year to \$20 per year. The increased revenues are identified below.

Adding seven properties to the current list of eight high demand properties allows the Department to charge an additional \$3 per night at the additional properties, and eliminating the seasonal aspect to this fee allows the Department to apply the fee year around. Based on visitation rates at the seven properties, these changes are expected to generate an additional \$112,000 annually beginning in FY 09.

Increasing the Trail pass from \$15 to \$20 per year is expected to generate an additional \$158,800 annually beginning in FY 09, based on estimated sales of 31,760 trail passes (31,760 x \$5 = \$158,800).

Long-Range Fiscal Implications

Prepared By: Joseph Palasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 07-13-07

Fiscal Estimate — 2003 Session

**Page 2 Assumptions Narrative
Continued**

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number

Assumptions Used in Arriving at Fiscal Estimate – Continued

Fiscal Estimate Worksheet — 2003 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number NR 45

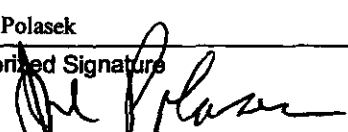
Subject
 N.R. 45 updates-Parks

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

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(FTE)
State Operations — Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
Total State Costs by Category		\$	\$ -
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S		270,800	-
Total State Revenues		\$ 270,800	\$ -

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$	\$
Net Change in Revenues	\$ 270,800	\$

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 07-13-07

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 NR45.04(3)(i) to (t); to amend NR1.29(1), NR 1.30(1)(e), 1.71(4)(b)4., 45.03(16), 45.03(16v), 45.05(1)(f), 45.06(1), 45.10(1)(m), 45.12(2)(b)3., 45.12(2)(b)5., 45.12(3)(c)1., 45.12(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), 45.03(23m), 45.03(27), 45.04(2)(a)4., 45.05(1)(g),(h), and (i), 45.05(5), 45.09(8), 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 teepees.

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.

Agency Contact Person: Kathryn Fitzgerald, Kathryn.Fitzgerald@dnr.state.wi.us, (608)267-2764

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” 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)(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 45.09(8) is created to read:

NR 45.09(8) No person may butcher a 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 amphitheatres, 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-highway 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)