

**Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item**

**SUBJECT:**

Request that the Board adopt LF-02-15, proposed rules affecting NR 45 related to public use of department properties, and NR 51, administration of the Stewardship grant program, specific to state trails.

**FOR: April 2016 Board meeting**

**PRESENTER'S NAME AND TITLE:** Aaron Buchholz, Fish, Wildlife, and Parks Division Deputy Administrator

**SUMMARY:**

Chapter 45 is the principal rule governing the conduct of visitors to the properties and facilities, owned, acquired by easement, or leased by the department. Typically NR 45 is reviewed and revisions advanced by the department every few years though the last revision was over five years ago. Proposals are advanced for a variety of reasons including to address emerging issues, adjust fees, enhance public safety, minimize use conflicts, protect resources, improve enforcability, address property specific concerns, and to increase clarity of existing rules. The changes to NR 51 in this rule package relate to the state trails program.

Significant changes in this package include:

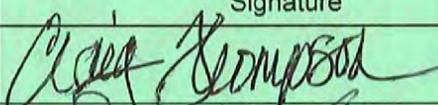
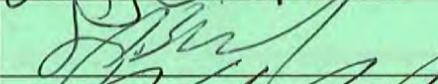
- a modification of the department's closure authority to allow for closure for one or more activities. The current rule has been interpreted to only allow for closure for all public use.
- uniform regulations for department shooting ranges. Currently, only a few ranges had their rules specified in code, limiting the department's ability to enforce violations of the rules.
- requirements for motor bicycles, addressing a recreational use that is on the increase.
- codifying the first state water trail

Public comments: The section authorizing the use of motor bicycles on trails open to bicycles, if certain conditions could be met, generated the most comments during the public input process. The most prevailing concern was that the language might automatically authorize use on bicycle trails not suited for motor bicycles. That provision has been revised based on the comments received. There were a few comments expressing concerns about modification to the rule pertaining to ATVs on department roads open to motor vehicles. The comments expressed concern that the rule change would result in an increase in ATV use on department lands. The plain language analysis has been modified to indicate more clearly that the rule change was needed to clarify existing authority to establish ATV routes on department roads as authorized in the property's master plan.

**RECOMMENDATION:** That the Board adopt LF-02-15.

**LIST OF ATTACHED MATERIALS (check all that are applicable):**

- |   |   |
|---|---|
| <input type="checkbox"/> (choose one)   | <input type="checkbox"/> Attachments to background memo               |
| <input checked="" type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement |
| <input type="checkbox"/> Response summary   | <input checked="" type="checkbox"/> Board order/rule                  |

Approved by	Signature	Date
Craig Thompson, Acting Director, Bureau of Facilities and Lands		03.07.16
Sanjay Olson, Director, FWP Division		3/11/16
Cathy Stepp, Secretary		3/14/16

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: March 12, 2016  
TO: All Members of the Natural Resources Board  
FROM: Cathy Stepp, Secretary  
SUBJECT: Background memo on Board Order LF-02-15 relating to NR 45 and NR51

### Subject of Proposed Rule:

Chapter NR 45 is the principal rule governing the conduct of visitors to the properties and facilities, owned, acquired by easement, or leased by the department. This package contains a substantial number of proposed changes to NR 45 as summarized below. The changes to NR 51 in this package relate specifically to state trails.

### Background:

Typically NR 45 changes are advanced for consideration every few years. This current revision is an exception in that the last revision to NR 45 was in 2011. Proposals are advanced for a variety of reasons including to increase clarity of existing rules, address emerging uses, adjust fees, enhance public safety, minimize use conflicts, protect resources, improve compliance, and address property specific concerns.

The scope statement for this rule revision and conditional approval of the public hearing notices were approved by the Natural Resources Board in June, 2015. The current rule package does not contain camping fee proposals identified in the original scope statement due to statutory changes to the camping fee structure that were enacted as part of the 2015-17 budget.

### Summary of the rule:

Due to the number of changes and the variety of the proposals in this rule package, this summary section is divided into a few major categories and an effort was made to group related provisions. All proposals below are changes to NR 45 unless otherwise stated.

#### Fees

-Add four areas to the list where vehicle admission stickers are required:

Dells of the Wisconsin River state natural area – Cambrian Overlook. This ~~are~~ is being proposed as a vehicle admission sticker location because it is a heavily used, park-like setting requiring regular maintenance and staffing.

Straight Lake state park, Menominee River state park and recreation area. These are new properties administered by the state park program and are being added consistent with other state park and recreation area properties.

The Glacial Drumlin state trail – Sandhill Station. This property's designation was changed from a wildlife area to a state park property and consistent with other state park properties is proposed as a fee area.

(SECTION 23)

-Increase the rate for the use of a dump station by non-registered campers from \$3.00 to \$10.00. The change is in response to a system-wide escalation in use of the dump stations associated with the addition of more electrical sites as well as an increase in waste storing capacity of RVs. An increase in fees will help compensate for increasing operational costs and needed replacements as existing systems being to fail. (SECTION 24)

-Adjust the fees for enclosed shelters on the Black River state forest to better reflect market conditions and the level of amenities lowering the cost from \$70 to \$40 for non-electric and from \$80 to \$45 for electric. The shelters are currently underutilized. (SECTION 24)

-Eliminate two state forest vehicle admission areas within the Northern Highland state forest at the beach and picnic areas at Clear Lake and Sandy Beach campgrounds. Administrative costs associated with fee collection and enforcement outweighs the revenue collected. (SECTION 22)

### Camping

-Restrict the number of days that camping is permitted on state-owned islands on the Mississippi River to 14 days and require that the campsites must be occupied daily and that camping property may not be left unattended for over 24 hours. The rule is written to be consistent with island camping regulations on the Upper Mississippi National Fish and Wildlife Refuge. (SECTION 16)

-Place a restriction on canceling camping reservations for reservations made as far out into the future as the system allows, 11 months prior to arrival. This change will even the playing field by preventing a technique used by certain customers in which they cancel and rebook their preferred campsite in order to keep control of the site until they are able to book their preferred dates. (SECTION 17)

-Create provisions applicable to campgrounds that are designed and built for equestrians to ensure priority is given to camping parties that intend to ride and use the equestrian related amenities in the campgrounds. The rule gives the property manager the authority to allow any registered camper to stay in the equestrian campground if no other family camping is available and the equestrian campground is not full. (SECTION 18)

### General Property Use

-Modify a rule that allows, by posted notice, the closure of land, structures, or property. The modification will allow for closure for one or more activities. The current rule is interpreted as only authorizing total closure. (SECTION 3)

-Amend the language to clarify that the stated permit authorization for use of a motorized vehicle is specifically for individuals with a disability that impairs mobility. This section also specifies what is required for proof of disability and provides that up to two additional people may accompany the permittee on the device for the sole purpose of providing assistance. (SECTION 8)

-Codify permit requirements for motorized vehicle use as a mode of personal conveyance for an individual with a mobility disability (PDMD use) and include assurances that the authorization is solely for the purposes of assisting the disabled individual. Permits are already being utilized to protect public safety and property resources. Codifying the provision creates an enforcement mechanism if the permit conditions are violated. (SECTION 9)

-Changes to NR 45.09(1) regarding restrictions to hunting, trapping, etc. and possession of firearms and other specified devices:

- State parks are being removed from the list of prohibited areas to be consistent with a statutory change which expanded hunting in state parks. Informational note added regarding maps that define hunting and trapping closure areas on park properties.
- Designated campsites are added to the list for public safety considerations.
- Exception to the general prohibition to enable the Department to issue a special use permit to facilitate hunter education, civil war reenactments, interpretive programs, and other events. (SECTION 12)

-Define “Special event” (SECTION 2) and create a mechanism to regulate special events and identify criteria for authorizing said events. This will help assure that these events do not have significant adverse impacts to public safety, other authorized uses of the property, and the natural resources. (SECTION 5). Establish that the department may collect a base fee and receive compensation for anticipated costs of a special event and identify criteria that may be used to assess fees. (SECTION 25)

-Authorize the use of motor bicycles on trails listed in s. NR 51.73(1) that are open to bicycles subject to stated conditions. Extend the authorization to certain other trails through master planning. (SECTION 10) Apply the requirements that currently apply to bicycles to motor bicycles which require stopping at stop signs and prohibiting riding so as to endanger life, property or persons. (SECTION 11)

-Create general rules for department shooting ranges and add some specific restrictions necessary for management of the McMiller Sports Center range at the Kettle Moraine state forest, Southern Unit (SECTION 15) and define “Shooting Range”. (SECTION 2) Presently most shooting ranges on Department lands have no codified rules making enforcement difficult.

-Create provisions for the cutting and gathering of firewood for home use as authorized under a valid forest products permit. Currently no administrative rule or statute allows for enforcement of forest product permit conditions for firewood gathering. (SECTION 7)

-Clarify the department’s authority to establish ATV routes on department roads as authorized in the property’s master plan. The existing rule language specifies this authority only on northern state forest lands. The proposed language eliminates the specific reference to northern state forests and generalizes the language to state that the department may establish ATV routes on department lands over department roads. Amending this provision is consistent with recent legislative direction in s. 23.116 requiring the department to evaluate motorized access. (SECTION 9)

-Create an allowance for the use of a firearm to kill an animal that has lawfully been trapped in a state park. Now that trapping is allowed in state parks per 2011 Act 168, this code authorizes what is considered the humane way to dispatch a trapped animal. (SECTION 13)

#### State trail related

-Update the language in NR 51 regarding the state trail system to be consistent the state statute regarding who the state trail system serves. The language eliminates the perception that use of trails on department lands is limited to equine, bikes, cross-country skis and hikers. (SECTION 34)

-Provide structure and authority for the new state water trail program approved by the Natural Resources Board within NR 51. (SECTION 35)

-Codify, in NR51, the Lake Michigan water trail, the first designated state water trail, as part of the state trail system. (SECTION 37) Inclusion on this list is necessary for authorization to compete for Stewardship state trail acquisition grants.

### Property Specific Use

-Add the Rainbow flowage property to the list of properties where driftwood and other dead and downed wood located below the ordinary high water mark may not be removed or destroyed without written permission. (SECTION 4)

-Repeal the prohibitions on the consumption or possession of alcohol at Big Foot Beach state park, one of the few parks where this prohibition exists. It is no longer necessary for governing the conduct of visitors at this park. (SECTION 26)

-Update language on the operation of powered ice augers at Straight Lake state park to use the terminology “combustion engine powered” rather than “gas powered” ice augers. This addresses the use of propane augers which are becoming more popular. The prohibition on power augers is contained within the property’s master plan. (SECTION 27)

-Add a provision requiring that unopened or empty beverage containers and litter be secured in a container fastened to watercraft that is launched or removed from designated launching sites on the Flambeau River state forest. This is similar to provisions on the Brule River within the Brule River state forest. (SECTION 30)

-Repeal the provision related to limitations on hunting and discharge of firearms on the Tuscobia state recreation trail due to Act 168 which expands hunting authority within state park and trail properties. (SECTION 31)

-Create the ability to close areas within Kohler Andre state park in Sheboygan County to swimming and scuba diving. This rule is needed to ensure visitor safety and prevent disturbance to park visitors who want to fish in the urban fishing pond. (SECTION 32)

-Prohibit swimming and scuba diving in Quarry Lake and Puckett’s Pond within Harrington Beach state park. This rule is needed to prevent user conflicts on these small ponds and because the steep, rocky conditions are not conducive for safe entrance and egress to the water and prohibit jumping or diving into the waterway contrary to posted notice along the Red Cedar trail Codifying this allows for enforcement authority and will help to deter this unsafe activity. (SECTION 33)

### **Summary of Public Input:**

Approximately 40 individuals and stakeholder groups submitted comments. The majority of the comments were specific to the provision that authorizes the use of motor bicycles on trails open to bicycles, under specified conditions. Many of those commenters expressed concern that the draft rule language did not adequately consider that motor bicycles would not be suitable on all trail types where bicycles are permitted. Many of these comments were in response to an Action Alert sent out by the International Mountain Bicycle Association (IMBA). There was one comment from a disabled individual that has difficulty riding a standard bicycle and owns a motor bicycle in support of the rule as well as two commenters that did not support the rule. Two individuals asked that the proposed allowed speed for electric motor bicycles in the code be increased. There was also some interest in the development of more elaborate rules similar to what some other states including California have enacted.

In response to the comments received, the motor bicycle rule language and corresponding plain language analysis has been modified so it is clear that the primary focus of authorization for motor bicycles is for those trails that are part of the state trail system, listed in NR51. These trails are typically former railroad grades that are wide, relatively level and are typically surfaced with compacted stone or paved. The code

also allows for considering motor bicycles on other trails, open to bicycles, if that use is authorized in the property's master plan. The proposed 15 mph speed limit for electric motor bicycles was the subject of, or included in some of the comments. Although a few individuals expressed interest in a faster allowable speed since many e-bicycles are capable of greater speeds, we also heard concerns about potential use conflicts between bicyclists and the motor bicyclists related to speed. In consideration of the primary purpose of the department's trails being that of recreation, and because of concerns about potential conflicts with bicyclists and other recreationists including walkers, the 15 mph speed limit has been retained. In response to the comments related to inclusion of a classification system for motorized bicycles such as exists in California, it is the department's opinion that would be most appropriately undertaken at the statutory level, and that would likely fall under the purview of the Wisconsin Department of Transportation.

There were a few comments expressing concern about the provision related to establishing ATV routes on department roads. The wording of the plain language analysis made it appear that this rule change would broaden the department's authority to establish ATV routes. The wording of the plain language analysis was revised to clarify that the department currently has the authority to consider establishment of ATV routes on roads on all department properties and not just the northern state forests. The rule proposal being advanced remains unchanged and could be viewed as a clarification of existing authority.

There were two comments expressing concern about the proposed change which removed state parks from the general prohibition in NR 45.09(1) which restricts hunting, trapping, ... and possession of firearms and other specified devices in the areas listed. One of the comments was from the Friends of Wisconsin State Parks which stated its continued opposition to hunting and trapping on state parks and trails. The other was from a cross country skier concerned about the expansion of hunting limiting opportunities for skiing. No change was made in response to these comments as removing state parks from the general exception was a technical clean-up in response to a change in statute which allows for expanded hunting in State Parks.

We received one or two comments supporting each of the following: the establishment of rules for special event permits, the proposed change to the camping reservation system, changes to the equestrian campground rules, and updates to the purpose statement of the state trail system.

A question was asked during the comment period about whether there could be potential negative impacts to hunting associated with the new state water trail designation. The answer is no. In order for the department to restrict or close an area to hunting that is otherwise authorized, the land (and waters) would have to be directly under the department's authority and within an established project boundary. The designation does not create a project and therefore does not impact hunting or other activities or uses.

Comments received that were not within the scope of the rule or were not within the department's rule authority, have not been included in this summary.

### **Modifications to Rule after Hearing and Legislative Council Clearing House Report:**

All comments the department received from the Legislative Council Clearinghouse (LCC) have been incorporated. In addition to modifications in response to public comments, described in the section above, the Department also made a few additional clarifications and corrections within the plain language analysis sections and the code. All substantive changes are explained in this section.

The proposed "Shooting Range" definition has been modified for clarity to indicate that these are formally designed and established facilities. The need for clarification of the language was brought to our attention in the LCC report.

In Section 3, the wording “to effectuate department management objectives” was added to the list of potential reasons for implementing a closure. The intent of the rule revision is to allow for partial closures when it is not necessary to close an area or property to all activities or use. The potential reasons that the department may have for closing an area have not changed, and this language helps clarify that intent.

An informational note was added at the end of Section 12 pertaining to areas that are closed to hunting and trapping within state park properties. It directs individuals to the appropriate property maps on the DNR website, and indicates that other areas may be closed by posted notice.

### **Effects on Existing Policy:**

The rule revision that will allow the department to close a property for a specific activity, when a full closure is not warranted, will be a valuable new tool for property managers. It will also have a positive impact on those property users that want to use the property for activities other than the particular activity that is the subject of the closure. The addition, in rule, that it is the Secretary that determines whether or not the closure shall occur will improve consistency in the implementation of the closure rule. A Manual Code will be developed to assure the appropriate process is followed and that level of public involvement is commensurate with the nature and duration of the closure.

The creation of rules for motor bicycles is new policy for the department. At this time there is not consistent guidance or policy on motor bicycles on department lands.

### **Groups impacted by the rule:**

NR 45 contains the rules for use of Department properties. Individuals and groups using department properties may be impacted. Many of the proposals are very specific in their scope and applicability as they address specific types of use or apply to a specific property. Impacts to property users will vary depending on what activities they pursue on Department lands and where they choose to recreate.

### **Small Business and Regulatory Analysis:**

These rules and the legislation which grants the department rulemaking authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual users and groups of individuals using department properties and impose no compliance or reporting requirements for small business, nor are there any design or operational standards contained in the rule. Therefore, under s. 227.19(3m)Stats., a final regulatory flexibility analysis is not required.

### **Economic Impact of Proposed Rules:**

The department has determined that these rules will have no significant economic impact locally or statewide. Notice soliciting comments on potential economic impacts of the rule were posted on the DNR website and on the Administrative Rules Website on November 25, 2015. No comments were received.

**Environmental Analysis:**

The rule making process for Board Order FL-02-15 constitutes and equivalent analysis action under s. NR 150.20(2)(b), Wis. Adm. Code and additional environmental analysis is not required.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

---

1. Type of Estimate and Analysis  
 Original     Updated     Corrected

---

2. Administrative Rule Chapter, Title and Number  
NR 45 Use of Department Properties, NR 51 Administration of Stewardship Grants

---

3. Subject  
NR 45 governs the conduct of visitors to state lands and provides for the protection of natural resources. Certain fee authorities are included in the rule, and a few have been included for modification in this rule package, LF-02-15. NR 51 contains the rules related to the administration of Stewardship Grants. This rule package proposes to add a state water trail to the list of state trails. This would allow the project to be eligible for competition for Stewardship Grant funding.

---

4. 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	5. Chapter 20, Stats. Appropriations Affected 20.370(1)(mu), (mv)
--	--

---

6. Fiscal Effect of Implementing the Rule

<input type="checkbox"/> No Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Cost

---

7. The Rule Will Impact the Following (Check All That Apply)

<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers
	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)

---

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?  
 Yes     No

---

9. Policy Problem Addressed by the Rule  
NR 45 is typically updated every few years. Changes governing the public's use of department properties may be designed to improve rule clarity, address emerging issues, adjust fees, better protect resources, address health and safety issues for visitors, and improve enforcement capabilities. This particular revision does not contain any proposals that are specifically designed to address a policy problem.

---

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.  
N/A The rule is not anticipated to have a significant impact on any of the above interests.

---

11. Identify the local governmental units that participated in the development of this EIA.

---

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There are a few proposed changes to NR 45 that are likely to result in some, but generally minimal, revenue increases to the Conservation Fund. Many of the changes are difficult to quantify as there is not adequate data to base assumptions on. The following fee proposals are included in this rule package:

- Increase of dump station fees from \$3 to \$10 for non-registered campers. Based on 2015 numbers there was approx. 1584 users at \$3.00 each generating \$4752. Based on the increase to \$10 this would increase revenue to \$15,840. although this would be less if some people decided to go elsewhere to dump their waste.
- Reduction in the costs of shelter rental at Black River State Forest. Currently the two shelters average about two rentals per year generating \$180. worth of revenue. By cutting the fee substantially (from \$70 to \$40 for non-electric and from \$80 to \$45 for shelters with electricity) it is anticipated that rentals will increase. This increase may also result in some additional vehicle permits being sold. It is difficult to assess how much use will

---

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

increase as there are no comparable shelters in the area with similar amenities.

- Rule clarifying when motor bicycles are permitted on state trails. It is anticipated that there will be some additional trail passes sold but there is no way to determine how many. Anecdotal evidence indicates that there is some avoidance of the use of the state trails on motor bicycles due to uncertainty about the regulations.
- Adding the requirement to have a vehicle admission sticker at four areas. It is anticipated that there will be some additional revenue generated from daily and yearly vehicle admission stickers for these four areas from vehicles entering these areas that do not have an annual vehicle admission sticker. It is not possible to determine the amount of revenue that will be generated as there are no comparable properties that have introduced a fee requirement recently, nor is there an accurate way of determining how many vehicles will be entering these properties, and what percentage will need to purchase vehicle stickers.

The following provision will result in a slight, but indeterminate reduction in revenue:

- Eliminating fee requirement at two day use areas at the Clear Lake and Sandy Beach Picnic areas on Northern Highland American Legion State Forest. Very little revenue is collected specifically for use at the Clear or Sandy Beach Picnic Areas (estimated at \$500 by property superintendent). Many vehicles already have stickers or they park at the Clear Lake Boat Landing, where stickers are not required, and walk the short distance to the picnic area.

No economic impacts to small businesses, business sectors, local governments, public utility rate payers or the state economy are expected.

---

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Many of the rule provisions add clarity for the public's use of department land and for those administering the requirements. While some of the provisions may be addressed through policy, rather than rule implementation, adding them to code provides for greater compliance and enforcement authority if needed.

---

14. Long Range Implications of Implementing the Rule

No significant long range implications

---

15. Compare With Approaches Being Used by Federal Government

Federal agencies that administer land have many similar provisions governing public use. See 36 CFR for NPS Regulations, Federal Land Policy and Management Act for BLM lands. 16 USC for USFWS and USFS lands.

---

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Please refer to LF-02-15, number 7.

---

17. Contact Name

Kathryn Fitzgerald

---

18. Contact Phone Number

608-267-2764

---

This document can be made available in alternate formats to individuals with disabilities upon request.

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

The Wisconsin Natural Resources Board adopts an order **to repeal** NR 45.11 (7) (j), 45.13 (3) and (10) (c), 45.13 (13m), 45.13 (16) and (24); **to renumber and amend** NR 45.05 (3) (d), and 45.13 (14m); **to amend** NR 45.03(3) and (16v), 45.04 (1) (b), 45.04 (3) (v), 45.045(1) and (2)(c)(intro.),45.05 (3) (f), (g) and (h) (intro.), 45.09 (1) including Note, 45.09 (5) (b), 45.10 (l) (n), 45.12 (1) (b) 1. f., 45.12 (1) (b) 7.d., 45.12 (4) (g) 2.a. and b. and (i), 45.13 (11m) (b), NR 51.70 (1) (intro.); **to repeal and recreate** NR 51.73 (2); and **to create** NR 45.03 (18X), (21d) and (25m), 45.04 (4), 45.046, 45.05 (3) (d) 2. And 3., 45.05 (3) (em) including Note, 45.09 (4) (d), 45.095, 45.10 (1) (r), 45.10 (5), 45.11 (4) (zc), 45.12 (1) (d) 55. to 58., 45.12 (4) (L), 45.13 (14m) (a) 1. and 2., 45.13 (28), 45.13 (29) and (30), NR 51.70 (3) relating to public use of department properties and implementation and administration of the Stewardship grant program.

LF-02-15

Analysis Prepared by the Department of Natural Resources

**1. Statutes interpreted:** 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. See ss. 23.09(2), 23.091, 23.11(1), 23.28(3), 23.33(4)(b), 27.01(2)(j), 27.01(10)(b), (f) and (h), 27.01(11)(b), Wis. Stats.

**2. Statutory 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. See ss. 23.09(2), 23.091, 23.11(1), 23.28(3), 23.33(4)(b), 27.01(2)(j), 27.01(10)(b), (f) and (h), 27.01(11)(b), Wis. Stats.

**3. Explanation of agency authority:** The Department of Natural Resources is given general authority to promulgate rules relating to the management and protection of Department properties and to regulate the conduct of visitors to Department properties. In addition, the Department is given specific authority to promulgate rules relating to categories of campsites, camping fees, and the campground reservation system, and the use of all-terrain and utility terrain vehicles on road in Department properties.

**4. Related statute or rule:** Not applicable

**5. Plain language analysis:** Chapter NR 45 is the principal rule governing the conduct of visitors to the properties and facilities, owned, acquired by easement, or leased by the Department. This chapter is reviewed and revisions are proposed on a regular basis however it has been over 5 years since this rule has been reviewed and any revisions have been approved. Proposals seek to update fee structures, provide camping guidance, and address a variety of general and specific property uses governed by rule. A few rule changes are also included to implement recent statutory changes or to improve rule clarity.

Chapter 51 relates to the administration of the Stewardship grant program. The language is updated regarding the purpose of the state trail network, water trails are defined and a state water trail is added to the list of state trails making that project eligible for funding under the Stewardship program.

SECTION 1 amends the definition of “Bicycle” to be consistent with state law and amends the definition of “Physically disabled person” to be consistent with the definition in federal law.

SECTION 2 creates definitions for “Shooting Range”, “Special event” and “Water trail”.

SECTION 3 modifies a rule that allows, by posted notice, the closure of land, structures, or property for safety and protection of resources. The modification will allow for the ability to close for one or more activities in addition to a complete closure for all public use and codifies that the closure is to be authorized by the Secretary or Secretary Designee.

SECTION 4 clarifies that wood collection for legally authorized campfires does not require a forest product permit and adds the Rainbow flowage property to the list of properties where driftwood and other dead and downed wood located below the ordinary high water mark may not be removed or destroyed without written permission.

SECTION 5 creates a mechanism to regulate “special events” and identifies criteria for authorizing said events. This will help assure that these events do not have significant adverse impacts to public safety, other authorized uses of the property, and the natural resources. Property management staff has experienced an increase in requests for special events on Department properties in the past several years.

SECTION 6 amends the language governing the possession of firewood by eliminating wording about where the firewood is intended to be used. This is intended to provide clarity for enforcement of this provision whose purpose is to help slow the spread of invasive species. For clarity, lumber is removed from the definition of firewood as NR 45.045(3) specifies that dimensional lumber that is debarked, kiln dried and smoothed is exempt from the requirements regarding firewood possession.

SECTION 7 creates provisions for the cutting and gathering of firewood for home use as authorized under a valid forest products permit. Currently no administrative rule or statute allows for enforcement of forest product permit conditions for firewood gathering.

SECTION 8 amends the language to clarify that this permit authorization for use of a motorized vehicle is specifically for individuals with a disability that impairs mobility. This section also specifies what is required for proof of disability and provides that up to two additional people may accompany the permittee on the device for the sole purpose of providing assistance.

SECTION 9 codifies permit requirements for motorized vehicle use as a mode of personal conveyance for an individual with a mobility disability. Permits are utilized to protect public safety and property resources. Codifying the provision creates an enforcement mechanism if the permit conditions are violated. This section also includes language to assure that the authorization is solely for the purposes of assisting the disabled individual.

SECTION 10 authorizes the use of motor bicycles on linear state trails open to bicycles provided that the motor is not engaged, or at less than 15 MPH if the electric motor is engaged. It also includes requirements detailing when motor bicycles would be permitted on other trails, or sections of trails.

SECTION 11 adds motor bicycles to the requirements that currently apply to bicycles on designated bicycle trails. The rules require stopping at stop signs and prohibiting riding in a reckless manner so as to endanger life, property or persons.

This section also clarifies the department’s authority to establish ATV routes on department roads as

authorized in the property's master plan. The existing rule language specifies this authority only on northern state forest lands. The revision eliminates the specific reference to northern state forests and generalizes the language to state that the department may establish ATV routes on department lands over department roads. It further reflects recent legislative direction in s. 23.116 to evaluate motorized access.

SECTION 12 removes the category of state parks from, and adds designated campsites to the list of locations where no person may take, catch, kill, hunt, trap or pursue any wild animal or bird, or discharge any firearm, or have in possession or under control any uncased firearm or air gun or any bow, crossbow, slingshot or spring-load device designed for shooting a projectile unless the same is unstrung or enclosed in a carrying case. State parks are being removed from the list to be consistent with a statutory change which expanded hunting in state parks. Designated campsites are added to the list for public safety considerations. This section also adds an exception to the general prohibition to enable the Department to issue a special use permit to facilitate hunter education, civil war reenactments, interpretive programs, and other events.

SECTION 13 creates an allowance for the use of a firearm to kill an animal that has lawfully been trapped in a state park to dispatch a trapped animal. Note: Trapping is allowed in state parks per 2011 Act 168.

SECTION 14 amends the wording to state "shooting range" rather than "target range" to more accurately describe the facilities.

SECTION 15 creates general rules for department shooting ranges and adds some specific restrictions for the range at the Kettle Moraine state forest, Southern Unit. Presently most shooting ranges on Department lands have no codified rules making enforcement difficult.

SECTION 16 adds restrictions on the number of days that camping is permitted on state-owned islands on the Mississippi River and a requirement that the campsites must be occupied daily and camping property may not be left unattended for over 24 hours. The rule is written to be consistent with island camping regulations on the Upper Mississippi National Fish and Wildlife Refuge.

SECTION 17 places restrictions on canceling camping reservations made at the maximum window, 11 months prior to arrival, to prevent customers from abusing the reservation system by keeping control of their desired site by cancelling and rebooking camping site reservations until they get their desired dates.

SECTION 18 creates provisions related to equestrian campgrounds to ensure priority is given to camping parties that intend to ride an equine and use equine related amenities in the campgrounds. A campsite may be registered by a camping party not accompanied by an equine if that camping party is camping with another camping party with an equine which is being used by both camping parties. The rule also gives the property manager the authority to allow any registered camper to stay in the equestrian campground if no other family camping is available and the equestrian campground is not full.

SECTION 19 adds Puckett's Pond, in Harington Beach state park to the list of properties that do not allow the operation of motorboats. This rule is consistent with other urban fishing locations.

SECTION 20 Removes Robinson Creek Pond, in the Black River state forest, Jackson County from the list of properties where all boats are prohibited. Boats were restricted from Robinson Creek Pond use due to its popularity as a designated swimming beach. Due to years of declining use, the beach was undesignated for swimming in 2010. The pond represents a good location for beginning kayakers and canoeists.

SECTION 21 amends the description of one of the state forest vehicle admission fee areas within the Black River state forest from East Fork horse campgrounds to East Fork group camp to reflect the change in use of that site.

SECTION 22 amends two state forest vehicle admission areas within the Northern Highland state forest to eliminate fee collection at the beach and picnic areas at Clear Lake and Sandy Beach campgrounds. This change will reduce administrative costs and will not result in a change to administrative or management practices.

SECTION 23 adds four areas to the list where vehicle admission stickers are required:

Dells of the Wisconsin River state natural area – Cambrian Overlook. This is being proposed as a vehicle admission sticker location because it is a heavily used, park-like setting requiring regular maintenance and staffing.

Straight Lake state park, Menominee River state park and recreation area. These are new properties administered by the state park program and are being added consistent with other state park and recreation area properties.

The Glacial Drumlin state trail – Sandhill Station. This property's designation was changed from a wildlife area to a state park property and consistent with other state park properties is requiring a vehicle admission sticker.

SECTION 24 adjusts the fees for certain enclosed shelters to better reflect market conditions and the level of amenities. The fee for the enclosed shelters on the northern state forests is reduced from \$70 to \$40 for non-electric and from \$80 to \$45 for electric. The shelters are currently underutilized.

This section also increases the rate for the use of a dump station by non-registered campers from \$3.00 to \$10.00.

SECTION 25 states that the department may collect a base fee and receive compensation for anticipated costs of a special event and identifies criteria that may be used to assess fees.

SECTION 26 repeals two prohibitions on the consumption or possession of alcohol. Big Foot Beach state park is one of the few parks where this prohibition exists. It is no longer necessary for governing the conduct of visitors at this park. Due to a recent statutory change, alcohol is now permitted on the golf course and clubhouse at Peninsula state park.

SECTION 27 updates a provision related to the operation of powered ice augers at Straight Lake state park to reference combustion engine powered rather than gas powered ice augers. This addresses the use of propane augers which are becoming more popular. The prohibition on power augers is contained within the property's master plan.

SECTION 28 repeals the rules for the shooting range at Yellowstone Lake wildlife area. These rules are no longer needed because of the general shooting range rules included in this administrative rule package.

SECTION 29 amends the property specific language for Flambeau River state forest to improve clarity needed for the additional requirement added in SECTION 30.

SECTION 30 adds a provision requiring that unopened or empty beverage containers and litter be secured in a container fastened to watercraft that is launched or removed from designated launching sites on the Flambeau River state forest. This is similar to provisions on the Brule River within the Brule River state forest.

SECTION 31 repeals shooting range rules specific to the McMiller Sports Center in the southern unit Kettle Moraine state forest as this rule package contains general rule provisions for all shooting ranges on department owned or managed properties. This section also repeals the provision related to limitations on hunting and discharge of firearms on the Tuscobia state recreation trail due to Act 168 which expands hunting authority within state park and trail properties.

SECTION 32 creates the ability to close areas within Kohler Andre state park in Sheboygan County to swimming and scuba diving. This rule is needed to ensure visitor safety and prevent disturbance to park visitors who want to fish in the urban fishing pond.

SECTION 33 prohibits swimming and scuba diving in Quarry Lake and Puckett's Pond within Harrington Beach state park. This rule is needed to prevent user conflicts on these small ponds and because the steep, rocky conditions are not conducive for safe entrance and egress to the water.

This section also states that jumping or diving into the waterway contrary to posted notice along the Red Cedar trail is prohibited. Codifying this allows for enforcement authority and will help to deter this unsafe activity.

SECTION 34 updates the language regarding the state trail system to be consistent the state statute regarding who the state trail system serves. The language eliminates the perception that use of trails on department lands is limited to equine, bikes, cross-country skis and hikers.

SECTION 35 creates a definition for water trails. This provides structure and authority for the new state water trail program approved by the Natural Resources Board.

SECTION 36 is consolidating the list of state trails to include ice age trail. The ice age trail was listed separately in s. 51.73(2), Stats.

SECTION 37 codifies the Lake Michigan Water Trail, the first designated state water trail, as part of the state trail system.

**6. Summary of, and comparison with, existing or proposed federal statutes and regulations:** There are no corresponding federal regulations governing the public's use of Department of Natural Resource properties.

DNR is a public entity subject to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101, et. seq. and federal rules promulgated thereunder, 28 CFR Part 35. Federal rules (28 CFR § 35.137) require that public entities make reasonable modifications to policies, practices, or procedures to permit the use of power-driven mobility devices by individuals with disabilities.

The restrictions on the number of days that camping is permitted on state-owned islands on the Mississippi River and a requirement that the campsites must be occupied daily and camping property may not be left unattended for over 24 hours were written to be consistent with the nearby island camping regulations on the Upper Mississippi National Fish and Wildlife Refuge.

Water trails are defined at the federal level as "recreational routes on waterways with a network of public access points supported by broad-based community partnerships. Water trails provide both conservation

and recreational opportunities". The definition proposed in this rule is intended to be a more concise version, consistent with the federal definition and intent. The national water trails system was established in 2012 via a Secretarial Order 3319 under the National Trail System Act, 16 USC 1241-51.

The National Park Service has a very similar special event permitting system including superintendent review, charges a fee and has an established process in place.

## **7. Comparison with similar rules in adjacent states (Illinois, Iowa, Michigan and Minnesota):**

Water trails. Minnesota has specific legislation for their water routes program, which was enacted in 1963 (s. 85.32, MN Stats.). Maps show 4,529 miles of state water trails. Iowa's state water trail system has 923 miles of designated state water trails and another 1,219 miles of potential study areas (potential state water trails). Minnesota has just begun forming a state water trails program and will be introducing authorizing legislation.

Shelter rental costs vary from state to state. Most shelter in Illinois rent for \$25. They tend to be open sided shelters but often are electrified. Michigan generally has four tiers of shelter prices - \$35, \$50, \$75, and \$100 related to the level of amenities. Minnesota shelter prices vary from \$25 - \$45.

Special event permits are required for the state parks in all surrounding states. Michigan has a \$50 registration fee for a special use permit, with additional charges for events based on at least five different scoring criteria, including number of participants. Iowa is considering adding a nonrefundable administrative fee of \$25 for all special event permit applications submitted, with additional charges based on type of event (there are 11 categories of state park/recreation area event applications). The administration fee will help to offset the cost of administering the online system and time spent reviewing and processing all applications. Administrative rules in Minnesota authorize the department to establish and charge fees for special events and commercial uses of state parks and forest lands. Fees are set to recoup the costs of developing, operating, and maintaining facilities necessary for the specified uses, or to prevent or mitigate resource impacts of those uses.

Illinois passed legislation in 2012 to regulate both electric and gas-powered bicycles similarly to and as a subset of non-motorized bicycles (previously treated similarly to other motor vehicles (e.g. cars)). This allows ILDNR & local units of government to restrict use and limits motors to less than 2 horsepower. Iowa passed legislation in 2006 to change the definition of bicycle to include a bicycle that has an electric motor of less than 1 horsepower (750 watts) and a maximum speed of 20 miles per hour. In Michigan motorized bicycles are included in the definition of a moped, unless it has a gearshift, more than 100cc engine displacement, or a top speed of more than 30 miles per hour, in which case they must be registered as a motorcycle. Minnesota passed legislation in 2012 whereby electric-assist bicycles are classified as a subset of bicycles and must meet certain vehicle safety standards and not have a motor exceeding 1,000 watts and a maximum speed of not more than 20 miles per hour. This legislation allows MNDNR & local units of government to restrict use.

## **8. Summary of factual data and analytical methodologies used and how any related findings support the regulatory approach chosen:**

Proposals were based on recommendations from department staff to improve public use management, protect public safety and natural resources, implement certain fee authorities and clarify rule language. This rule revision did not necessitate the development of specific analytical methodologies.

**9. Analysis and supporting documents used to determine the effect on small business or in preparation of an economic impact report:** No regulatory requirements on small business or the general public are being proposed. No comments were received during the economic impact solicitation period. For sections related to fees, department staff were asked to submit information based on usage trends and pertinent data when available. This information was utilized to develop a final draft economic impact report.

**10. Effect on small business (initial regulatory flexibility analysis):** These rules are applicable to users of department property and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m) Stats.

**11. Agency contact person:** Kathryn Fitzgerald [kathryn.fitzgerald@wisconsin.gov](mailto:kathryn.fitzgerald@wisconsin.gov) (608)267-2764

**12. Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearings, by regular mail, fax or email to:

Kathryn Fitzgerald  
Department of Natural Resources  
Bureau of Facilities and Lands  
PO Box 7921  
Madison WI 53707  
Fax: (608) 267- 2750

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Website (registration required) at <http://adminrules.wisconsin.gov>.

Hearing dates and the comment submission deadline are to be determined.

---

**SECTION 1.** NR 45.03 (3) and (16v) are amended to read:

NR 45.03 (3) ~~“Bicycle” means every device propelled by the feet acting upon pedals and having one or more wheels~~ has the meaning given in s. 340.01 (5), Stats.

(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~~ by reason of a physical impairment is a “qualified individual with a disability” as defined in 28 C.F.R. 35.104.

**SECTION 2.** NR 45.03 (18x), (21d), and (25m) are created to read:

NR 45.03 (18x) ~~“Shooting Range” means a facility designated by the department that has target shooting with firearms, bows, or crossbows as its major purpose.~~

(21d) “Special event” means a temporary use of department property that includes an activity that is otherwise not authorized under this chapter or involves one or more of the following circumstances:

(a) Requires exclusive use or closure of all or part of public facilities or areas within a property or effectively restricts or limits use of a property by non-participants.

(b) Placement of temporary structures or event apparatus.

(c) Sale or offering of beverages, food, or merchandise.

(d) Requires non-routine services of any department employee.

(e) Will take place during hours beyond normal property open hours.

(f) Requires use of equipment or facilities not otherwise authorized for public use.

(g) Requires event participation fees.

(25m) “Water trail” means a recreational route defined on a waterway with a network of public access points.

**SECTION 3.** NR 45.04 (1) (b) is amended to read:

NR 45.04 (1) (b) The department may close, by posted notice, any land, structure, or property owned or administered by the state of Wisconsin and under the management, supervision, and control of the department. Closure shall be for one or more activities to protect the public health, safety and welfare, for protection of the natural resources, or to effectuate department management objectives, as determined by the Secretary. No person may enter or be in any building installation or area that may be locked or closed to public use or contrary posted notice without a written permit from the property superintendent.

**SECTION 4.** NR 45.04 (3) (v) is amended to read:

NR 45.04 (3) (v) *Campfires.* On state properties where legally authorized campfires may be built, dead and down wood may be gathered from upland areas of the property for campfire use on the property without the need for a forest product permit. Driftwood or other dead and down wood located below the ordinary high watermark of the Willow, Turtle Flambeau, Rainbow, and the Chippewa flowage is considered a natural feature that may not be removed or destroyed without written authorization from the department.

**SECTION 5.** NR 45.04 (4) is created to read:

**NR 45.04 (4) Special Events.** (a) No person or organization may advertise, promote or hold a special event without written approval from the department.

(b) At least 90 days prior to holding a special event, a person or organization seeking to hold a

special event shall submit to the department all of the following:

1. An application describing the special event on forms provided by the department;
2. Proof of adequate insurance as determined by the department, with the policy naming the department as additional insured;
3. A fee as determined by the department under s. NR 45.12 (4) (L).

(c) The department may waive the requirements of subs. (a) or (b) if the special event is authorized in an existing agreement with the department or if the special event will not result in any of the following:

1. Public safety risks;
2. Negative impacts to a unique plant or animal community or geological or cultural features.
3. Costs to the department or additional department staff resources costs incurred as a result of the event
4. Negative impact to use and enjoyment of the property by others

(d) The department may issue written authorization for a special event with conditions as it deems necessary to ensure the protection and orderly management of the property.

(e) The department may modify or terminate written authorization for any special event at any time if necessary to ensure public safety, protection of state facilities, or protection of natural resources.

(f) In addition to the fee in s. NR 45.12 (4) (L), the department may require the person or organization holding a special event to compensate the department or restore damages to natural resources or department property caused by the special event.

(g) No person may participate in a special event that is not authorized under this section.

**SECTION 6.** NR 45.045 (1) and (2) (c) (intro.) are amended to read:

NR 45.045 (1) In this section, “firewood” includes limbs, branches, roots, unprocessed logs, ~~lumber, slabs with bark, cut firewood and chips, intended for use on any property.~~

(2) (c) (intro.) An area, outside of the property ~~on which firewood will be used,~~ where firewood is identified as a carrier of invasive terrestrial invertebrates and plant-disease causing microorganisms, including any of the following:

**SECTION 7.** NR 45.046 and (Note) are created to read:

NR 45.046 **FIREWOOD COLLECTION FOR PERSONAL USE AT HOME.** (1) No person may cut or gather firewood as defined in NR 45.045 from any property for use off property unless the person has a valid forest products permit issued by the department authorizing the cutting or gathering.

(2) The department may in its discretion impose reasonable conditions on any forest products permit it issues, and may limit or deny forest products permits if necessary to protect resources or avoid conflict with property management objectives as determined by the department.

(3) The department may revoke a forest products permit issued under this section for a violation of any condition of the permit, or for otherwise cutting or gathering without authorization, as determined by the department. Revocations under this subsection shall be for a period not to exceed one year from the date on which the department notifies the authorized person of the revocation, and shall be valid on all department properties. No person shall apply for a forest products permit for any property during a period of revocation.

(4) Firewood collected or gathered under a forest products permit shall be for personal use only, and may not be sold or otherwise exchanged for anything of value.

(5) The department may not give consent to cut, remove, or transport firewood as defined in NR 45.045 from department lands except for personal use consistent with this section and as authorized under a forest products permit.

Note: Under s. 26.05, Stats., no person may cut, remove, or transport raw forest products or direct the cutting, removal, or transportation of raw forest products without the consent of the owner.

**SECTION 8.** NR 45.05 (3) (d) is renumbered NR 45.05 (3) (d) 1. and amended to read:

NR 45.05 (3) (d) *Persons with physical disabilities*. 1. The department may authorize by permit persons with physical disabilities that affect the person's mobility to use a motorized vehicle as a mode of personal conveyance. The department shall accept proof of disability as required by 28 C.F.R. 35.137(c)(2). Up to 2 additional people may occupy the device for the sole purpose of assisting the permittee.

**SECTION 9.** NR 45.05 (3) (d) 2. and 3. are created to read:

NR 45.05 (3) (d) 2. The department may include reasonable permit conditions to protect safety and resources. No person may violate a condition of a permit issued under this paragraph.

3. No person issued a permit under this paragraph may use the permitted device to transport game or equipment of another person, or transport another person other than as allowed under subd. 1. No person other than the permittee may use the permitted device to transport game or equipment, or occupy the device for any purpose other than as allowed under subd. 1.

**SECTION 10.** NR 45.05 (3) (em) and (note) are created to read:

NR 45.05 (3) (em) *Motor bicycles* 1. A motor bicycle as defined in s. 340.01 (30), Stats., may be operated on trails listed in s. NR 51.73(1) and subject to this chapter that are otherwise open to bicycles under any of the following conditions:

- a. Without the motor engaged, running or otherwise in operation.
  - b. At speeds of less than 15 miles per hour with the use of an electric motor.
2. The department may allow operation of motor bicycles on specific trails or sections of trails not listed in s. NR 51.73(1) that are:
- a. Open to nonmotorized bicycle use
  - b. Specified in a department master plan under ch. NR 44.
  - c. Posted as open for such use.

**Note:** Any motor bicycle capable of speeds greater than 30 miles per hour is a motorcycle per s. 340.01 (32), Stats. and may only be operated by the public off of public roads where authorized and under the conditions of s. NR 45.05 (5).

**SECTION 11.** NR 45.05 (3) (f), (g) and (h) (intro.) are amended to read:

NR 45.05 (3) (f) *Bicycle trails*. Bicyclists and operators of motor bicycles shall stop at any stop signs which are located on designated bicycle trails.

(g) *Prohibition*. No person may ride a bicycle or motor bicycle in a careless, negligent, or reckless manner so as to endanger the life, property or persons of others on any lands under the management, supervision and control of the department.

(h) *All-terrain vehicle routes*. (intro.) The department may establish all-terrain vehicle routes on ~~northern state forests~~ department lands over ~~state forest~~ department roads, under s. 23.33 (4) (b), Stats., that are:

**SECTION 12.** NR 45.09 (1) including Note is amended to read:

NR 45.09 (1) No person may take, catch, kill, hunt, trap, or pursue any wild animal or bird, or discharge any firearm, or have in possession or under control any firearm or air gun as defined in s. 939.22, Stats., unless it is unloaded and enclosed in a carrying case, or any bow, crossbow, slingshot, or spring-load device designed for shooting a projectile unless the same is unstrung or enclosed in a carrying case while in any ~~state park~~, fish hatchery, or within 100 yards of any state campground, designated campsite, picnic area, or other special use area designated by the department by posted notice, except if authorized by the department by means of a special use permit. No person may discharge a firearm, bow, crossbow, or airgun from, on, or across any state trail corridor or other state park area which is not open to hunting.

**Note:** Hunting and trapping closures authorized under s. 29.089, Stats. are established on property maps that may be obtained on the DNR website (dnr.wi.gov) keyword "hunting state parks". Additional closures of designated use areas may also be established by posted notice. Hunting and trapping closures may be limited to certain species and seasons. See also s. NR 10.275.

**SECTION 13.** NR 45.09 (4) (d) is created to read:

NR 45.09 (4) (d) The use of a firearm for the purposes of killing an animal lawfully trapped in a state park.

**SECTION 14.** NR 45.09 (5) (b) is amended to read:

NR 45.09 (5) (b) At ~~target~~ shooting ranges designated by the department.

**SECTION 15.** NR 45.095 is created to read:

NR 45.095 **Shooting ranges.** This section does not apply to training activities conducted by a law enforcement agency. Violation of any shooting range rule in this section is cause for eviction from the shooting range pursuant to s. NR 45.04 (3) (b). Shooting range rules are as follows:

(1) *General range rules.* No person shall fail to comply with the following restrictions at any shooting range:

(a) The possession or consumption of malt, fermented or alcoholic beverages is prohibited within the area maintained as the shooting range.

(b) No incendiary, exploding, glass or other breakable materials may be used as targets; all targets shall be picked up and properly disposed of, except for clay targets used on an established shotgun trap shooting range.

(c) Targets shall be placed on designated target line and shall be affixed to target stands if provided.

(d) Shooting at items placed on the ground or at targets not posted at the designated height is prohibited

(e) Shoot only from designated shooting stations.

(f) Shooting, or attempting to shoot structures or facilities that are not designated targets, or within designated firing lanes is prohibited.

(g) Cross firing from one shooting lane to a target on another shooting lane is prohibited.

(h) Use of tracer rounds is prohibited.

(i) Firearms and cocked crossbows shall be pointed down range while at designated firing lines.

(j) Firearms shall be unloaded and their actions open except while on the firing line.

(k) Crossbows shall be de-cocked and unloaded except while on the firing line.

(L) Leaving any loaded firearm or cocked crossbow unattended at any time is prohibited.

(n) All spent shell casings and cartridges, live ammunition, targets, arrows, bolts and materials brought onto the range shall be collected and disposed of properly off the range.

(o) No person may discharge a firearm, bow or crossbow on the range while any part of a person is down range of the firing line.

(p) A cease fire may be called for by the range officer at any time. A cease fire may be called for by any person if an unsafe or illegal condition exists.

(q) Firearms, air guns, bows or crossbows deemed unsafe by the range officer are not permitted on the range.

(r) Burning of materials or refuse is prohibited at the shooting range.

(s) Use of shot size BB or smaller is not permitted on a 25 yard range.

(t) Shooting at archery targets with a firearm or airgun is prohibited.

(u) Firearms or air guns that discharge paint are prohibited.

(v) Fully automatic firearms are prohibited on the range.

(w) No person may engage in careless or reckless behavior that may endanger the safety of themselves, other persons, or any property.

(x) No person under 18 years of age shall be present on areas of the shooting range where sighting of firearms is allowed unless accompanied by an adult, or the person is at least 14 years of age and in possession of a valid certificate of accomplishment issued under s. 29.591, Stats., which authorizes the holder to purchase a hunting license which allows hunting with a firearm.

(y) Shooting hours shall be dawn to dusk unless posted otherwise.

(2) *Property specific range rules.* In addition to the restrictions specified under par. (a), no person shall fail to comply with the following range specific restrictions at the McMiller Sports Center, Kettle Moraine state forest, Southern Unit:

(a) Only rim fire ammunition shall be permitted on the plinking range.

(b) Firearms may only be loaded with a single round of ammunition on all ranges except for the pistol range.

(c) The possession or consumption of malt, fermented or alcoholic beverages is prohibited within the center during the hours the shooting range is open to the public. These hours are posted at the center.

(d) No person may be admitted inside the fenced area of the firing line on any range, except the shotgun trap range, without payment of the appropriate fee. On the shotgun trap range one puller per trap who does not shoot may be allowed in without payment.

**SECTION 16.** NR 45.10 (1) (n) is amended to read:

NR 45.10 (1) (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 state-owned sandbars on the Lower Chippewa River and to 10 days at designated campsites on the northern flowage properties and to 14 days on state-owned islands in the Mississippi River. Camping at these locations is restricted to persons and their equipment arriving by watercraft only. Campsites on state-owned islands in the Mississippi River shall be occupied daily and associated camping equipment or other property may not be left unattended for over 24 hours.

**SECTION 17.** NR 45.10 (1)(r) is created to read:

NR 45.10 (1) (r) Any camping reservation transaction made 11 months prior to arrival may not be altered in any way for a minimum of 18 days from the original transaction date.

**SECTION 18.** NR 45.10 (5) is created to read:

NR 45.10 (5) EQUESTRIAN CAMPGROUNDS. Registered campers shall be accompanied by an equine or part of a camping party that is accompanied by an equine and intend to use equestrian-related amenities at a campground. A campsite may be registered by a camping party not accompanied by an equine if that camping party is camping with another camping party with equine which are being used by both camping parties. The property manager has the authority to allow any registered campers to stay in the equestrian campground if there is no other family camping available.

**SECTION 19.** NR 45.11 (4) (zc) is created to read:

NR 45.11 (4) (zc) Puckett's Pond, Harrington Beach State Park, Section 24, T12N, R22E, NE ¼, SW ¼, Town of Belgium, Ozaukee County.

**SECTION 20.** NR 45.11 (7) (j) is repealed.

**SECTION 21.** NR 45.12 (1) (b) 1. f. is amended to read:

NR 45.12 (1) (b) 1. f. East Fork ~~horse campgrounds~~ group camp

**SECTION 22.** NR 45.12 (1) (b) 7. d. and m. are amended to read:

NR 45.12 (1) (b) 7. d. Clear Lake campground, ~~beach and picnic area~~  
m. Sandy Beach Lake campground, ~~beach and picnic area~~

**SECTION 23.** NR 45.12 (1) (d) 55. to 58. is created to read:

NR 45.12 (1) (d) 55. Dells of the Wisconsin River state natural Area – Cambrian Overlook  
56. Straight Lake state park  
57. Menominee River state park and recreation area  
58. Glacial Drumlin state trail – Sandhill Station

**SECTION 24.** NR 45.12 (4) (g) 2.a and b. and (i) are amended to read:

NR 45.12 (4) (g) 2. a.. Enclosed shelters .....\$70.00 per group per day, except on Northern State Forests the fee is .....\$40.00 per group per day.

b. Enclosed shelter with electricity and seating capacity less than 50 .....\$80.00 per group per day, except on Northern State Forests the fee is .....\$45.00 per group per day.

(i) Use of dump station for non-registered campers ~~\$3.00~~ 10.00, in addition to park sticker.

**SECTION 25.** NR 45.12 (4) (L) is created to read:

NR 45.12 (4) (L) The department may determine and charge a fee for special events that includes a base fee plus the actual costs to the department that are anticipated as a result of the event. In determining the base fee and costs, the department may consider impacts including but not limited to all of the following:

1. The number of participants or spectators anticipated for the special event.
2. Additional department staff time required as a result of the special event.
3. Additional maintenance of the property required as a result of the special event.
4. Additional services provided by the department.

**SECTION 26.** NR 45.13 (3) and (10) (c) are repealed.

**SECTION 27.** NR 45.13 (11m) (b) is amended to read:

NR 45.13 (11m) (b) No person may operate a ~~gasoline powered~~ an ice auger powered by a combustion engine.

**SECTION 28.** NR 45.13 (13m) is repealed.

**SECTION 29.** NR 45.13 (14m) is renumbered NR 45.13 (14m) (a) (intro) and amended to read:

NR 45.13 (14m) FLAMBEAU RIVER STATE FOREST. (a) (intro.) No person may possess glass bottles within the Flambeau River state forest boundary ~~at Little Falls Slough Gundy scenic area or within watercraft launched or removed from designated launching sites on the Flambeau river~~ in the following locations:

**Section 30.** NR 45.13 (14m) (a) 1. and 2. and (b) are created to read:

NR 45.13 (14m) (a) 1. At Little Falls – Slough Gundy scenic area.

2. Within watercraft launched or removed from designated launching sites on the Flambeau river.

(b) Within watercraft launched or removed from designated launching sites on the Flambeau River, unopened or empty beverage containers and litter shall be secured in a larger container that is fastened to the watercraft.

**SECTION 31.** NR 45.13 (16) and (24) are repealed.

**SECTION 32.** NR 45.13 (28) is created to read:

NR 45.13 (28) KOHLER-ANDRE STATE PARK, SHEBOYGAN COUNTY. No person may swim or scuba dive within the area delineated by posted notice.

**SECTION 33.** NR 45.13 (29) and (30) are created to read:

NR 45.13 (29) HARRINGTON BEACH STATE PARK, OZAUKEE COUNTY. Swimming and scuba diving in any areas may be prohibited by posted notice. No person may swim or scuba dive within the area delineated by posted notice.

(30) RED CEDAR STATE TRAIL. No person may jump or dive into waterways contrary to posted notice along the Red Cedar state trail.

**SECTION 34.** NR 51.70 (1) (intro.) is amended to read:

NR 51.70 (1) (intro.) The purpose of this subchapter is to encourage and provide for the establishment of a balanced system of state trails, ~~for use by equestrians, bicyclists, cross-country skiers or hikers as provided in s. 23.175, Stats~~ Increasing demand for trail-based recreation, and promoting the preservation of public access to, travel within, and enjoyment and appreciation of the outdoor resources, will be provided by establishing state trails which are:

**SECTION 35.** NR 51.70 (3) is created to read:

NR 51.70 (3) Water trails have the meaning given in s. NR 45.03 (25m) and may be designated as part of the state trail system per s. 23.175 (2) (a), Stats. The purpose of state water trails is to provide information, education, and access, and to promote recreational opportunities.

**SECTION 36.** NR 51.73 (1) is amended to read:

NR 51.73 (1) The 400, Ahnapee, 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, Ice Age Trail, La Crosse River, Mascoutin Valley, Military Ridge, Mountain–Bay, Newton Blackmour, Nicolet, North Country, Oconto River, Old Abe, Pecos, Red Cedar, Saunders, Stower Seven Lakes, Sugar River, Tomorrow River, Tuscobia, White River, Wild Goose, Wild Rivers, Wiouwash, and Wolf River, trails are designated as state trails, and others as designated by the department.

**SECTION 37.** NR 51.73 (2) is repealed and recreated to read:

NR 51.73 (2) The Lake Michigan State Water Trail is a designated state water trail.

**SECTION 38.** EFFECTIVE DATE. 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 38.** 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 \_\_\_\_\_  
Cathy Stepp, Secretary

(SEAL)