

SUBJECT: Request authorization for public hearing for board order PR-36-10: revisions to NR 1.29 and NR 45.10 relating to the management of department lands purchased for the Ice Age and North Country trails.

FOR: SEPTEMBER 2010 BOARD MEETING

TO BE PRESENTED BY: Dan Schuller and Brigit Brown (Bureau of Parks & Recreation)

SUMMARY:

Board order PR-36-10 repeals and recreates NR 1.29 and amends NR 45.10 to allow certain identified management activities to take place prior to master planning and to guide master planning for lands purchased by the department for the Ice Age and North Country trails, including State Ice Age Trail Areas.

Generally, the proposed rule will address: construction of the Ice Age and North Country trails, dispersed camping, vegetative management, recreational uses (other than Ice Age and North Country trails), and the development of facilities such as parking lots. Hunting access is being addressed in a separate rule (s. NR 10.275 (4)).

Lands are purchased and managed for the Ice Age Trail under the authority of s. 23.09 (2) (d) 10. Wis. Stats., which gives the department the authority to purchase lands for the Ice Age Trail, and s. 23.17, Wis. Stats., which lists the powers and duties of the department with regard to the Ice Age Trail.

Lands are purchased for the North Country Trail under the general authority to purchase lands for state trails (s. 23.09 (2) (d) 12., Wis. Stats.). There is no statutory language that is more specific to the North Country Trail.

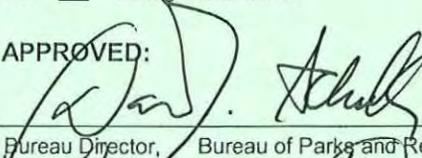
The Ice Age National and State Scenic Trail and the North Country National Scenic and State Trail are partnership projects of state and federal government, non-profit organizations, and volunteers. The managing bureau for the two trails within the department is the Bureau of Parks and Recreation.

RECOMMENDATION: Authorize public hearings for board order PR-36-10: revisions to NR 1.29 & NR 45.10 relating to management of lands purchased by the department for the Ice Age and North Country trails.

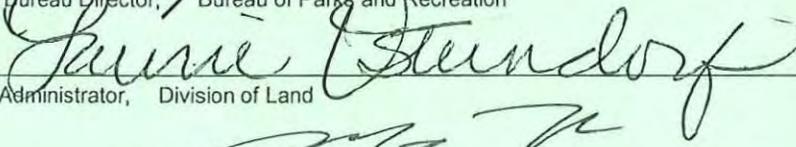
LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| 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 |

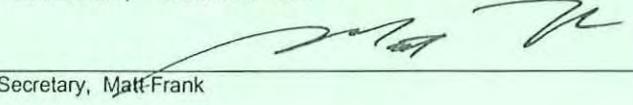
APPROVED:


Bureau Director, Bureau of Parks and Recreation

8-5-10
Date


Administrator, Division of Land

8/8/10
Date


Secretary, Matt Frank

9-2-10
Date

- cc: Laurie J. Ross - AD/8
- Laurie Osterndorf - AD/8
- Daniel Schuller - PR/6
- Brigit Brown - PR/6

CORRESPONDENCE/MEMORANDUM

DATE: 3 August 2010

FILE REF: PR-36-10: NR 1.29, NR 45.10

TO: Members, Natural Resources Board

FROM: Matt Frank 

SUBJECT: Background memo on request for authorization to hold a public hearing on board order PR-36-10

I am requesting Natural Resources Board (NRB) approval to hold a public hearing on November 3, 2010 in Fitchburg on board order PR-36-10 relating to management of lands for the Ice Age and North Country trails.

1. Why is rule being proposed?

Currently, there is little to no management of these properties allowed prior to master planning. At this time, any pre-master plan property management (e.g. invasive species management) has to be approved in writing by the Division Administrator. Additionally, there is specific guidance for master planning these properties (i.e. what it means for a property "to be managed for the Ice Age Trail").

This rule proposal would greatly facilitate our ability to manage these lands for their intended use (Ice Age Trail or North Country Trail), and would allow our non-profit and federal partners to most effectively and efficiently assist us with that management.

2. Summary of the rule.

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

3. How does this proposal affect existing policy?

This proposal will compliment and reference the SIATA hunting access rules (s. NR 10.275 (4)), and will facilitate the master planning process (ch. NR 44) for these properties but is not anticipated to directly affect existing policy. These rules will provide guidance similar to what exists for other department property designations.

4. Has Board dealt with these issues before?

Yes.

a. When?

2006.

b. Board action?

The NRB approved a proposal to go out to public hearing for a similar rule. The rule went to public hearing and was widely supported. However it was later determined that access for hunting and season structure needed to be specifically addressed for initial management of the State Ice Age Trail Area properties. The department developed a separate rule proposal to address these issues: board order WM-04-08 came to the NRB for approval in August of 2010 and accomplishes this. The non-hunting

management the State Ice Age Trail Areas though was still not addressed. This rule proposal would take care of that.

5. Who will be impacted by the proposed rule? How?

Department staff and our Ice Age and North Country trail partners (National Park Service and the Ice Age Trail Alliance and the North Country Trail Association) will be impacted, as well as citizens wishing to enjoy the affected properties.

Our staff, with assistance from our partners, will be able to perform basic management activities to preserve the landscape of the properties (invasive species removal, tree plantation thinning, planting of former crop lands) and provide basic amenities (constructed trail, small gravel parking lots, and informational kiosks) to facilitate public access to the properties, without having to obtain written permission from agency management to perform these activities.

6. Information on environmental analysis, if needed.

These rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

Fiscal Estimate — 2009 Session

<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected <input type="checkbox"/> Supplemental	LRB Number Bill Number	Amendment Number if Applicable Administrative Rule Number PR-36-10
---	-------------------------------	--

Subject
 Management of State Ice Age Trail Areas

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
- Decrease Costs

Local: No Local Government Costs
 Indeterminate

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations
 20.370 (1) (ea), (mu), (my)

Assumptions Used in Arriving at Fiscal Estimate

This rule would provide the Department with new authority for managing Department of Natural Resources-owned properties acquired for the Ice Age and North Country trails. These rules will allow certain identified management activities to take place on acquired properties prior to the completion of master planning and without special permission from Department administration. Currently, after acquisition of a parcel of land designated as Ice Age or North Country trail, the Department must request permission to perform vegetative management or facility development work, such as invasive species management and installation of the trail. The Department receives federal funds from the National Park Service for management work on these properties. Approving this rule will increase the Department's ability to expend these funds in an efficient and effective manner, and will increase the window of opportunity to initiate necessary work on these parcels.

State Fiscal Effect --

The rule does not impose new requirements on the Department to perform work on these properties but would allow for increased flexibility to perform certain management activities where funds and available labor exist. Currently, much of this work is being done, or is proposed to be done by external partners, the Ice Age Trail Alliance and volunteers.

At this time, the special permission needed to perform management work on these properties requires Department staff time to develop the request for submittal to agency management. With these rules in place, that staff time would be decreased and could result in greater efficiencies at the program level.

Local Fiscal Effect --

These properties are wholly managed by the Department; consequently their approval would have no local fiscal effect. By increasing the ability to perform management of these properties to provide basic facilities (constructed trail, parking lot, e.g.), there may be an increase in use of these properties which may benefit local economies.

Long-Range Fiscal Implications

None. New properties will be able to be managed to basic standards upon purchase.

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	08-14-10

Fiscal Estimate — 2009 Session

**Page 2 Assumptions Narrative
Continued**

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number PR-36-10

Assumptions Used in Arriving at Fiscal Estimate – Continued

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number PR-36-10

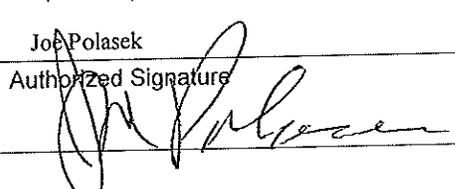
Subject
 Management of State Ice Age Trail Areas

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 \$0

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		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
Total State Revenues	\$	\$ -

Net Annualized Fiscal Impact

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

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	08-04-10

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES
BOARD AMENDING RULES

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

PR-36-10

Analysis Prepared by the Department of Natural Resources

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

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

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

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

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

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

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

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

Comparison with Rules in Adjacent States: These rule change proposals do not represent significant policy changes and, when comparisons can be made, do not differ significantly from surrounding states. The Ice Age Trail is unique to Wisconsin and does not have a counterpart in

surrounding states. Michigan and Minnesota manage the North Country Trail in a similar manner to what is being proposed.

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

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

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

Agency Contact Person: Brigit Brown, 101 South Webster St., PO BOX 7921, Madison, WI 53707-7921. (608) 266-2183, brigit.brown@wisconsin.gov.

Deadline for Written Comments: The deadline for written comments is November 5, 2010. Comments may also be submitted electronically at the following internet site: <http://adminrules.wisconsin.gov>.

SECTION 1. NR 1.29 is repealed and recreated to read:

NR 1.29 Ice Age and North Country trails.

- (1) The Ice Age Trail and North Country Trail shall be managed primarily as footpaths for pedestrian use: walking, hiking, backpacking, snowshoeing, and ungroomed cross-country skiing. Secondary uses include hunting, nature study, and berry picking.
- (2) *Purpose.*
 - (a) The purpose of the Ice Age Trail is to provide premier hiking and backpacking experiences and to preserve and interpret Wisconsin's glacial landscape and other natural and cultural resources in areas through which the trail passes.
 - (b) The purpose of the North Country Trail is to provide premier hiking and backpacking experiences as it meanders through a variety of northern landscapes, linking scenic, natural, historic, and cultural areas in seven states from New York to North Dakota.
- (3) *Definitions.*
 - (a) In this section, "Ice Age Trail" has the meaning designated in s. 23.17 (2), Stats. When the Ice Age Trail is within a property other than a State Ice Age Trail Area, defined in par. (3) (b), the Ice Age Trail for management purposes shall be the treadway, which is the trail tread and the land 25 feet adjacent to both sides of the trail tread.
 - (b) In this section, "State Ice Age Trail Areas" mean lands purchased by the department for the Ice Age Trail under the authority of s. 23.09 (2) (d) 10., Stats., except when purchased as part of another department project.
 - (c) Master plan or property master plan is as defined in ch. NR 44.
 - (d) Dispersed camping areas as defined in s. NR 45.03 (9c).

- (4) *Dispersed camping and trail construction.* On State Ice Age Trail Areas and on lands purchased for the North Country Trail, construction of the Ice Age and North Country trails and dispersed camping areas are authorized prior to the approval of a master plan for the property as allowed by department criteria and approval processes.
- (5) *Vehicles.*
- (a) Vehicles shall be prohibited on the Ice Age trail except as provided for in s. NR 45.14 (1), which shall also apply to this section, and except for snowmobiles where deemed appropriate by the Secretary of the Department of the Interior and the managing authority responsible for the segment as permitted by 16 U.S.C. 1241.
- (b) Vehicles shall be prohibited on the North Country Trail except as provided for in s. NR 45.14 (1), which shall also apply to this section.
- (6) *State Ice Age Trail Areas.*
- (a) *Purpose.* Ice Age Trail Areas permanently protect lands to provide for segments of the Ice Age Trail; preserve Wisconsin's glacial landscape features and other natural and cultural resources associated with the trail route; and, where possible, offer a primitive atmosphere of relative solitude and perceived remoteness where visitors may experience a quiet connection with nature. In suburban areas or other developed areas, and on smaller parcels of land, not all of the Ice Age Trail Area purposes may be realized; however, they should be maximized to the degree practicable at the site.
- (b) *Recreational Use and Management*
1. Ice Age Trail objectives, as defined in par. (2) (a), and further defined by the Ice Age Trail Vision Statement and Attributes, shall receive primary consideration in the master planning for State Ice Age Trail Areas. All uses included in sub. (1) and par. (2) (a), and facilities that directly support these uses shall be allowed. Compatible, non-Ice Age Trail related objectives may be accommodated; however, they may be limited in scope of time and location to avoid interference with primary Ice Age Trail objectives and purpose.
Note: The Vision Statement and Attributes is part of the Memorandum of Understanding between the National Park Service, Ice Age Trail Alliance (née Ice Age Park and Trail Foundation), and the department concerning the Ice Age Trail.
 2. *Allowable non-Ice Age Trail related recreational uses and facility development.*
 - a. To determine the suitability of secondary uses as listed in paragraphs (6) (b) 2. b. through e. on a State Ice Age Trail Area, the specific characteristics of each Ice Age Trail Area, including the size, topography, vegetation, and sustainability, shall be considered.
 - b. Mountain bicycling and horse riding if they take place not less than 200 feet away from the Ice Age Trail tread.
 - c. Snowmobile, and ATV and similar motorized recreational use may be established if more than ¼ mile Ice Age Trail tread and if the solitude and quiet experience of the Ice Age Trail user is not compromised by that use.
 - d. Intersections of motorized trails and the Ice Age Trail may not be allowed, except as provided in sub. (5). Intersections of non-motorized non-hiking trails and the Ice Age Trail are avoided; exceptions may be allowed on a case-by-case basis when necessary to accommodate or maintain a larger, regional trail system.

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

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

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

a. *Recreational Use and Facility Development.*

- 1) All uses and activities allowed in subs. (1) and (4).
- 2) Pre-existing crossings of the Ice Age Trail by designated state or county trails.
- 3) Hunting in accordance with ss. NR 10.275 (4) and NR 45.09 (10).
- 4) Motorized vehicles use as described in sub. (5).
- 5) Small, lightly developed parking areas, such as a gravel parking lot, may be constructed.
- 6) Signage may be installed for marking the Ice Age Trail; regulatory uses; property management, including boundaries; and general property or Ice Age Trail information, such as a kiosk.

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

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

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

NR 45.10 Camping.

(1) GENERAL.

(a) Camping is prohibited except as follows:

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

(m) Camping permits are not required and payment of daily camping fees is waived when camping on state-owned islands in the Mississippi river or state-owned islands or sandbars in the Lower Wisconsin state riverway, on other state-owned islands outside state forest boundaries when the island is posted open to camping, in properties described in subds. (1) (a) 5. and 6., designated campsites on the Willow flowage and designated watercraft campsites in the northern state forests, Chippewa flowage, Menominee River natural resources area or the Turtle-Flambeau scenic waters area except a camping permit, reservation and fee are required on campsites B3, B4, B5, B6, B7 and B8 in the Turtle-Flambeau scenic waters area.

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

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

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

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

(SEAL)

By _____
Matthew J. Frank, Secretary