

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

CORRECTED

SUBJECT:

Request that the Board approve the statement of scope for Board Order LF-02-15, and conditionally approve the public hearing notice for Board Order LF-02-15 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse proposed rules affecting chapter NR 45 related to governing public use of department properties and chapter 51 related to trail use and stewardship grant funding eligibility.

FOR: June 2015 Board meeting

PRESENTER'S NAME AND TITLE: Aaron Buchholz, District Land Representative

CORRECTED SUMMARY:

Language in a proposal in the Statement of Scope proposal has been corrected. The correction can be found underlined in the fourth paragraph of page 3; the proposal regarding discharge of firearms within 100 yards of a designated use area.

Chapter NR 45 contains the administrative rules for the use of department properties and applies to lands and facilities that are owned, acquired by easement, or leased by the department. This chapter is reviewed and revisions are proposed by department staff to address various issues that arise on properties on a regular basis, however it has been more than 4 years since this rule has been revised. The last set of revisions were approved by the Natural Resources Board in 2010. The proposals seek to update fee structures, camping guidance, general property use and specific property uses governed by rule. Noteworthy proposals include revisions to the camping reservation system, an increase in dumping station fees, modification of property closure rules to limit one or more activity, shooting range rules and defining and regulating special events on department lands.

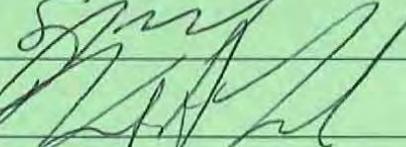
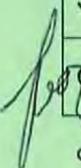
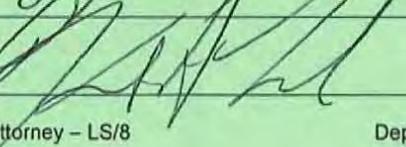
Chapter 51 implements and administers the Stewardship grants program. The proposals provide clarity for trail use and adds a property to the list of state trails eligible for funding under the Stewardship grant program.

The environmental impacts of the rule are low with the primary focus of proposals focused on public use and safety. The economic impact of the proposed rules is estimated to be moderate; an annual impact over \$50,000.

RECOMMENDATION: That the Board approve the statement of scope and conditionally approve the public hearing notice for Board Order LF-02-15 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

LIST OF ATTACHED MATERIALS:

- Statement of scope
- Governor approval of statement of scope

Approved by	Signature	Date
Steve Miller, Bureau Director		6-16-15
Sanjay Olson, Land Division Administrator		6-16-15
 Cathy Stepp, Secretary		6-17-15

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule officer - LS/8

STATEMENT OF SCOPE

Department of Natural Resources

CORRECTED ON PAGE 3

Rule No.: LF-02-15

Relating to: Wisconsin DNR property management regulations under NR 45, including implications to stewardship grants under NR 51.

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

The rules will be proposed as permanent rules.

2. Detailed description of the objective of the proposed rule:

NR 45

Chapter NR 45 is the principal rule governing the conduct of visitors to the lands and facilities owned, eased, or leased by the Department. This chapter is reviewed and revisions are proposed on a regular basis, however it has been more than 4 years since this rule has been reviewed and any revisions have been approved. Proposals seek to update fee structures, camping guidance, general property use and specific property uses governed by the rule.

NR 51

Chapter NR 51 implements and administers the Stewardship grant program. The proposals in this NR 45 rule package provide clarity for trail use and add a property to the list of state trail eligible for funding under the Stewardship grant program.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Ch. NR 45 related to the Use of Department Properties

Change in Fees

A proposal is to require vehicles parked at Cambrian Overlook in the Wisconsin River State Natural Area to have a Wisconsin State Park vehicle admission sticker. The access to this property is managed by State Park staff and recognizes the high volume of use and maintenance needs.

A proposal is to require vehicles parked at Glacial Drumlin State Trail – Sandhill Station to have a Wisconsin State Park vehicle admission sticker. This property designation has been converted from a wildlife area to a state park property hence the need to be included for vehicle admission stickers.

A proposal is to require vehicles parked at Straight Lake State Park and Menominee River State Recreation Area to have a Wisconsin State Park vehicle admission sticker. These are new properties that need to be included for vehicle admission stickers.

A proposal is to decrease the fee for the enclosed shelters on the northern state forests from \$70 to \$40 for non-electric and from \$80 to \$45 for electric to better reflect customer demand for the facilities and the amenities available. The shelters are currently underutilized.

A proposal is to charge a fee for special events on state properties. Fees would be based on a base fee plus the actual cost to the department anticipated as a result of the special event.

A proposal is to eliminate vehicle admission fees for beach and picnic areas at Clear Lake and Sandy Beach on the Northern Highland American Legion State Forest. This change would reduce administrative costs and would result in no change to administrative or management practices.

A proposal is to increase the fee for use of a dump station for non-registered campers from \$3 to \$10. The change is in response to a system wide escalation with the addition of new electrical sites as well as an increase waste hold volume on RV's. Operational costs have increased as existing systems begin to fail. Increasing fees for non-registered campers is targeted to deter this use to prolong the dump station's useful life.

A proposal is to increase the camping fee by \$3.00 due to local market conditions for Castle Mound campground at Black River State Forest. The last time that NR 45 was amended in 2010 a proposal was approved to add 5 northern state forest campgrounds to the list of 16 state parks where fees were raised by \$3 per night from \$12 to \$15 in response to local market conditions because these campgrounds were all popular tourist destinations. The 2010 rule change inadvertently left out the fifth state forest campground, Castle Mound at Black River State Forest, from the list of the other four campgrounds in the Northern Highland American Legion State Forest (NHAL) that are allowed to charge the extra \$3 high demand fee per night. This proposal would remedy the inadvertent omission from 2010 and add Castle Mound campground to the list.

Camping

A proposal is to prevent cancelling and rebooking camping site reservations to prevent customers from abusing the reservation system to the detriment of other potential customers. Customer complaints are being received. Currently reservations made at the maximum window, 11 months prior to arrival date, are being canceled and then rebooked to move ahead in dates and control the site until the customer gets the dates they want.

A proposal is to limit the number of days camping is permitted on state-owned islands in the Mississippi River and to require that the site be occupied daily. The rule would be written to be consistent with island camping regulations on the Upper Mississippi National Fish and Wildlife Refuge.

A proposal is to restrict designated equine campgrounds to use by those accompanied by an equine except where there is no other family camping available and the property manager has authorized a camper to use the site. The proposal ensures the use of equestrian campgrounds to camping parties that intend to ride horses and use horse related amenities in the campgrounds.

A proposal is to change a horse campground to a group camp at Black River Falls State Forest. This change has already been made at the property and reflects an update in rule.

General Property Use

A proposal is to modify the code that allows the Department to close by posted notice land, structures or property for one or more or all activities for safety and protection of resources as

determined by the Secretary. Presently code allows for just closure by posted notice to all access/activity; this would allow the Department to close by posted notice for specific activities while allowing other public use or activities to continue. The Secretary determination is designed to avoid such decisions to be made at the sole discretion of a property manager and allow for public engagement.

A proposal is to change the definition of "physically disabled person" to match the federal definition. The change is being made for the purpose of the Department's implementation of the United States Department of Justice rules relating to the use of wheelchairs and other power-driven mobility devices on Department property.

A proposal is to codify persons with physical disability permit requirements for motorized vehicle use as a mode of personal conveyance to address abuses of the current permit system. A permit is currently issued with conditions but is not enforceable without administrative rule. Conflicts of the permit conditions related to assistants have been noted and the proposal aims to address those.

A proposal is to clarify the prohibition on possession of firewood at risk of carrying invasive species. The rule change will provide clarity to help enforcement of the existing prohibition.

Allow an exception to the general prohibition to enable the Department to facilitate hunter education, civil war reenactments, interpretive programs, and other special use events.

A This proposal is to allow the Department to issue permits to possess and discharge certain firearms, bows, crossbows, slingshots and other devices within state parks, fish hatcheries, or within 100 yards of a designated use area. This permitted exception to the general prohibition will enable the Department to facilitate hunter education, civil war reenactments, interpretive programs, and other special use events. This proposal does not supersede existing state statutes regarding concealed and open carry of firearms.

A proposal is to define and regulate special events on Department property. This reinforces the Department's ability to regulate events which may affect other users of the property, natural resources, safety or inhibit authorized use of a property. Property management staff has experienced an increase in requests for special events on Department properties in the past several years.

A proposal is to define motor bicycles and their use on state trails. This addresses requests to use motor bicycles on state trails and provide guidance for their operation on state trails.

A proposal is to define shooting ranges in code and to establish use rules for public shooting ranges on all department properties. Presently most shooting ranges on Department lands have no codified rules making enforcement difficult. The Department has been engaged in promotion and development of new shooting ranges on Department properties.

A proposal is to codify conditions for firewood gathering on Department lands with a forest products permit. Currently no administrative rule or statute allow for enforcement of forest product permit conditions on firewood gathering.

A proposal is to modify the rule allowing the Department to establish all-terrain vehicle routes on all Department lands over Department roads. This simplifies the rule as it currently only includes northern state forests and clarifies what is already happening. It further reflects recent legislative direction in s. 23.116 to evaluate motorized access.

A proposal is to modify the code allowing the use of a firearm for the purposes of killing an animal lawfully trapped in a state park. This is widely considered the humane way to dispatch a trapped animal. Now that trapping is allowed in state parks per 2011 Act 168, the code needs to reflect that common practice, so that trappers are not required to club a trapped animal.

A proposal is to define a water trail in code. This provides structure and authority for the new state water trail program. The Natural Resources Board has approved creation of this new program.

Property Specific Use

A proposal is to extend the prohibition of boats from certain waters to Puckett's Pond at Harrington Beach State Park. This rule is consistent with other urban fishing locations.

A proposal is to allow kayak and canoe use on Robinson Creek Pond in Black River State Forest, Jackson County. Kayak and canoes were restricted from Robinson Creek Pond use due to a popular 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 canoeing.

A proposal is to include an additional northern flowage property, Rainbow Flowage, within the existing prohibition of the collection of dead and down wood located below the ordinary high water mark. Four additional flowage properties have restricted wood collection to protect this important habitat during flowage drawdown conditions.

A proposal is to prohibit swimming and scuba diving in the Kohler-Andrae State Park fishing pond. This rule is needed to ensure visitor safety and prevent disturbance to park visitors who want to fish in the urban fishing pond.

A proposal is to 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 water entrance and egress.

A proposal is update a prohibition to operate ice augers powered by a combustion engine to replace wording of gas powered ice augers at Straight Lake State Park. This complies with specific rules in the master plan and addresses the use of propane augers which are becoming more popular.

A proposal is to eliminate the restriction for alcohol possession and consumption Big Foot Beach State Park. Big Foot is one of the few parks where prohibition exists. It is no longer necessary for governing the conduct of visitors at this park.

A proposal is to restrict by posted notice jumping and diving into waterways along the Red Cedar State Trail. This would grant enforcement authority and restrict this unsafe activity.

A proposal is to specify that beverage containers must be secured to the watercraft in the Flambeau River State Forest. This will help prevent beverage containers from being dumped into the river.

Additional modifications to this chapter may be pursued which are reasonably related to those discussed here or improve rule simplification.

Ch. NR 51 related to Administration of Stewardship Grants

A proposal is to update the language regarding the state trail system to agree with legislation enacted. The language eliminates the perception that use of trails on department lands is limited to equine, bikes, cross-country skis and hikers.

A proposal is to designate the Lake Michigan State Water Trail as a designated state trail. This provides structure and authority for the new state water trail system.

Additional modifications to this chapter may be pursued which are reasonably related to those discussed here or improve rule simplification.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

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), 27.01(2)(j), 27.01(10)(b) and (f), 27.01(11)(b), Wis. Stats.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The Department estimates that rule and resources necessary to develop the rule will require 200 hours of staff time.

6. List with description of all entities that may be affected by the proposed rule:

Nearly all users of Department of Natural Resource's managed properties can be affected. A wide variety of groups and individuals will be interested in this proposed rule. Some groups include: Wisconsin Association of Campground Owners, Friends of Wisconsin State Parks, The Wisconsin ATV-UTV Association, Wisconsin Conservation Congress, National Rifle Association, Non-motorized Recreation and Transportation Trails Council and Wisconsin Wildlife Federation.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

No federal regulations exist for the management of Department of Natural Resource properties.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

An economic impact analysis will be conducted as part of rule development. For now, the department thinks it may be possible that the proposed rule would have an annual impact over \$50,000 dollars, a moderate economic impact.

9. Anticipated number, month and locations of public hearings:

The Department anticipates holding two public hearing in the month of August, 2015. Hearing cities will be: Madison and Rhinelander.

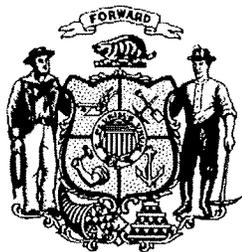
The Department will hold these hearings in these locations to provide access in both northern and southern Wisconsin.

Contact Person: Aaron Buchholz, (920) 662-5115



Department Head or Authorized Signature

June 17, 2015
Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

May 21, 2015

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Revised Scope Statement for NR 45 and 51 relating to Wisconsin DNR property management regulations under NR 45, including implications to stewardship grants under NR 51

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on April 27, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 45 and 51 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor