

Clearinghouse Rule 10-131

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

The Wisconsin Natural Resources Board proposes an order to create NR45.055.

FR-38-10

Analysis Prepared by the Department of Natural Resources

1. Statutes interpreted: In promulgating this rule, section 27.01 (17), Stats., has been interpreted as requiring the Department to create a rule that specifies when and where golf carts are allowed in the Governor Thompson State Park and the Peshtigo River State Forest.

2. Statutory authority: Section 27.01 (17), Stats.

3. Explanation of Agency Authority to Promulgate the Proposed Rules Under the Statutory Authority: s. 27.01 (17) Stats., created under 2009 Wisconsin Act 54, requires the Department to promulgate a rule that specifies when and where golf carts are allowed in the Governor Thompson State Park and the Peshtigo River State Forest.

s. 27.01 (17) Stats. further directs the Department to authorize the use of golf carts to approximately the same time and locations as golf carts were used before the Department purchased lands from Wisconsin Public Service.

Section 227.11(2)(a), Stats., expressly confers rulemaking authority on the Department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

4. Related Rule or Statute: Related statutes or rules include but are not limited to the following provisions:

340.01	Vehicles – General Provisions, Words and phrases defined.
349.18	Vehicles – Powers of State and Local Authorities, Additional traffic-control authority of counties and municipalities.
23.33(11p)(a)2	Conservation, All-terrain vehicles, Local ordinances, Utility terrain vehicle pilot program.

5. Plain Language Rule Analysis:

The rule defines “golf cart” as a vehicle that can go no more than 20 miles per hour, can carry one to two people and equipment, and is intended for the game of golf.

The rule authorizes the use of golf carts in the Governor Thompson State Park and the Peshtigo River State Forest. The rule describes specifically, which areas on the above mentioned properties are authorized for golf cart use, including six (6) boat landings, one (1) town park

leased from the Department, one (1) Department road, and other locations as posted.

The rule also describes how the golf cart must operate, that golf cart operators must possess a valid drivers license, and minimum safety features that the golf cart must possess.

6. Summary of, and comparison with, existing or proposed federal regulations:

Iowa - Iowa Code s. 347.247 - Golf cart operation on city streets.

Minnesota - Minn. Stat. s. 169.045 Special Vehicle Use on Roadway.

Michigan - Mich. Comp. Laws s. 257.244 - Operation of vehicle by manufacturer, subcomponent system producer, dealer, or transporter with special plate; unauthorized use of special plate; penalties; surety bond or insurance; number of plates; operation of vehicle with dealer plate by vendee or prospective purchaser; issuance of registration plate to move vehicle or trailer.

Illinois - 625 ILCS 5/11-1426.1 - Operation of non-highway vehicles on streets, roads, and highways.

7. Comparison with rules in adjacent states: A search of rules in Minnesota, Michigan, Iowa and Illinois revealed that these adjacent states do not have any similar rules.

8. Summary of factual data and analytical methodologies:

The Department gathered input in the form of interviews, from user groups, local residents, local units of governments and WPS to determine historical use of golf carts before the Department acquired the lands. In addition, significant consultation occurred with the Department of Transportation and the Town of Stephenson on existing golf cart ordinances, authority and safety elements.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: There are no new compliance, reporting, or bookkeeping requirements, nor are there any associated performance standards associated with the proposed rule.

10. Effect on small business: The proposed rule is not expected to have a significant adverse effect on a substantial number of small businesses and may have positive impacts on a number of small businesses that provide services to users of golf carts. Small businesses that may be positively affected by the proposed rule include golf cart retailers and service providers, gas stations, and other service type industries.

Other potentially impacted parties include: local units of Government, primarily the Town of Stephenson and Marinette County; year-round and seasonal homeowners; public safety agencies; Wisconsin Public Service; and Wisconsin Department of Natural Resources. Associated impacts to these parties are expected to be minimal, but include implementation and enforcement of the rule (town, county, WDNR public safety agencies) and ability of homeowners to lawfully use golf carts and a potential increase in such use (homeowners, businesses).

11. Agency Contacts:

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

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Deadline: November 24, 2010

13. Rule Language:

SECTION 1. NR 45.055 is created to read:

NR 45.055 Golf carts. (1) In this section, "golf cart" means, except as provided in this section, a properly maintained unmodified manufacturer specification vehicle whose speed attainable in one mile does not exceed 20 miles per hour on a paved, level surface, that is designed and intended to convey one or more persons and equipment to play the game of golf.

(2) No person may operate any golf cart on lands under the management, supervision and control of the department unless:

(a) Such operation is within the following areas of the Governor Thompson State Park and the Peshtigo River State Forest:

1. Boat landings 5, 6, 7, 8, 10, and the posted route and parking area leading to Boat Landing 13.
2. Stephenson Town Park on High Falls Flowage.
3. Medicine Brook Road from High Falls Road south 1.8 miles to the designated scenic overlook.
4. Other locations as posted.

(b) The golf cart is operated:

1. On the extreme right side of any state forest or state park road, traveling with the flow of traffic.
2. In single file.
3. Pursuant to posted notice.

(c) They are 16 years old or older and possess a valid drivers license.

(d) They are not under the influence of an intoxicant or a controlled substance.

(e) They yield the right-of-way to all other vehicular traffic and pedestrians.

(f) The golf cart is equipped with, at all times:

1. A slow-moving vehicle sign as prescribed by s. 347.245(1), Stats.
2. Two lighted headlights and two lighted taillights.

SECTION 2. 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 3. 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 _____
Matthew Frank, Secretary

(SEAL)