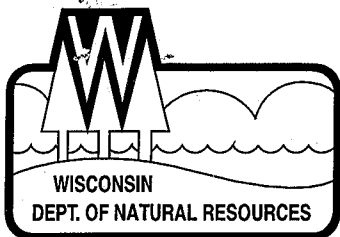


Clearinghouse Rule 99-083

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES



Tommy G. Thompson, Governor
George E. Meyer, Secretary

Box 7921
101 South Webster Street
Madison, Wisconsin 53707-7921
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STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. LF-20-99 was duly approved and adopted by this Department on August 25, 1999. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 16th day of November, 1999

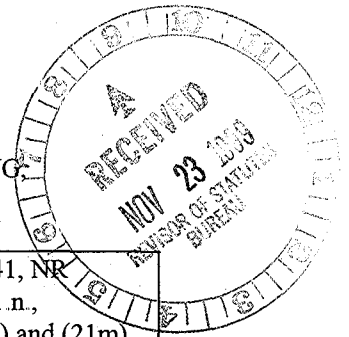
George E. Meyer
George E. Meyer, Secretary

(SEAL)

99-083



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



The State of Wisconsin Natural Resources Board proposes an order to repeal chs. NR 40 and 41, NR 45.11(4)(h); to amend NR 45.04(3)(g), 45.09(1) and (2), 45.10(1)(a), (k) and (L), 45.12(2)(a)1.n., 45.13(14)(b)(intro.); to repeal and recreate ch. NR 45(title), 45.02; and to create NR 45.03(8m) and (21m), 45.04(3)(m), (n) and (o), 45.06(3m), 45.09(7) and 45.11(6)(m) relating to public use of department lands

LF-20-99

Analysis Prepared by Department of Natural Resources

Authorizing Statutes: ss. 23.09 (2) (intro.), 23.28(3), 27.01(2)(j) and 227.11(2)(a), Stats.
Statutes interpreted: ss. 23.09 (2) (intro.), 23.28(3), 27.01(2) (i) and (j), and 28.03, Stats.

Chapters NR 40 and 41 contain legal descriptions of state forests and state parks. These chapters are no longer necessary since the Natural Resources Board has the authority to make property boundary revisions.

Chapter NR 45 contains the administrative rules for the use of Department properties. This chapter is reviewed and revisions proposed by Department staff every two years. This rule package includes a revision to clarify that ch. NR 45 applies to land and facilities owned, acquired by easement or leased by the Department, unless waived, such as on a bike trail managed by a local government. There is also a new rule which defines that state parks or state forests are those lands within the Natural Resources Board approved boundary, as opposed to those lands already in Department ownership. These revisions will clarify where the Department has authority in those limited situations in which it has jurisdiction over the entire property.

There are several additional revisions to the rules, such as a revision to add that it is illegal to possess someone's property without their permission. The current rule prohibits destroying, removing and molesting someone's property, but doesn't prohibit possession without permission. New rules will also allow Department staff to issue citations when people plant crops or refuse to remove their property from Department lands. This is needed since Department staff frequently find people planting crops or storing personal property on Department lands. The rule will not affect authorized uses such as camping, or recreational structures such as sun tents, canopies or volleyball nets placed in picnic areas provided they are removed at the end of the day. The rule includes a definition of crops.

The rule package contains a rule to allow the Department to issue citations for possession and use of small amounts of marijuana (< 25 grams). This rule is the same as municipal ordinances prohibiting possession of small amounts of marijuana. A new rule would also prohibit pets on observation towers in order to ensure the health and safety of people on towers.

There is a revision to the rules regarding firearms and hunting on properties. The rule currently requires guns to be unloaded and encased, and bows and slingshots to be unstrung or in a carrying case in areas posted prohibiting the discharge of firearms. People with bows may not realize they must unstring their bows or put them in carrying cases if the notice simply states a prohibition to discharging firearms. Therefore, the posted notice portion of the rule is revised.

Section 29.327 (2), Stats., allows hunters to build and leave blinds on Department properties for waterfowl hunting. Blinds for hunting other wildlife species, such as deer, must be removed at the end of

the day. A rule revision clarifies that blinds must be used exclusively for waterfowl hunting in order to be left on the property during the waterfowl season.

A new rule will prohibit driving animals out of areas closed to hunting, unless authorized by the Department. Currently there is nothing to prevent people from going into areas closed to hunting and driving animals out of the area.

The current rule requires campers to use watercraft to access some areas open to camping on Department properties, and limits the length of stay. A rule revision would include the Lower Wisconsin State Riverway in the list of properties, and limit camping to three days.

A revision to rules regarding motors on lakes will allow people to use electric motors at slow-no-wake speeds at Ottawa Lake in Waukesha county. The current rule doesn't allow motors on this lake except when a boater has a physician's statement stating the person cannot paddle a boat.

This rule package adds Pinewoods campground in the Southern Unit of the Kettle Moraine State Forest to the list of Type A campgrounds. The type of campground determines the fee that is charged to use campsites in the campground, and it is appropriate to include Pinewoods as a Type A campground since it has a new flush toilet/shower building.

Lastly, there is a revision to the rule prohibiting containers, such as glass bottles, in watercraft launched from designated launches on the Brule River State Forest. The revision would also prohibit the containers when watercraft are removed from the designated launches.

SECTION 1. Chapters NR 40 and 41 are repealed.

SECTION 2. Chapter NR 45 (title) is repealed and recreated to read:

CHAPTER NR 45

REGULATIONS FOR THE USE OF DEPARTMENT PROPERTIES

SECTION 3. NR 45.02 is repealed and recreated to read:

NR 45.02 Applicability. (1) Except when the context provides otherwise, this chapter applies to any of the following:

- (a) All lands, structures and property owned by the department.
- (b) Lands owned by the state of Wisconsin which are under the management, supervision and control of the department.
- (c) Lands under easement to or lease by the state of Wisconsin which are under the management, supervision and control of the department.

(2) On lands the department owns but are under the supervision, management and control of another entity pursuant to lease or easement, the department may, as part of the lease or easement, waive its jurisdiction in whole or in part under this chapter.

SECTION 4. NR 45.03 (8m) and (21m) are created to read:

NR 45.03 (8m) "Crops" means any vegetation planted as an agricultural commodity or for other use as part of a farming operation, or vegetation planted for personal consumption or aesthetics, such as a vegetable or flower garden.

(21m) "State park" or "state forest" means the area within the project boundary approved for the state park or state forest by the natural resources board.

SECTION 5. NR 45.04 (3) (g) is amended to read:

NR 45.04 (3) (g) *Destruction of property*. No person may destroy, molest, possess without permission, attempt to remove or remove the property of others.

SECTION 6. NR 45.04 (3) (m), (n) and (o) are created to read:

NR 45.04 (3) (m) *Structures*. Except as authorized by the department, no person may construct, place, occupy or use structures or store personal property on lands subject to this chapter. This paragraph does not apply to tents or canopies which are less than 100 square feet in area or other temporary structures which are used for recreational purposes and removed by 11:00 p.m. of the day they are placed on the property.

(n) *Crops*. Except when authorized by the department, no person may plant or cultivate any crop on lands subject to this chapter.

(o) *Possession of marijuana*. No person may possess 25 grams or less of marijuana or use marijuana as defined in s. 961.01 (14), Stats., unless the marijuana was obtained directly from, or pursuant to, a valid prescription or order of a practitioner, as defined in s. 961.01(19), Stats., while acting in the course of the practitioner's professional practice or except as otherwise authorized by ch. 961, Stats.

SECTION 7. NR 45.06 (3m) is created to read:

NR 45.06 (3m) No person may allow the person's dog, cat or other animal on an observation tower.

SECTION 8. NR 45.09 (1) and (2) are amended to read:

NR 45.09 Firearms and hunting. (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, 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, picnic area or other special use area designated by the department by posted notice ~~prohibiting the discharge of firearms in these areas.~~

(2) Except for blinds used exclusively for waterfowl hunting as provided in s. 29.327 (2), Stats., no person may construct, occupy or use any elevated or ground blind or other elevated device except that portable tree stands and blinds may be used provided they are removed from the property each day at the close of hunting hours. No person may cause damage to trees by the placement or erection of portable tree stands or by any other manner while climbing or hunting from a tree. This subsection does not apply to the use of blinds constructed entirely of dead vegetation found on the property.

SECTION 9. NR 45.09 (7) is created to read:

NR 45.09 (7) Unless authorized by the department, no person may pursue, drive or chase animals on lands subject to this chapter that are closed to hunting.

SECTION 10. NR 45.10 (1) (a), (k) and (L) is amended to read:

NR 45.10 Camping (1) GENERAL. (a) Camping is prohibited except within designated camping areas, ~~or~~ on state-owned islands in the Mississippi river ~~and~~ , on state-owned islands and sandbars in the Lower Wisconsin state riverway, and on state-owned islands outside of state forest boundaries when the

island is posted open to camping. No person may camp in designated camping areas without a permit and the payment of the prescribed fees, except when ~~camping at designated watercraft campsites in the northern state forests, in the Turtle-Flambeau scenic waters area, or on the Chippewa flowage or on other designated state-owned islands outside state forest boundaries.~~ Camping at designated watercraft campsites is restricted to persons and their equipment arriving by watercraft only waived elsewhere in this section.

(k) Camping permits are not required and payment of camping fees are waived when camping on state-owned islands in the Mississippi river or state-owned islands or sandbars in the Lower Wisconsin state riverway, on state-owned islands outside state forest boundaries when the island is posted open to camping, designated watercraft campsites in the northern state forests, Turtle-Flambeau scenic water area or Chippewa flowage.

(L) Camping is restricted to one day only at designated watercraft campsites in northern state forests, 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 watercraft campsites ~~in~~ on the Turtle-Flambeau scenic waters area and Chippewa flowage. Camping at these locations is restricted to persons and their equipment arriving by watercraft only.

SECTION 11. NR 45.11 (4) (h) is repealed.

SECTION 12. NR 45.11 (6) (m) is created to read:

NR 45.11(6)(m) Ottawa lake in Kettle Moraine state forest, section 34, T6N, R17E, town of Ottawa, Waukesha county.

SECTION 13. NR 45.12 (2) (a) 1. n. and 45.13 (14) (b) (intro.) is amended to read:

NR 45.12(2)(a)1.n. Ottawa lake and Pinewoods - southern unit Kettle Moraine state forest

NR 45.13(14)(b)(intro.) No person may possess any of the following containers on the Brule river within watercraft launched from or removed at designated launching sites specified in par. (a) on the Brule river state forest:

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on August 25, 1999.

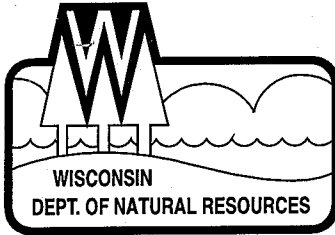
The rules shall take effect on January 1, 2000, as provided by s. 227.22(2)(b), Stats.

Dated at Madison, Wisconsin November 16, 1999

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)



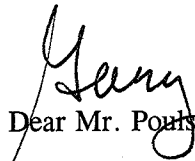
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November 16, 1999

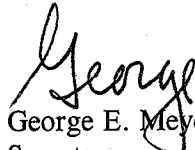
Mr. Gary L. Poulson
Assistant Revisor of Statutes
131 West Wilson Street - Suite 800
Madison, WI


Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. LF-20-99. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


George E. Meyer
Secretary

Enc.

