

SUBJECT: Request authorization for public hearing for Board Order FR-38-10 to develop a rule that specifies when and where golf carts are allowed in the Governor Thompson State Park and the Peshtigo River State Forest

FOR: OCTOBER BOARD MEETING

TO BE PRESENTED BY: John Lubbers (Forestry) and Peter Biermeier (Parks and Recreation)

SUMMARY:

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. Before DNR took ownership of the lands now consisting of the State Park and State Forest, golf cart use was occurring on certain Wisconsin Public Service property and boat landings. 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.

The proposed 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; authorizes the use of golf carts in the Governor Thompson State Park and the Peshtigo River State Forest; describes specifically, which areas on the above mentioned properties are authorized for golf cart use; and describes operational requirements.

Interested/impacted parties include local units of Government, primarily the Town of Stephenson and Marinette County; local businesses, primarily service industries; year-round and seasonal residents; public safety agencies; and Wisconsin Public Service.

The rule represents a change in statute, but it does not represent a change in "historical use" before the Department obtained ownership. The Department does not currently have statutory authorization to allow golf carts on Department owned and maintained roads open for public use.

RECOMMENDATION: Authorize public hearings for Board Order FR-38-10 to develop a rule that specifies when and where golf carts are allowed in the Governor Thompson State Park and the Peshtigo River State Forest

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:

Robert Mathey
Bureau Director,

9/22/2010
Date

Kate DeLong
Administrator,

9/24/10
Date

Matt Frank
Secretary, Matt Frank

10-13-10
Date

- | | |
|---------------------------|------------------------------------|
| cc: Laurie J. Ross - AD/8 | Bob Mather - FR/4 |
| Teague Prichard - FR/4 | John Lubbers - Green Bay |
| Quinn Williams - LS/8 | Dan Mertz - |
| Linda Haddix - LS/8 | N10008 Paust Lane Crivitz WI 54114 |
| Joe Polasek - MB/8 | |

CORRESPONDENCE/MEMORANDUM

DATE: September 22, 2010

TO: Natural Resources Board Members

FROM: Matthew Frank – Secretary, Department of Natural Resources *mf*

SUBJECT: Authorization for Public Hearing for Board Order FR-38-10 – Golf Cart Use in the Governor Thompson State Park and the Peshtigo River State Forest

Why is this Rule being Promulgated?

s. 27.01 (17) Stats., created under 2009 Wisconsin Act 54, requires the Wisconsin Department of Natural Resources (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.

Golf carts fall under the definition of a motor vehicle s. 340.01 (35), Stats. Golf carts are not allowed on “public roads” including DNR managed roads and parking lots. Before the Department took ownership of the lands now consisting of the State Park and State Forest, golf cart use was occurring, but not formally authorized, on certain Wisconsin Public Service property and boat landings.

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.

Summary of what the Proposed Rule is to Accomplish

The proposed rule will define what a golf cart is, and authorize when and where golf cart use can occur in the Governor Thompson State Park and the Peshtigo River State Forest.

Summary of the Proposed Rule

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.

Who will be impacted by the Proposed Rule? How?

Potentially impacted parties include: local units of Government, primarily the Town of Stephenson and Marinette County; local businesses, primarily service industries; year-round and seasonal residents; public safety agencies; Wisconsin Public Service; and the Department.

Impacts are expected to be minimal, but include implementation and enforcement of the rule (town, county, the Department, and public safety agencies) and ability of residents to lawfully and safely use golf carts and a potential increase in such use (residents, businesses).

Fiscal Estimate

This rule is expected to have minimal fiscal impacts to the State (see fiscal estimate worksheet).

Small Business Analysis

The proposed rule is not expected to have a significant adverse effect on a substantial number of small businesses and may have favorable effects on a number of small businesses that provide services to users of golf carts.

A. 1. Describe the compliance and/or reporting requirements imposed on small business. No new compliance or reporting requirements are imposed by the proposed rule.

A. 2. Can these compliance and/or reporting requirements be made less stringent for small business? Not applicable.

B. 1. Describe the schedules or deadlines for compliance or reporting imposed on small business. Not applicable.

B. 2. Can these schedules or deadlines be made less stringent for small business? Not applicable.

C. Can the compliance or reporting requirements for small business be consolidated or simplified? Not applicable.

D. Can performance standards be established for small businesses in lieu of design or operational standards? Not applicable.

E. Can small business be exempted from any or all requirements of the rule? Not applicable.

F. Initial Regulatory Flexibility Analysis:

1. Describe the type of small business that will be affected by the rule. 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.

2. Briefly explain the reporting, bookkeeping and other procedures required for compliance with the rule. No new reporting, bookkeeping or other procedures are created by the proposed rule.

3. Describe the type of professional skills necessary for compliance with the rule. No new professional skills are needed to comply with the proposed rule.

Environmental Analysis

No Environmental Analysis or Impact Statement is required.

Legislation Authorizing Rule

Statutory authority for this rule can be found in s. 27.01 (17), Stats.:

(17) Limited golf cart use. The department shall permit the use of golf carts by persons age 16 and over in Governor Tommy G. Thompson Centennial State Park and the Peshtigo River State Forest. The department shall promulgate a rule that specifies when and where golf carts may be used in the state park and the state forest. The rule shall allow golf carts to be used for at least the same hours and in at least the same places as golf carts were used in the state park and the state forest before they were acquired by the state.

Proposed Rule

Attached.

Fiscal Estimate — 2009 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number FR -38-10

Subject
 Authorizing the use of golf carts on certain state lands per 2009 Wisconsin Act 54

Fiscal Effect

- State: No State Fiscal Effect
 Indeterminate

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

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 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), (1)(mu), (1)(mv)

Assumptions Used in Arriving at Fiscal Estimate

Wis. Stat. s 27.01 (17), 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. These rules will identify locations which golf carts can use to transverse state lands and, in most cases, arrive at boat landing locations owned by the state. Five of the boat landing locations have access roads in place and landing areas identified. In the case of BL 13, the access route and boat landing parking area for golf carts needs to be further defined and designed. It is probable the Department will need to purchase lands and construct a cart path and parking area at BL 13. Additionally, at all locations, the Department will need to properly sign and maintain the access roads/trails for golf cart use.

State Fiscal Effect --

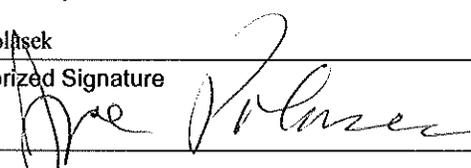
To adequately administer this new law, both access way construction along with reasonable signage and posting will be required. Signage costs are estimated as 20 signs at \$350 per sign for sign, post, concrete and labor. Total costs of signage estimated at \$7,000. The Department may also need to acquire up to two acres of land to access BL 13, and construct a trail on that acreage. The cost for the land and the trail has not been determined.

Local Fiscal Effect --

These properties are wholly managed by the Department; consequently the approval of these administrative rules would have minimal fiscal effect on local units of government.

Long-Range Fiscal Implications

Minimal

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	09-21-10

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 FR-38-10

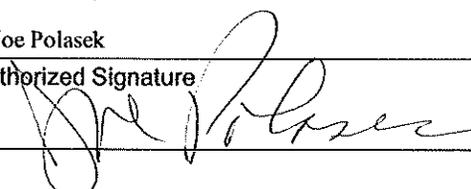
Subject
 Authorizing the use of golf carts on certain state lands per 2009 Wisconsin Act 54

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 Signage costs of \$7,000 (20 signs at \$350 for sign, post, concrete and labor). Possible land costs and construction of trail to BL 13 has not been determined.

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	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$	\$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	\$	\$
Net Change in Revenues	\$	\$

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 09-21-10

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:

Jim Warren, Chief – Public Lands and Conservation Services
Bureau of Forest Management
Ph: 608-264-8990
e-mail: jamesk.warren@wisconsin.gov

Peter Biermeier, Chief – External Relations and Planning
Bureau of Parks and Recreation
Ph: 608-264-6136
e-mail: peter.biermeier@wisconsin.gov

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

John Lubbers
Wisconsin Department of Natural Resources
2984 Shawano Avenue
Green Bay, WI 54313-6727
920-662-5132
john.lubbers@wisconsin.gov

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)