

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT: Board Order WM-01-15 scope statement approval request, conditional approval of the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse: proposed rules affecting chapters NR 10 and 11 related to hunting and trapping, the 2015 Wildlife Management Spring Hearing Agenda

FOR: December 2014 Board meeting

PRESENTER'S NAME AND TITLE: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

The department is requesting approval of the statement of scope for board order WM- 01 -15. Approval will allow drafting and preparation of wildlife management's portion of the 2015 spring fish & wildlife hearing agenda. A separate request for approval of the spring hearing questionnaire will be made at the board's January 2015 meeting.

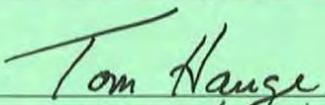
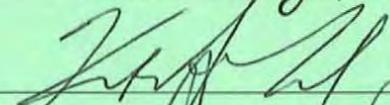
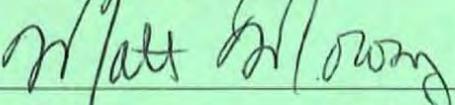
A number of these proposals are recommendations of the Wisconsin Conservation Congress to the Natural Resources Board and initiating a process to promulgate those rules fulfills a role of the board and the congress established in s 15.348 Stats.

All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest for conservation purposes and to authorize the removal of nuisance wild animals in certain situations.

RECOMMENDATION: Approval of the statement of scope for Board Order WM-01-15 and conditional approval of the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse: proposed rules affecting chapters NR 10 and 11 related to hunting and trapping, the 2015 Wildlife Management Spring Hearing Agenda

LIST OF ATTACHED MATERIALS (check all that are applicable):

- | | |
|--|---|
| <input type="checkbox"/> (choose one) | <input type="checkbox"/> Attachments to background memo |
| <input checked="" type="checkbox"/> Statement of scope | <input checked="" type="checkbox"/> Governor approval of statement of scope |
| <input type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement |
| <input type="checkbox"/> Response summary | <input type="checkbox"/> Board order/rule |

Approved by	Signature	Date
Tom Hauge, Bureau Director		11/18/14
Kurt Thiede, Administrator		11/20/14
Cathy Stepp, Secretary		11/25/14

cc: Board Liaison - AD/8
Scott Loomans - WM/6

Program attorney - LS/8

Department rule coordinator - LS/8

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM - 01 - 15

Relating to: The 2015 Wildlife Management spring hearing rule related to hunting, trapping, refuges and closed areas, and wildlife nuisance control.

Rule Type: Permanent

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

These will be permanent rules.

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

These rule changes are proposed for inclusion on the 2015 Wildlife Management Spring Hearing rules package and questionnaire. This rule package will create and amend regulations for hunting, trapping and closed areas found in Ch's. NR 10, 11, and 12.

Specifically, these rules would;

1. Simplify the prohibition of hunting waterfowl in open water areas and expand the near-shore areas where hunting would be allowed. The WI Conservation Congress has recommended modifications to this rule.

2. Allow the use of foot activated cable restraints, a new device used to trap furbearing animals and for which best management practices have been approved by the Association of Fish and Wildlife Agencies.

3. Modify the spring wild turkey hunting season opening date so that it is always the third Wednesday in April.

4. Simplify the fall turkey hunting season framework so that hunting is always allowed on the day before the firearm deer hunting season and so that the season is continuous with no closed periods in Zones 1 to 5 in the southern part of the state.

5. Eliminate beaver and otter trapping in April in order to address concerns about beaver population declines.

6. Increase the limit on the number of small game animals a person is allowed to possess at home or in transport so that it is three times the daily bag limit, consistent with federal regulations for migratory game birds.

7. Modify the standards for construction of cable restraint devices used to trap furbearers to improve their efficiency for catching coyotes or wolves. Current standards were developed before wolf trapping opportunities were available.

8. Eliminate the trapping hours restriction so that traps may be placed or tended at any time. The WI Conservation Congress has recommended modifications to this rule.

9. Modify the location or size of waterfowl hunting closed areas on DNR managed lands.

10. Modify the wildlife damage abatement program so that it is more responsive and effective at controlling bear damage.

11. Allow pheasant hunting beginning at 9:00 a.m. on the first day of the pheasant hunting season instead of noon under current rules, consistent with the start of hunting on the first day of duck seasons. The WI Conservation Congress has recommended modifications to this rule.

12. Additional rule changes may be pursued which are reasonably related to those discussed here. The department may also include other, minor, non-controversial rule proposals passed at the annual Spring Fish & Wildlife Hearings as advisory questions by the Conservation Congress.

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:

All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest for conservation purposes and to authorize the removal of nuisance wild animals in certain situations.

A number of these proposals are recommendations of the Wisconsin Conservation Congress to the Natural Resources Board and initiating a process to promulgate those rules fulfills a role of the board and the congress established in s 15.348 Stats.

This rule proposal would have the effect of expanding the areas where a waterfowl hunter can park a boat (or blind) and hunt. The boat would no longer need to be concealed by emergent vegetation such as rice or cattails. Under this proposal, on-shore vegetation such as reed canary grass could provide the needed concealment. Additionally, dead trees or stumps could be considered concealing vegetation. While it expands areas where waterfowl hunting may occur, this rule would still maintain Wisconsin's requirement that people hunt from the edges of bodies of water and that they not hunt from open-water, offshore areas. Wisconsin's open water hunting rule dates back to early conservation statutes and may have been designed to keep hunters from setting up in front of each other and to keep them out of the middle of waters that are used as staging areas by migrating ducks or geese. Providing these areas where there is no hunting pressure may encourage birds to remain in an area longer and provide more chance for birds to spend time feeding and resting during migration. Hunters have supported the rule because it increases hunting opportunity by encouraging birds to remain in an area for longer periods of time.

These rules would allow the use of foot activated cable restraints, a relatively new device used to trap furbearing animals. This device has been the subject of research and it is recommended as a humane method of trapping and for which best management practices have been approved by the Association of Fish and Wildlife Agencies. This would allow the use of a humane device in the restraint of fox, coyote, wolves, and bobcats during latter portions of harvest seasons.

Currently, the spring turkey hunting season opens on the Wednesday nearest April 13. Under this structure, the spring turkey season overlaps the Memorial Day holiday weekend in approximately one out of every three years (when it falls on the third Wednesday of the month). This proposal would stabilize the season opener so that it falls on the 3rd Wednesday of the month every year, making it more predictable and easier for hunters to schedule their hunts, resulting in the 6th time period always overlapping the Memorial Day holiday weekend, and reducing the likelihood of cold and snow during the Youth Hunt, Learn to Hunt Turkey events, and early time periods.

The fall turkey hunting season is currently closed from the Friday immediately preceding the 9-day gun deer hunt through the Sunday immediately following the 9-day gun deer hunt. This proposal would allow fall turkey hunting on the Friday immediately preceding the 9-day gun deer hunt statewide and, in zones 1 through 5 where the turkey season re-opens after deer season, would eliminate that closed period. This proposal would make the fall turkey hunt consistent with other fall seasons, simplify hunting regulations, and provide some additional hunter opportunity.

A long term decline in beaver populations across Beaver Management Zones A & B in the Northern part of the state has been documented. A primary reason may be the long harvest season which is designed to both reduce the overall beaver population and to more directly affect beaver presence on priority trout waters. This proposal would address the need to maintain or slightly increase the overall beaver population by eliminating trapping pressure in April but to continue to apply harvest pressure in the spring on waters the department identifies as being very important for trout management by continuing to allow April trapping on those designated waters. The otter harvest season would be adjusted so that it is consistent with the beaver season.

For simplicity and consistency with new federal regulations for migratory birds, this proposal would increase the limit on the number of small game animals a person is allowed to possess at home or in transport. Instead of the current possession limit which is twice the daily bag limit, it would be three times the daily bag limit, consistent with federal regulations for migratory game birds.

A cable restraint is a device used for the live capture of furbearers. The device consists of a non-spring activated cable which includes a relaxing mechanical lock, stops, and swivel. International research on humane trap systems has documented the safe use of cable restraints on dry land, with much of the field research conducted here in Wisconsin from 2000 to 2002. A "breakaway" is a component of the cable restraint device that allows larger non-target animals to be able to pull free of the device and self-release if caught. Cable restraints became legal while the wolf was a protected species so a breakaway weight of 285 pounds was established by rule based on testing which showed that a 285 pound breakaway would allow most wolves to self-release from the device. However, this also allows some larger coyotes to self-release. In most states, a 350 pound rating is the standard. These rules would increase the maximum allowable pound rating.

Trapping hours currently in place may be designed to deter trap theft or simplify enforcement of a requirement to tend or check traps daily. These rules would eliminate trapping hours. Eliminating trapping hours would simplify regulations and would provide a particular benefit to people whose work schedule conflicts with trapping hours. There is not a furbearer population management purpose for trap checking hours. These rules would maintain the requirement that traps be checked daily.

These rules would modify the location and size of at least two waterfowl hunting closed areas on department managed lands that are part of the Lower Wolf River Bottomlands Natural Resources Area. These modifications were recommended following a planning process that involved members of the public. The closed areas would provide a more functional area for waterfowl to rest, creating more opportunity for waterfowl hunters in the area because birds would remain in the area for a longer period of time.

These rules would modify the wildlife damage abatement program so that it is more responsive and effective at controlling bear damage. The proposal would establish a threshold at which bear shooting permits would be issued of \$5,000 or more in appraised bear damages in the previous year. This proposal is similar to the current threshold in place for deer shooting permits. This is intended to reduce agriculture damage on properties that chronically experience excessive damages from bear where historically trapping and relocation abatement has not been sufficient. This proposal would restrict permittees and participants to retaining one bear on Agriculture Damage Bear Shooting Permits. The intention of this change is to engage multiple participants on bear shooting permits instead of one or two individuals removing bear. This proposed change is intended to prevent the perception of individuals monopolizing the resource. Finally, this proposal may allow the use of dogs to assist with tracking or trailing when bear shooting permits are being used, at the discretion of the permittee. The intention of this regulation is to provide an additional, efficient, bear damage abatement option for bear causing agriculture damages.

4. Detailed explanation of statutory authority for the rule:

The chapter on wild animals and plants, in s. 29.014, "rule making for this chapter", establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to make changes related to trapping methods and times and the seasons for taking game and furbearing animals.

The department's authority to authorize the removal of wild animals that are causing damage is established under s. 29.885. Additionally authority to establish conditions for taking game, such as bears, is established in s. 29.014 as noted above.

The establishment of game refuges is authorized in s. 23.09(b) relating to the department's ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

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

306 hours.

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

Hunters and trappers are the principal groups that will be affected by this rulemaking. Farmers would be impacted by improved efficiency in responding to nuisance bear complaints.

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:

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

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

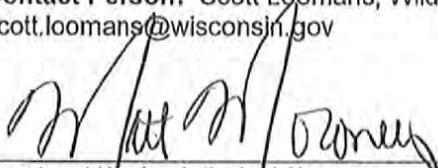
These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. The use of nuisance wildlife shooting permits or farmer's participation in the Animal Damage Abatement and Claims program is discretionary and not a requirement of state laws or administrative rules.

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

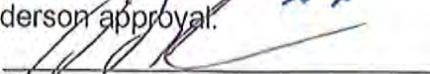
The department hold a public hearing in each county on the second Monday in April, 2015.

These hearings will be held in conjunction with the annual Conservation Congress spring meeting, which will immediately follow the department's administrative rule hearing at each hearing location.

Contact Person: Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452, scott.loomans@wisconsin.gov


Department Head or Authorized Signature

10/13/14
Date Submitted


Scott Gunderson approval.
Signature 
Date 10-7-14



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

October 31, 2014

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

RE: Scope Statement for NR 10, 11, and 12 relating to the 2015 Wildlife Management spring hearing rule related to hunting, trapping, refuges and closed areas, and wildlife nuisance control

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on October 14, 2014, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule creating and modifying Chapters NR 10, 11, and 12 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