

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

SUBJECT: Request approval of the Wildlife Management Bureau's 2015 Fish and Wildlife Spring Hearing questions related to Board Order WM-01-15.

FOR: January 2015 Board meeting

TO BE PRESENTED BY: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

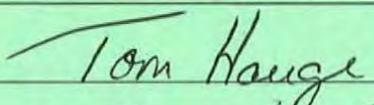
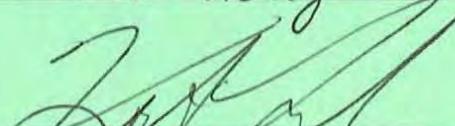
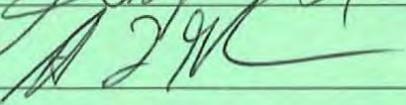
Requesting Natural Resources Board approval of wildlife management's 2015 Fish and Wildlife Spring Hearing questions and a rule package to amend NR 10 and 11, Wis. Admin. Code, relating to hunting, trapping, and closed areas on department managed lands. The following are proposed for the 2015 Spring Hearing questionnaire:

1. Expand the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be "concealed" if they are within 3 feet of the shoreline. The Conservation Congress recommended modifications to this rule.
2. 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 instead of two, consistent with federal regulations for migratory game birds.
3. Establish a 9:00 a.m. opening time on the first day of the pheasant, quail, Hungarian partridge, and southern rabbit seasons instead of noon. The WI Conservation Congress has recommended modifications to this rule.
4. Modify the spring wild turkey hunting season opening date so that it is always the third Wednesday in April.
5. & 6. Simplify the fall turkey hunting season framework so that hunting is always allowed on the day before the firearm deer season and so that the season is continuous with no closed period in Zones 1 to 5 in the southern part of the state.
7. Eliminate the trapping hours restriction. The Conservation Congress has recommended modifications to this rule.
8. Allow the use of foot activated cable restraints for trapping.
9. Modify the standards for construction of cable restraint devices to improve their efficiency for catching coyotes.
10. Modify the location and size of a waterfowl hunting closed area at the Wolf River Bottomlands Natural Resources Area on DNR managed lands in Outagamie County.

RECOMMENDATION: Approval of the Wildlife Management Bureau's 2015 Fish and Wildlife Spring Hearing questions related to Board Order WM-01-15.

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

- | | |
|---|--|
| <input checked="" type="checkbox"/> Background memo | <input checked="" type="checkbox"/> Spring hearing questions |
| <input checked="" type="checkbox"/> Preliminary fiscal and economic impact analysis | <input type="checkbox"/> |

| Approved by | Signature | Date |
|---|--|---------|
| Tom Hauge Bureau Director |  | 1/16/15 |
| Kurt Thiede, Land Division Administrator |  | 1/16/15 |
| Cathy Stepp, Secretary |  | 1/14/15 |

DATE: December 30, 2014

TO: Natural Resources Board

FROM: Cathy Stepp

SUBJECT: NRB approval of the Wildlife Management Bureau's 2015 Fish and Wildlife Spring Hearing questions

I am requesting Natural Resources Board approval of wildlife management's 2015 Fish and Wildlife Spring Hearing questions, Board Order WM-01-15, a rule package to amend NR 10 and 11, Wis. Admin. Code, relating to hunting, trapping, and closed areas on department managed lands.

Background:

Annually, the department submits rule change proposals relating to hunting, trapping and wildlife management. The statewide April Spring Fish and Wildlife hearings are the traditional vehicle for citizen input. The origins of these rule change proposals are: 1) department staff specialists from the bureaus of law enforcement, wildlife management, endangered resources and customer service and licensing, or; 2) publicly supported Conservation Congress advisory questions from prior years that were forwarded by the congress' executive council. Initiating a process to promulgate the rules which originate from the Conservation Congress fulfills a role of the board and the congress established in s 15.348 Stats. All of these proposals were reviewed by department staff prior to inclusion as proposals in this rule order. For details on each of the proposed rule changes, please refer to the attached spring hearing questions proposal (Appendix 1).

The department also proposes asking advisory questions that are or may become future rule proposals.

Summary of the Rule:

The department is recommending modifications to chapters NR 10 and 11, Wis. Adm. Code, relating to hunting, trapping, and closed areas on department managed lands. These rule changes are proposed for inclusion in the 2015 Spring Hearing questionnaire. Specifically, individual sections of this rule proposal will:

1. Expand the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be "concealed" if they are within 3 feet of the shoreline. The WI Conservation Congress has recommended modifications to this rule.
2. 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 instead of two, consistent with federal regulations for migratory game birds.
3. Establish a 9:00 a.m. opening time on the first day of the pheasant, quail, Hungarian partridge, and southern rabbit seasons instead of noon. The WI Conservation Congress has recommended modifications to this rule.

4. Modify the spring wild turkey hunting season opening date so that it is always the third Wednesday in April.
5. and 6. 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 period in Zones 1 to 5 in the southern part of the state.
7. 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.
8. Allow the use of foot activated cable restraints, a device used to trap furbearing animals and for which best management practices have been approved by the Association of Fish and Wildlife Agencies.
9. Modify the standards for construction of cable restraint devices used to trap furbearers to improve their efficiency for catching coyotes. Current standards were developed before wolf trapping opportunities were available.
10. Modify the location and size of a waterfowl hunting closed area at the *Wolf River Bottomlands Natural Resources Area* on DNR managed lands in Outagamie County.

Rule Development:

These rules were developed with assistance from the bureaus of law enforcement, legal services, facilities and lands, endangered resources, and parks & recreation.

Small Business and Regulatory Flexibility Analysis:

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. Therefore, under s. 227.19 (3m) Stats., a final regulatory flexibility analysis is not required.

Economic Impact of Proposed Rules:

The department has made a preliminary determination that these rules will have only a minimal economic impact locally or statewide.

The department will post a notice for solicitation of comments on this analysis on its website during winter, 2015. During that period the department will distribute the proposed rule and analysis to parties it determines would be interested and to representatives of local units of government.

A copy of the economic and fiscal impact analysis is attached as part of this agenda item.

Effect on Existing Policy:

All of the policies in this proposed rule are consistent with past board policies of regulating fish and game harvest for conservation purposes.

Previous Board Action:

The statement of scope for this rule, SS 113-14, was approved by the Governor on October 31, 2014, published in Register No. 707, on November 11, 2014, and approved by the Natural Resources Board on December 10, 2014.

Groups Impacted by the Rule:

Hunters and trappers are the principal groups that will be affected by this rulemaking.

Environmental Analysis:

The rulemaking process for Board Order WM-01-15 constitutes an equivalent analysis action under s. NR 150.20 (2) (b), Wis. Adm. Code and additional environmental analysis is not required.

Appendix 1. Proposed 2015 Spring Hearing Questions.

2015 Spring Hearing Questions

(Parenthesis indicate the year the proposal would become effective)

Statewide questions

QUESTION 1. Expand the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be “concealed” if they are within 3 feet of the shoreline. **(2015).**

Hunting waterfowl from open water areas is prohibited in most of the state. Hunters who are on the water must remain concealed by emergent vegetation at all times while hunting, unless they are standing in the water without the aid of a boat or blind. Blinds in the water must also be concealed by naturally occurring emergent vegetation. Wisconsin’s open water hunting rule dates back to early conservation statutes designed to keep hunters 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 encourages birds to remain in an area longer and provide more chance for birds to spend time feeding and resting during migration.

This proposal would expand the areas where waterfowl hunting is allowed by no longer requiring concealment by emergent vegetation as long as a hunter is within 3 feet of the shoreline. Hunters who are not within three feet of the shoreline would still need to be 50% concealed by emergent vegetation in order to maintain a prohibition of hunting in open water.

1. Do you favor expanding the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be “concealed” if they are within 3 feet of the shoreline?

1. Yes _____ No _____

QUESTION 2. Increasing the possession limit for small game. (2015).

The possession limit for most small game species, other than migratory birds, is twice the daily bag limit. This restriction on the number of animals that a hunter may possess at any time at home or a hunting camp may be designed to distribute harvest fairly among hunters, to prevent what might be perceived as “hoarding” of game animals, and as an enforcement tool in cases where large amounts of game may have been taken illegally.

Two years ago, the USFWS increased the possession limit for migratory game birds from twice to three times the daily bag limit and Wisconsin adopted a consistent rule for migratory game birds only.

This proposal would establish a possession limit of three times the daily bag limit for the following small game species: pheasants, ruffed grouse, bobwhite quail, Hungarian partridge, squirrels, and rabbits. This possession limit would simplify regulations by making them consistent with rules currently in place for migratory birds. This increase is small enough that it likely would not impact the distribution of harvest among hunters.

2. Do you favor increasing the possession limit for pheasants, ruffed grouse, bobwhite quail, Hungarian partridge, squirrels, and rabbits from two times the daily bag limit to three times the daily bag limit?

2. Yes _____ No _____

QUESTION 3. Establishing a 9:00 a.m. opening time on the first day of pheasant season. (2015).

Hunting hours begin at 12:00 p.m. on the first day of the pheasant hunting season. Hunting also begins at noon for other seasons that open on the same day: bobwhite quail, Hungarian partridge, rabbits in the south, and ruffed grouse in southeast Wisconsin. Hunting hours begin 30 minutes before sunrise for the remainder of the seasons. The delayed opening time may have been established primarily so that pheasant hunters have time to spread out before beginning to hunt and so that people on heavily used public hunting grounds have excellent visibility immediately at the start of shooting hours.

An opening time of 9:00 a.m. may serve the same purpose of helping to ensure good visibility and awareness of where other hunting parties are during very busy hunting conditions on the first day of the season. This opening time would also be consistent with the beginning of shooting hours on the first day of duck hunting seasons. For consistency, this proposal would also establish a 9:00 a.m. shooting time for other seasons that open on the same day as pheasant hunting.

3. Do you favor establishing a 9:00 a.m. opening time on the first day of pheasant season as well as for Hungarian partridge, bobwhite quail, rabbits in the area south of Hwy. 10 to Waupaca and south of Hwy. 54 from Waupaca to Algoma, and ruffed grouse in Zone B which includes southeast Wisconsin?

3. Yes _____ No _____

QUESTION 4. Establish a more consistent opening date for the spring turkey hunting season. (2015).

The first spring turkey hunting season opens on the Wednesday nearest April 13 and continues for seven days. The five additional hunting periods all begin on subsequent Wednesdays and also continue for seven days. The current opening day can fall during the second or third week in April, sometimes resulting in a full week of variation from year-to-year. The youth turkey hunting season is always on the Saturday and Sunday before the regular season and the timing of that opener can also vary by a full week in some years.

This proposal would establish that the first spring turkey hunting season always begins on the third Wednesday in April. Some people have expressed an interest in having a more consistent opener for a variety of reasons including; it may be easier to plan hunts, some think the later opener would provide more consistently better weather, and an opportunity to hunt over the Memorial Day weekend would always be available during the last hunting period. This variation in timing of the opening day is not important for any purpose related to the management of wild turkeys and is simply a matter of hunter preference.

4. Do you favor a consistent spring turkey season opening day which would be the third Wednesday in April each year?

4. Yes _____ No _____

QUESTIONS 5 and 6. Simplify the fall turkey hunting season framework. (2015).

Currently, the fall turkey hunting season closes statewide on the Thursday before the traditional nine-day firearm deer season. In recent years all other hunting seasons, with the single exception of the crow hunting season, have been updated so that hunting is allowed on the day before the firearm deer hunting season. In turkey management zones 1 to 5, the turkey season remains closed throughout the traditional 9-day firearm deer season and reopens on the day after. All other small game seasons remain open during the firearm deer season.

This proposal would simplify the turkey hunting season framework by allowing turkey hunting statewide on the day before the traditional nine-day firearm deer season and eliminating the closed period in zones 1 to 5. In addition to eliminating a season closure that may be unnecessary and establishing hunting dates that are consistent with seasons for other species, this change may provide additional hunting opportunity for a person who arrives at their deer hunting location before the season and has an opportunity to hunt turkeys.

5. Do you favor simplifying the fall turkey hunting season framework by allowing turkey hunting statewide on the day before the traditional nine-day firearm deer season?

5. Yes _____ No _____

6. Do you favor simplifying the fall turkey hunting season framework by eliminating the turkey hunting closed period which occurs during the traditional 9-day firearm deer season in turkey management zones 1 to 5?

6. Yes _____ No _____

QUESTION 7. Eliminate the trapping hours restriction. (2015).

Trapping is currently allowed only during the hours beginning at 4:00 a.m. and continuing through 8:00 p.m. daily. No person may set or reset any trap or traps or attend any trap line from 8:00 p.m. to 4:00 a.m. The current restriction may have been established at a time when competition for furbearers was more significant. Some people speculate that the trapping hours restriction may have been intended to reduce trap or fur theft by focusing activity towards daylight hours.

This proposal would eliminate the trapping hours restriction. Some people desire the additional flexibility so they can tend a trap line and maintain work, school, or other schedules. Most trapping seasons begin late in October when days are short – some trappers are already accustomed to tending sets outside of daylight hours and may not see a benefit from the current restriction.

7. Do you favor eliminating the restriction that prohibits trapping between 8:00 p.m. and 4:00 a.m.?

7. Yes _____ No _____

QUESTION 8. Allow the use of foot activated cable restraints by trappers. (2015).

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. Beginning in 2004 state law has allowed the statewide use of passive neck cable restraints for bobcat, coyote, fox and more recently, wolf. Use of this tool is during the latter portion of the trapping seasons beginning on December 1st, as a respectful, precautionary measure to minimize incidental contact with other wildlife and domestic dogs. This device has proven to be safe, humane and selective.

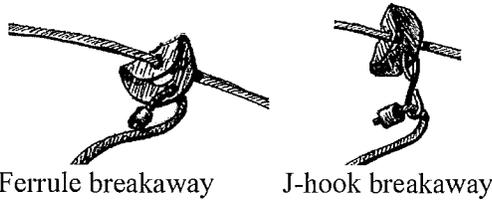
Additional trap research conducted following the same protocols has shown the foot cable restraint to pass all injury score systems for these same species. Use of this tool could be allowed with the same start date as currently approved for passive neck cable restraints, December 1st. Use of this tool during the latter portion of harvest seasons will minimize contact with black bear, allow careful review, and provide an additional, versatile tool for trappers.

8. Do you favor allowing the use of foot activated cable restraints by trappers during the latter portion of the furbearer harvest seasons, beginning on December 1st?

8. Yes _____ No _____

QUESTION 9. Modify the standards for construction of cable restraint devices. (2015).

A cable restraint is a device used for the live capture of furbearers. Beginning in 2004 state law has allowed the statewide use of passive neck cable restraints for bobcat, coyote and fox. The use of foot activated cable restraints has also been proposed (Question 7 above). A feature of these devices is a breakaway device or stop rated to break at 285 pounds or less. This allows larger non-target animals to be able to pull free of the device (self-release) if caught. The breakaway device is a reverse-bend washer lock.



The current breakaway rating of 285 pounds or less allows some larger coyotes to self-release. In most states, a 350 pound rating is the standard. This proposal would establish a breakaway rating of 350 pounds.

9. Do you favor modifying the standards for construction of cable restraint devices used by trappers to require a break-away strength of 350 pounds instead of 285 pounds?

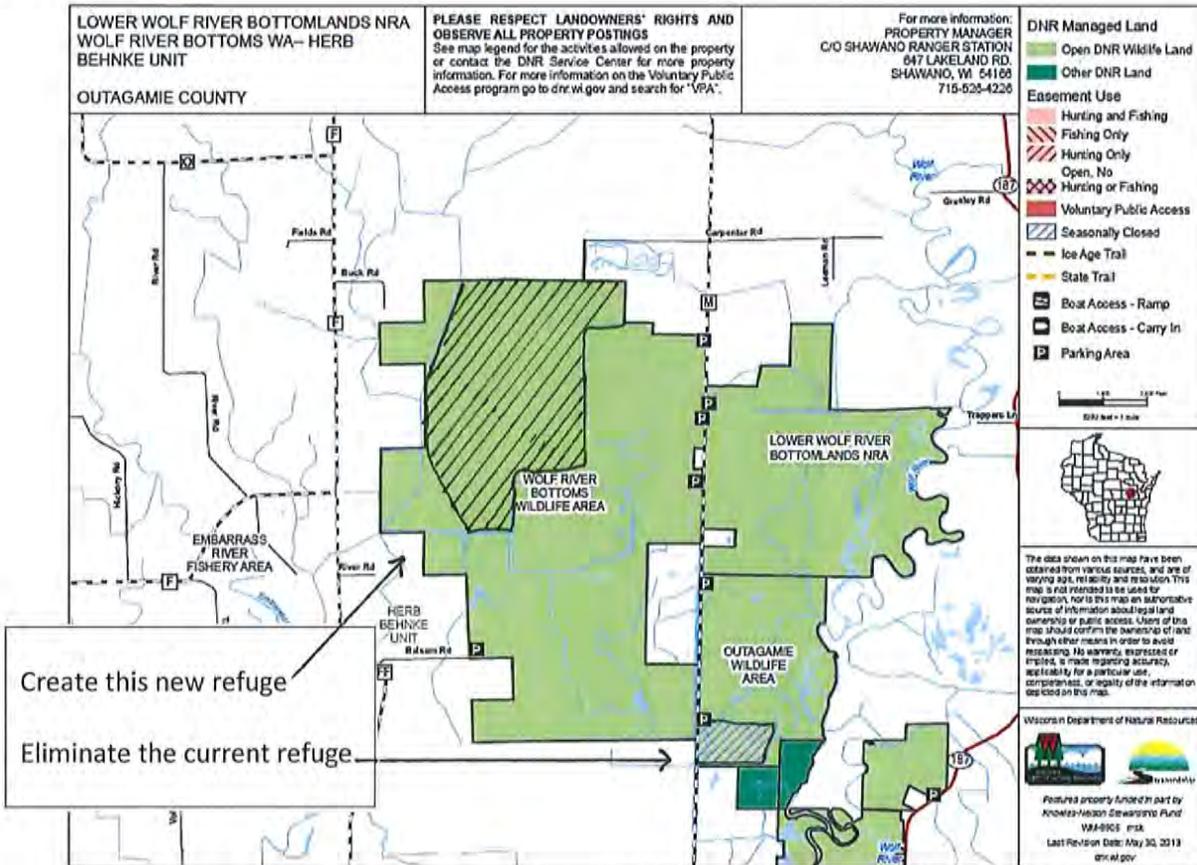
9. Yes _____ No _____

Question primarily of local interest

QUESTION 10. OUTAGAMIE COUNTY. Eliminate the waterfowl hunting closed area at the Outagamie Wildlife Area in the town of Bovina and establish a new waterfowl hunting closed area at the *Wolf River Bottomlands Natural Resources Area* in the town of Maine. (2015).

An existing 50 acre closed area at the Outagamie Wildlife Area may be of limited use for the purpose of providing refuge to waterfowl that will remain in the area and provide hunting opportunities throughout the hunting season. This proposal would eliminate the current closed area. A larger refuge would be created at the adjacent *Wolf River Bottomlands Natural Resources Area*. The larger refuge of 740 acres should be a more functional area for waterfowl to rest, creating more opportunity for waterfowl hunters after the opening weekend and throughout the season.

This proposal is consistent with the recommendations of a planning process which involved members of the public and has been adopted by the department in 2012. Legally killed waterfowl would be retrieved from the refuge by dog or by hand. Deer hunting would be allowed during the traditional nine-day firearm season and the muzzleloader-only season.



10. Do you favor eliminating the waterfowl hunting closed area at the Outagamie Wildlife Area in the town of Bovina and establish a new waterfowl hunting closed area at the *Wolf River Bottomlands Natural Resources Area* in the town of Maine?

10. Yes _____ No _____

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR Ch. 10, Game and Hunting and Ch. 11, Closed Areas

3. Subject

Wildlife management rules relating to hunting, trapping, and closed areas.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

None

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

The provisions of this rule proposal will not have a fiscal impact on the department. The department already administers seasons and enforces regulations related to all of the hunting and trapping opportunities that are modified by this rules package. No new expenses or revenues are anticipated as a result of these proposals.

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Annually, the department submits rule change proposals relating to hunting, trapping and wildlife management. The statewide April Spring Fish and Wildlife hearings are the traditional vehicle for citizen input. Specifically, individual sections of this rule proposal will:

1. Expand the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be "concealed" if they are within 3 feet of the shoreline. The WI Conservation Congress has recommended modifications to this rule.
2. 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 instead of two, consistent with federal regulations for migratory game birds.
3. Establish a 9:00 a.m. opening time on the first day of the pheasant, quail, Hungarian partridge, and southern rabbit seasons instead of noon. The WI Conservation Congress has recommended modifications to this rule.
4. Modify the spring wild turkey hunting season opening date so that it is always the third Wednesday in April. This section also simplifies 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 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.
6. Allow the use of foot activated cable restraints, a device used to trap furbearing animals and for which best management practices have been approved by the Association of Fish and Wildlife Agencies.
7. Modify the standards for construction of cable restraint devices used to trap furbearers to improve their efficiency for catching coyotes. Current standards were developed before wolf trapping opportunities were available.
8. Modify the location and size of a waterfowl hunting closed area at the *Wolf River Bottomlands Natural Resources Area* on DNR managed lands in Outagamie County.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

may be affected by the proposed rule that were contacted for comments.

Pursuant to the Governor's Executive Order 50, Section II, this is a level 3 economic impact analysis. A notice for solicitation of comments on this analysis will be posted on the department's website during a 14 day period in January/February and various interest groups will be contacted by email.

11. Identify the local governmental units that participated in the development of this EIA.

Pursuant to the Governor's Executive Order 50, Section II, this is a level 3 economic impact analysis. A notice for solicitation of comments on this analysis will be posted on the department's website during a 14 day period in January/February and various interest groups will be contacted by email.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

These rules, and the legislation which grants the department rule making authority, do not have a 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.

These rules are not expected to significantly affect currently available outdoor opportunities and no impacts to the economic activities of hunters, trappers, or outdoor recreation enthusiasts are expected.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

These proposals will contribute to providing good opportunities for hunting and trapping and maintenance of the economic activity generated by people who participate in those activities.

14. Long Range Implications of Implementing the Rule

The long range implications of this rule proposal will be the same as the short term impacts. These proposals will contribute to providing good opportunities for hunting and trapping and maintenance of the economic activity generated by people who participate in those activities.

15. Compare With Approaches Being Used by Federal Government

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.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of wild game and furbearer species that are established based on needs that are unique to that state's resources and public desires.

17. Contact Name

Scott Loomans, Wildlife Regulations Policy Specialist

18. Contact Phone Number

608-267-2452

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

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

The statement of scope for this rule, SS 113-14, was approved by the Governor on October 31, 2014, published in Register No. 707, on November 11, 2014, and approved by the Natural Resources Board on December 10, 2014. This permanent rule was approved by the Governor on _____.

The Wisconsin Natural Resources Board proposes an order to repeal Ch. NR 11.02 (8); to amend NR 10.01 (2) (a), (c) 1., (d) to (g), 10.01 (3) (a) and (c) 2., 10.06 (5), 10.13 (3), 10.13 (1) (b) 13. and 15. (Intro.) and d.; to repeal and recreate NR 10.001 (20); and to create NR 10.13 (1) (b) 18. and 11.04 (3m), wildlife management rules relating to hunting, trapping, and closed areas.

WM-01-15

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: 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 (2) (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.

Statutes Interpreted and Explanation: 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. Other statutes interpreted include s. 29.885 and 23.09 (2) (b).

Related Statute or Rule: There are not directly related statutes or rules.

Plain Language Rule Analysis: These rule changes are proposed for inclusion on the 2015 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 and 11 Wis. Adm. Code.

SECTION 1 expands the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be “concealed” if they are within 3 feet of the shoreline. The WI Conservation Congress has recommended modifications to this rule.

SECTIONS 2 to 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 instead of two, consistent with federal regulations for migratory game birds.

SECTIONS 3, 4, 6 and 7 establish a 9:00 a.m. opening time on the first day of the pheasant, quail, Hungarian partridge, and southern rabbit seasons instead of noon. The WI Conservation Congress has recommended modifications to this rule.

SECTION 4 modifies the spring wild turkey hunting season opening date so that it is always the third Wednesday in April. This section also simplifies 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.

SECTIONS 8, 9 and 11 allow the use of foot activated cable restraints, a device used to trap furbearing animals and for which best management practices have been approved by the Association of Fish and Wildlife Agencies.

SECTION 10 modifies the standards for construction of cable restraint devices used to trap furbearers to improve their efficiency for catching coyotes.

SECTION 12 eliminates 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.

SECTIONS 13 and 14 modify the location and size of a waterfowl hunting closed area at the *Wolf River Bottomlands Natural Resources Area* on DNR managed lands in Outagamie County.

Federal Regulatory Analysis: 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.

Comparison with rules in Adjacent States: These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of wild game and furbearer species that are established based on needs that are unique to that state's resources and public desires.

Summary of Factual Data and Analytical Methodologies: All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest for conservation purposes.

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.

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.

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.

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. 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.

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, and bobcats during latter portions of harvest seasons.

These rules would eliminate one waterfowl hunting closed areas on department managed lands that are part of the Lower Wolf River Bottomlands Natural Resources Area and recreate the refuge in an area where it is more likely to maintain waterfowl numbers in the area throughout the course of the hunting season. 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.

Anticipated Private Sector Costs and Economic Impact of Implementing the Rule: 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 proposed rule changes are not expected to significantly influence the spending activities or hunting and trapping activity of hunters, trappers, dog trainers, or other outdoor enthusiasts. Correspondingly, no related economic impacts are anticipated.

Effects on Small Business: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.24 (3m).

Agency Contact Person: Scott Loomans, 101 South Webster St., PO BOX 7921, Madison, WI 53707-7921. (608) 267-2452, scott.loomans@wisconsin.gov

Comment Period: Comments may be sent to the agency contact person through April 13, 2015

SECTION 1. NR 10.001 (20) is repealed and recreated to read:

NR 10.001 (20) "Open water" for the purposes of s. NR 10.12(3), means all portions of a navigable water body but does not include that portion of the water body occupied by a boat, blind and similar device used for hunting waterfowl for which any part of the boat, blind or similar device is:

(a) within three feet of the shoreline or,

(b) located within 3 feet of a naturally occurring, un-manipulated growth of vegetation rooted to the navigable waterway's bed or shoreline and of sufficient height and density to conceal at least 50% of the hunter and the boat, blind or similar device when viewed from at least one direction beyond the vegetation providing the concealment. For determining if the vegetation provides the minimum 50% concealment, the viewing shall occur from a height approximately the same as height of the boat, blind or similar device being used by the hunter.

SECTION 2. NR 10.01 (2) (a) is amended to read:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|--|---|--|
| <i>NR 10.01 (2) (a) Ruffed grouse.</i> | | |
| 1. Zone A as established under s. NR 10.33. | Beginning on the Saturday nearest September 15 and continuing through January 31. | Daily bag 5; possession 4 <u>15</u> |
| 2. Zone B as established under s. NR 10.33. | Beginning on the Saturday nearest October 17 and continuing through December 8. | Daily bag 2; possession 4 <u>6</u> |
| 4. Governor Dodge, Mill Bluff and Mirror Lake state parks. | Nov. 1 – Dec. 15. | Daily bag 2; possession 4 <u>6</u> |

SECTION 3. NR 10.01 (2) (c) 1. is amended to read:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|---|---|---|
| <i>NR 10.01 (2) (c) Pheasants.</i> 1. Cocks only | | |
| a. In all counties of the state except the properties specified in subds. 1. b. and 2. and s. NR 10.24. | Early season—Beginning on the Saturday nearest October 17 at 12:00 noon <u>9:00 a.m.</u> and continuing for 2 consecutive days | Daily bag 1; possession 2 |
| | Late season—Beginning on the day immediately after the season described above and continuing through December 31 | Daily bag 2; possession 4 <u>6</u> |
| b. Governor Dodge, Mill Bluff and Mirror Lake state parks | Nov. 1 – Dec. 15. | Daily bag 2; possession 4 <u>6</u> |

SECTION 4. NR 10.01 (2) (d) to (g) are amended to read:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|--|--|--|
| <i>NR 10.01 (2) (d) Gray (Hungarian) partridge.</i> | | |
| 1. In all counties of the state except in the areas listed in subd. 2. | Beginning on the Saturday nearest October 17 at 12:00 noon <u>9:00 a.m.</u> and continuing through December 31. | Daily bag 3; possession 6-9 |
| 2. Clark, Marathon and Taylor counties. | None | None |
| <i>(e) Bobwhite quail</i> | | |
| 1. In all counties of the state except in the parks listed in subd. 2. | Beginning on Saturday nearest October 17 at 12:00 noon <u>9:00 a.m.</u> and continuing for 54 consecutive days | Daily bag 5; possession 10-15 |
| 2. Governor Dodge, Mirror Lake, and Mill Bluff state parks. | Beginning on November 1 to the close of the season listed in subd. 1. | Daily bag 5; possession 10-15 |
| <i>(f) Wild turkey.</i> | | |
| 1. All wild turkey hunting zones as described in s. NR 10.29, excluding state parks for which a quota has been established under s. NR 10.25 (5). | Spring seasons beginning on <u>the third Wednesday nearest in April 13</u> and continuing Wednesday through Tuesday of the following week for 6 consecutive 7-day time periods, except on Ft. McCoy military reservation where the season continues for 40 consecutive days. | Only male or bearded turkeys may be killed. The possession limit corresponds to the number of carcass tags issued. |
| 2. All wild turkey hunting zones as described in s. NR 10.29 and the Mill Bluff state park portion of zone 1, excluding all other state parks, for which a quota has been established under s. NR 10.25 (5). | Fall season beginning on the Saturday nearest September 15 and continuing through the Thursday <u>Friday</u> immediately preceding the Thanksgiving holiday. | Either sex of turkey may be killed. The possession limit corresponds to the number of carcass tags issued. |
| Wild turkey hunting zones 1-5, as described in s. NR 10.29 and the Mill Bluff state park portion of zone 1, excluding all other state parks, for which a quota has been established under s. NR 10.25 (5). | Fall season reopening on the Monday immediately following <u>Saturday immediately preceding</u> the Thanksgiving holiday and continuing through December 31. | Either sex of turkey may be killed. The possession limit corresponds to the number of carcass tags issued. |

Note: Glacial Heritage Area state park lands may be leased to another unit of government for management purposes and access permits to hunt turkeys on those lands would be obtained from that unit of government.

4. Youth turkey hunt. a. Persons under the age of 16 years of age who possess a valid carcass tag issued for the current license year, and all necessary ch. 29, Stats., approvals may hunt turkeys for 2 consecutive days starting on the Saturday immediately preceding the beginning of the spring turkey hunting season established in subd. 1. in the turkey management zone for which the carcass tag was issued. Only one male or bearded turkey may be killed and shall be tagged immediately with a valid carcass tag for that zone pursuant to s. NR 10.25 (2). Hunters shall be accompanied by an adult 18 years of age or older and be in compliance with s. 29.592, Stats. One adult may not accompany more than 2 hunters and pursuant to s. 29.592, Stats., not more than one of the 2 hunters may be age 10 or 11, or be a person who does not possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state, country or province. All other spring turkey hunting regulations apply.

b. A youth who does not successfully harvest a turkey during the 2-day youth hunt established in subd. 4. a. may use their unfilled carcass tag during the time period and in the zone for which the carcass tag was issued. A carcass tag that was used to tag a turkey during the 2-day youth hunt may not be reused pursuant to s. NR 10.25 (2)

(b) 2. to harvest an additional turkey during the time period for which the carcass tag is valid.

(g) *Crow*

| | | |
|--|---|--|
| 1. Statewide except in the parks listed in subd. 2. | Beginning on the Saturday nearest September 15 and continuing through the Thursday immediately preceding the gun deer season for Zone A. in sub. (3) (e) and reopening in January and continuing through March 20. The date of reopening in January shall be established each year by the department to allow for a 124-day crow season. | Daily bag 15; possession 30 <u>45</u> |
| 2. Governor Dodge, Mill Bluff and Mirror Lake state parks. | Beginning on Nov. 1 and continuing through the Thursday immediately preceding the gun deer season for Zone A in sub. (3) (e). | Daily bag 15; possession 30 <u>45</u> |

SECTION 5. NR 10.01 (3) (a) is amended to read:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|--|---|---|
| <i>NR 10.01 (2) (a) Gray and fox squirrels.</i> | | |
| 1. In all counties of the state except in the parks listed in subd. 2. | Beginning on the Saturday nearest September 15 and continuing through January 31. | Daily bag (total of both species) 5; possession 10 <u>15</u> |
| 2. Governor Dodge, Mill Bluff, and Mirror Lake state parks. | Nov. 1 – Dec. 15. | Daily bag (total of both species) 5; possession 10 <u>15</u> |

SECTION 6. NR 10.01 (3) (c) 2. is amended to read:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|--|---|---|
| <i>NR 10.01 (3) (c) 2. Cottontail.</i> | | |
| a. All that part of Wisconsin lying north of U. S. highway 10 from Prescott to Waupaca and state highway 54 from Waupaca to Algoma | Beginning on the Saturday nearest September 15 and continuing through the last day in February. | Daily bag 3; possession 6 <u>9</u> |
| b. Governor Dodge, Mill Bluff, and Mirror Lake state parks. | Nov. 1 – Dec. 15. | Daily bag 3; possession 6 <u>9</u> |
| c. In addition, there shall be an open season for hunting cottontails, except with the use of firearms, in Milwaukee county | All year | None |
| d. In all other parts of the state | Beginning on the Saturday nearest October 17 at 12:00 noon <u>9:00 a.m.</u> and continuing through the last day in February. | Daily bag 3; possession 6 <u>9</u> |

SECTION 7. NR 10.06 (5) is amended to read:

NR 10.06 (5) HUNTING HOURS. Hunting hours for bear, bow deer, crossbow deer, deer with firearms, elk and small game are 30 minutes before sunrise through 20 minutes after sunset. Hunting hours for migratory game birds are 30 minutes before sunrise to sunset. All waterfowl hunting starts at 9:00 a.m. on the first day of the duck hunting season established in s. NR 10.01 (1) (b). All pheasant hunting starts at 9:00 a.m. on the first day of the pheasant hunting season established in s. NR 10.01 (2) (c). The department shall establish the specific opening and closing times annually in the hunting regulations pamphlets. Opening and closing times for zone A southern and northern areas shall be based on astronomical data collected by the U.S. naval observatory, Washington D.C., 20392-5420 for

SECTION 15. 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. except for SECTIONS 2, 8, 14, 16 and 23 which shall take effect on February 1, 2014 and SECTIONS 6 and 7 which shall take effect on April 1, 2014.

SECTION 15. 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 _____
Cathy Stepp, Secretary

(SEAL)

SECTION 12. NR 10.13 (3) is amended to read:

NR 10.13(3) TRAPPING HOURS SET TENDING INTERVALS.

(a) *Legal time period.* The trapping hours shall be from 4:00 a.m. to 8:00 p.m.

(b) *Illegal time period.* No person may set or reset any trap or traps or attend any trapline from 8:00 p.m. to 4:00 a.m.

(c) *Set tending interval.*

1. (a) Non-drowning sets shall be tended at least once each day and any animal captured shall be removed from the set.

2. (b) Drowning sets shall be tended within a 4-day period following the last tending of the set. Any animal captured shall be removed from the set. Water levels shall be monitored to ensure effective drowning sets.

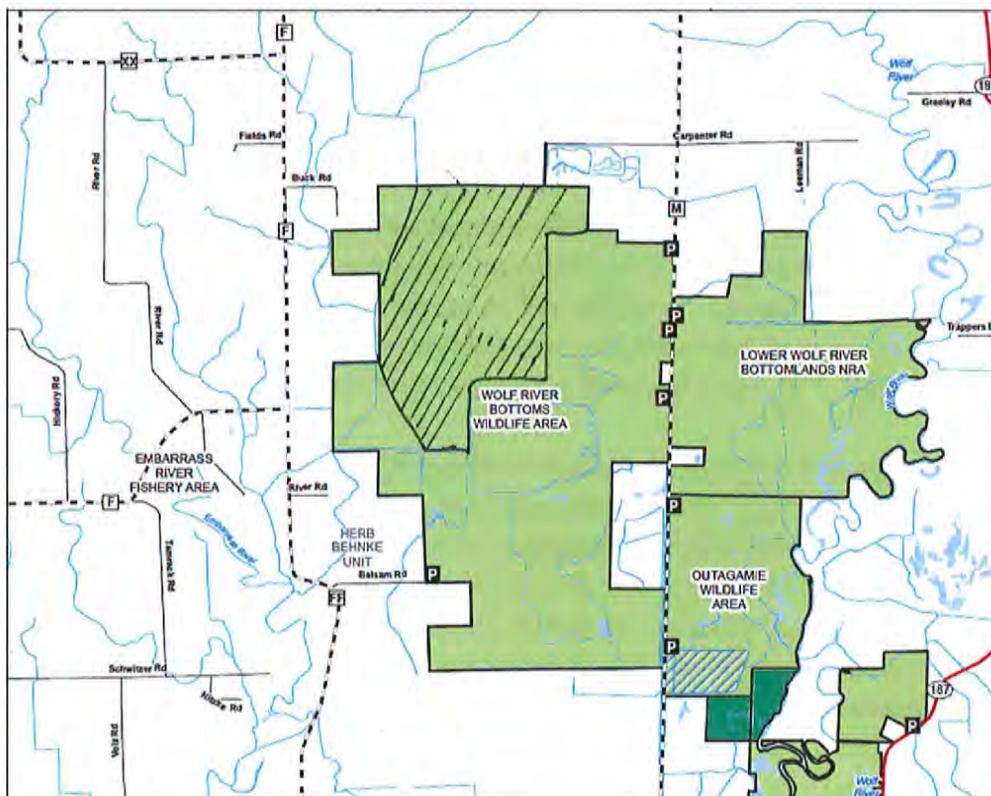
3. Under ice sets are exempt from the checking periods.

4. Sets placed for weasels consisting of body gripping traps placed entirely in enclosures, with no opening larger than 1 3/8 inch in diameter, and anchored to an immovable object shall be tended within a 4-day period following the last tending of the set. Any animal captured shall be removed from the set each time the trap is tended.

SECTION 13. NR 11.02 (8) is repealed.

SECTION 14. NR 11.04 (3m) is created to read:

NR 11.04 (3m) OUTAGAMIE COUNTY. (a) *Wolf River Bottomlands Natural Resources Area.*



Sheboygan, Wisconsin and Powers, Michigan, respectively. The hunting hours for the other zones shall be obtained by adding minutes to the Zone A a.m. and p.m. columns as follows:

| Zone | Adjustment |
|-------------|-------------------|
| B - - - - | Add 4 minutes |
| C - - - - | Add 8 minutes |
| D - - - - | Add 12 minutes |
| E - - - - | Add 16 minutes |
| F - - - - | Add 20 minutes |

SECTION 8. NR 10.13 (1) (b) 13. is amended to read:

NR 10.13 (1) (b) 13. 'Snare and cable restraint specifications.' Set, place or operate any snare or cable restraint unless they are non-spring activated, constructed of galvanized aircraft cable and include a swivel, except that a cable restraint which is designed and placed so that it can only be activated by an animal's foot may be spring activated.

SECTION 9. NR 10.13 (1) (b) 15. (Intro.) is amended to read:

NR 10.13 (1) (b) 15. 'Cable restraints specifications.' Set, place or operate any cable restraint except for bobcat from December 1 to January 31 and fox and coyotes from December 1 to February 15, dates inclusive, provided the cable restraint conforms to the following specifications, or the specifications established in subd. 18 if the device is a foot activated cable restraint, in addition to those under subd. 13.

SECTION 10. NR 10.13 (1) (b) 15. d. is amended to read:

NR 10.13(1)(b)15. d. A cable restraint shall include a breakaway device or stop rated at ~~285~~ 350 pounds or less; a reverse-bend washer lock with a minimum outside diameter of 1 1/4 inches; and staked in a manner that does not allow the restraint device to reach any part of a fence, rooted woody vegetation greater than 1/2" in diameter or any other immovable object or stake that could cause entanglement.

SECTION 11. NR 10.13 (1) (b) 18. is created to read:

NR 10.13 (1) (b) 18. 'Foot-activated cable restraint specifications.' Set, place or operate any cable restraint which is designed and placed so that it can only be activated by an animal's foot except for bobcat from December 1 to January 31 and fox and coyote from December 1 to February 15, dates inclusive, provided the foot activated cable restraint conforms to the following specifications:

- a. Cable length of 10 feet or less, with a diameter of 3/32 inch or larger, consisting of multiple strands of wire.
- b. Cable stops shall be affixed to the cable to ensure that the portion of the cable which makes up the noose loop may not be longer than 25 inches when fully open, or less than 8 inches when fully closed.
- c. A cable restraint shall include a breakaway device or stop rated at 350 pounds or less; a 1,500 pound roller (or barrel) in-line swivel that acts as the maximum opening cable stop; an inline shock spring; and staked in a manner that does not allow the restraint device to reach any part of a fence, rooted woody vegetation greater than one-half inch in diameter or any other immovable object or stake that could cause entanglement.