

SUBJECT: Request authorization for public hearing for Board Order WM-01-08, wildlife management's portion of the annual Spring Hearing Questionnaire, revisions to NR 10, 11, 17 and 45.

FOR: JANUARY, 2008 **BOARD MEETING**

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

SUMMARY:

The following rule changes are proposed for inclusion in the wildlife portion of the 2008 Spring Hearing questionnaire:

- Extend the raccoon trapping and hunting seasons by 15 days to coincide with the coyote and fox trapping seasons.
- Establish definitions for live trap and body gripping type trap.
- Establish a new population goal for bobcat of 2,500 animals, plus-or-minus 20%.
- Add an additional year to the experimental fall season for hunting wild turkeys with the aid of dogs in nine counties in Southwest Wisconsin.
- Eliminate one fisher trapping closed area in Vilas, Forest and Oneida counties, another in Bayfield, Sawyer and Ashland counties, and establish unique trapping regulations to protect pine marten in those areas.
- Allow dog training with captive wild animals by license during the period when dog training is otherwise prohibited in the northern restricted zone.
- Prohibit paintball activity on department managed lands except when approved by the department.

RECOMMENDATION: Authorize public hearings for Board Order WM-01-08, revisions to NR 10, 11, 17 and 45 relating to hunting, trapping, closed areas, dog training and the use of public lands.

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:

_____ /s/ Bureau Director,	_____ 12-20-07 Date
_____ /s/ Administrator,	_____ 12-20-07 Date
_____ /s/ Secretary, Matt Frank	_____ 12-21-07 Date

- | | | |
|--|----------------------------|--------------------------|
| cc: Laurie J. Ross - AD/5 | Randy Stark - LE/5 | Carol Turner - LS/5 |
| Cons. Cong. Executive Comm. - 4 - LS/5 | Tom Van Haren - LE/5 | Reg. WM Sups. - 5 - WM/6 |
| GLIFWC & Tribes - 14 - WM/6 | Diane Brookbank - CS/GEF 3 | Reg. LE Sups. - 5 - WM/6 |
| Kurt Thiede - 6 - LS/5 | Kevin Huggins - CS/GEF 3 | Bob Manwell - CE/8 |
| Barbar Zellmer - WM/6 | Tim Andryk - LS/5 | Peter Biermeier - PR/6 |

DATE: December 26, 2007

TO: Natural Resources Board

FROM: Matthew Frank

SUBJECT: NRB Authorization for Public Hearings on Wildlife Management Rule Order WM-01-08

I am requesting Natural Resources Board authorization to hold public hearings on WM-01-08, a rule package pertaining to NR 10, 11, 17 and 45, Wis. Admin. Code, relating to hunting, trapping, dog training and the use of public lands.

Background:

Annually, the department submits rule change proposals relating to hunting, trapping and game management. The statewide Spring Fish and Wildlife hearings are the 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) Conservation Congress advisory questions from the previous year that were forwarded by the congress' executive council. All of these proposals were reviewed by department staff and species committees 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.).

Summary of the Rule:

The department has recommended modifications to chapters NR 10, 11, 17 and 45, Wis. Adm. Code, relating to hunting, trapping, dog training and the use of public lands. These rule changes are proposed for inclusion in the 2008 Spring Hearing questionnaire. Specifically, these rule change proposals:

- Extend the raccoon trapping and hunting seasons by 15 days to coincide with the closing of the coyote trapping and fox trapping and hunting season.
- Establish definitions for live trap and body gripping type trap.
- Establish a new population goal for bobcat of 2,500 animals, plus-or-minus 20%.
- Add an additional year to the experimental fall season for hunting wild turkeys with the aid of dogs in nine counties in Southwest Wisconsin.
- Eliminate one fisher trapping closed area in Vilas, Forest and Oneida counties, another in Bayfield, Sawyer and Ashland counties, and establish unique trapping regulations to protect pine marten in those areas.
- Allow dog training with captive wild animals by license during the period when dog training is otherwise prohibited in the northern restricted zone.
- Prohibit paintball activity on department managed lands except when approved by the department.

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:

The revisions to Ch. NR 10, 11, 17 and 45, Wis. Admin. Code, relating to hunting, trapping, dog training and the use of department managed lands are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, 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.

Environmental Analysis:

The department has determined that these rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

Appendix 1. Proposed 2008 Spring Hearing Questions.

2008 Spring Hearing Questions

Statewide Questions

1. Extend the raccoon trapping and hunting seasons to be consistent with the fox trapping and hunting and coyote trapping seasons. (2009)

Currently the raccoon trapping and hunting seasons end on January 31 while the fox and coyote trapping seasons close on February 15. Fox hunting also ends on February 15 while the coyote hunting season is open year round except during firearm deer seasons in certain areas.

This proposal would extend the raccoon trapping and hunting seasons by 15 days so they would run concurrently with the fox and coyote trapping seasons. If those seasons are open at the same time then fox and coyote trappers will not have to be concerned about incidentally catching raccoon because they could possess and utilize those animals. Additionally, raccoon hunters may gain additional opportunities. It is anticipated that this proposal will lead to a very minor increase in raccoon harvest. Raccoons are generally abundant and the population is believed to be stable.

Do you favor extending the raccoon hunting and trapping seasons by 15 days so that the last day of the season would always be February 15?

1. YES _____ NO _____

2. Define “cage or box trap” as a live trap that is able to catch only one animal. (2009)

There is currently no definition of live trap but establishing one will make trapping rules easier to explain and enforce and would help make possible the elimination of the two fisher closed areas in northern Wisconsin. This proposal would establish that a “cage or box trap” is a trap that is designed to allow an animal to enter the trap enclosure, be captured and remain alive inside the cage or box type enclosure until it can be released unharmed or reduced to possession by the operator of the trap. A cage or box trap is a trap that is not used as a water set or in conjunction with a steel jawed trap, an enclosed trigger trap or body grip trap.

Do you favor creating the definition of a “cage or box trap” described above?

2. YES _____ NO _____

3. Create a definition of body gripping trap. (2009)

There is currently no definition of body gripping trap even though that term is used throughout the trapping regulations and in administrative code. Creating a definition will make trapping rules easier to explain and enforce. This proposal would establish that a “body gripping trap” is a steel trap designed to allow the animal’s head, neck or torso to enter the trap opening and be held by compression of the jaws around the head, neck or torso when the trap is sprung and which is not a cage trap, enclosed trigger trap, snare, cable restraint or steel jawed trap.

Do you favor establishing the definition of body gripping trap described above?

3. YES ___ NO ___

4. Establish a new population goal for bobcat of 2,500 animals, plus-or-minus 20%. (2009)

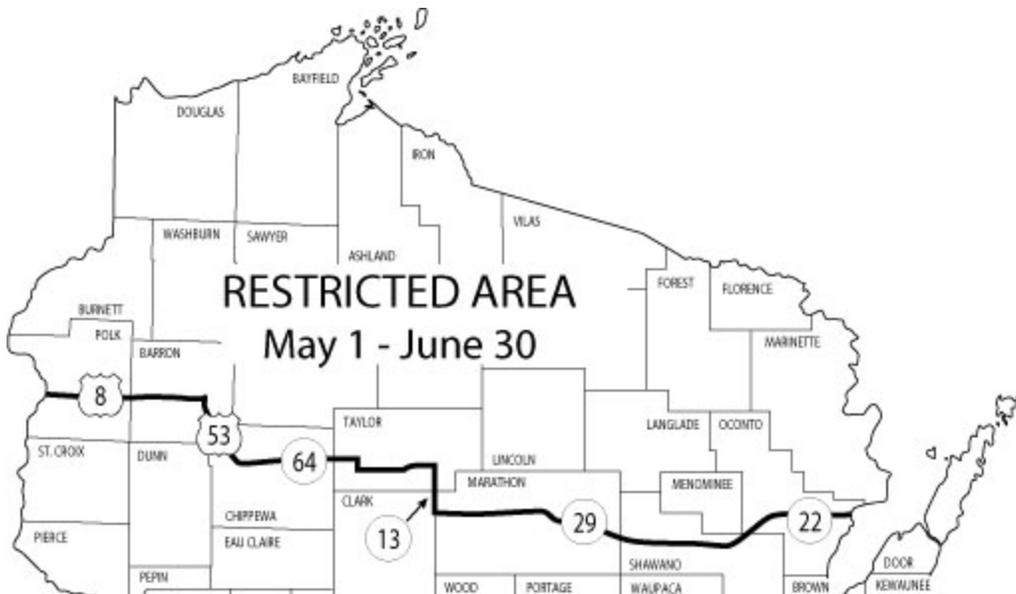
The current population goal for bobcat in the area north of State Highway 64 is one per 10 square miles of habitat or approximately 1,800 animals. Department staff believe that, while the population has exceeded that goal, the public has been supportive of the increased population of approximately 3,000 animals and there have been few complaints or problems. There appears to be no reason to reduce the bobcat population to the current goal other than that Administrative Code requires it. Additionally, this proposal would create a range of plus-or-minus 20%. Establishing a target range is more practical for a species which has small over-all numbers and for which harvest success can vary greatly based on weather conditions.

Do you favor establishing a new bobcat population goal of 2,500 animals, plus-or-minus 20%?

4. YES ___ NO ___

5. Allow dog training with captive wild animals by license during the period when dog training is prohibited in the northern restricted zone. (2009)

Dog training utilizing captive wild animals such as pheasants, gray partridge, quail, raccoon, rabbit, coyote and fox is currently allowed by the department by license. However, no dog training using captive or free-ranging wild animals is allowed in the northern restricted zone from May 1 to June 30 on any private or public lands other than Class 1 field trial grounds and shooting preserves.



The prohibition is intended to protect wild, free-roaming, ground nesting birds at the time when they are most likely to be nesting. The current prohibition is in conflict, however, with new rules that allow the use of captive wild animals year-round in hound dog training enclosures. Additionally, the prohibition on the use of captive wild animals for dog training may not be necessary because free-ranging, wild pheasants and quail are generally not present in the northern restricted zone. In fact, there is no restriction

in the Southern part of the state where pheasants and quail actually are found. This proposal would allow dog training with captive wild animals, clearing up a conflict with other administrative rules that allow it. All use of captive wild animals under this proposal would continue to be controlled by license and the prohibition on training dogs on free-roaming wild animals in the Northern Restricted Zone from May 1 through June 30 would remain in effect.

Do you favor lifting the prohibition on dog training with the use of captive wild animals in the Northern Restricted Zone from May 1 through June 30 but still regulating the practice by license?

5. YES____NO____

6. Prohibit paintball activity on department managed lands except when approved by the department. (2009)

This proposal would prohibit the use of paintball guns on department-managed properties unless prior authorization is obtained from the department. Department staff and members of the public have expressed concern with littering, user conflict, and firearm identification challenges for law enforcement that can lead to unsafe situations. While paintball activities would generally not be allowed on department property, they could be allowed if it were determined that it is a legitimate outdoor activity that does not conflict with the intended use of a particular property. Requiring prior department authorization to use paintball guns will better assure that the public is aware the activity is occurring and that law enforcement staff have advance notice that people possess paintball guns, not real firearms.

Do you favor prohibiting paintball gun activity on department managed lands except when approved by the department?

6. YES____NO____

Local Questions

1. Add an additional year to the experimental fall season for hunting wild turkeys with the aid of dogs in nine counties in Southwest Wisconsin (Crawford, Vernon, La Crosse, Richland, Sauk, Wood, Monroe and Jackson counties). (2009)

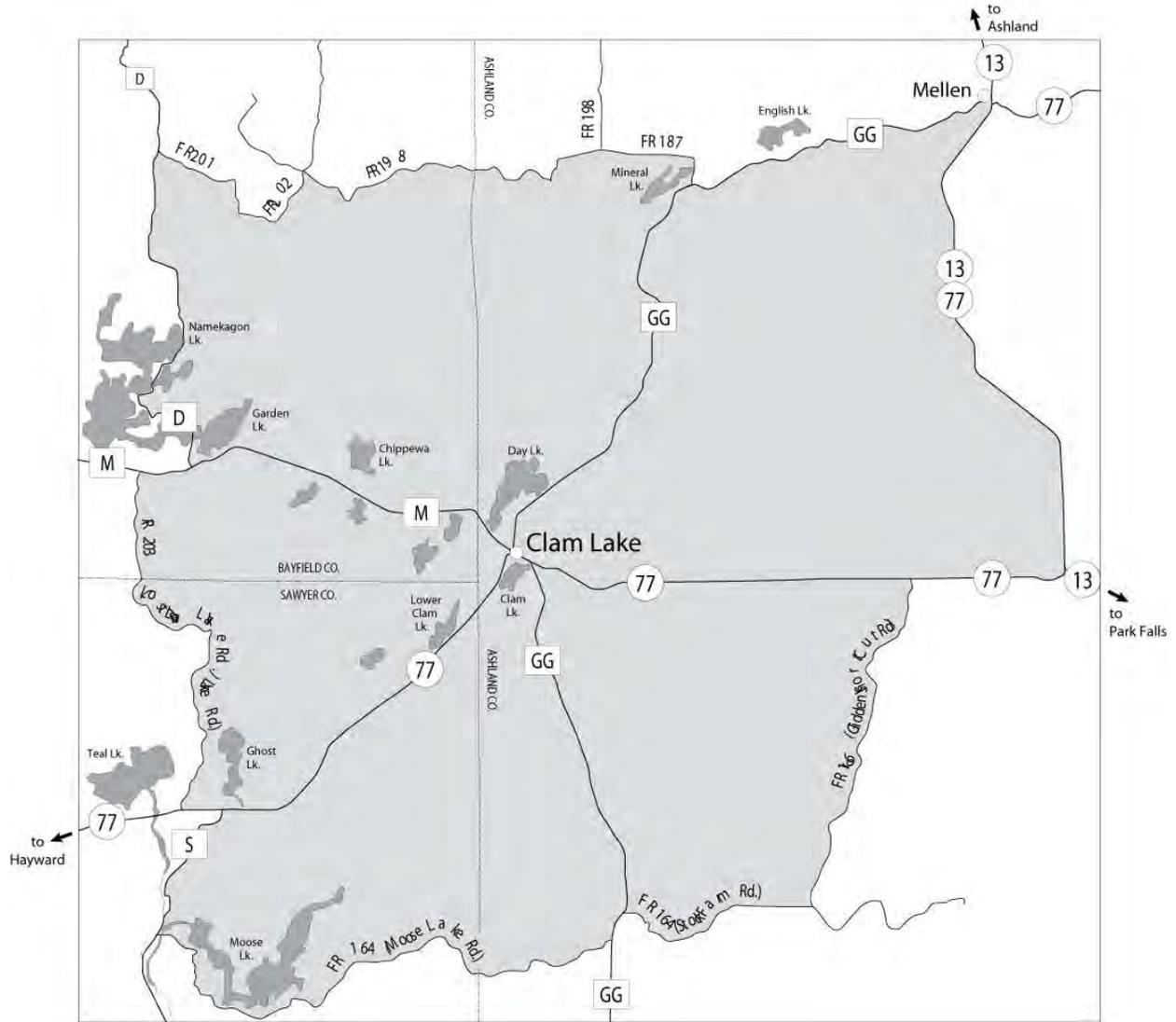
In 2007, the first year of the two-year trial, hunting was not legal during the September portion of the season because the administrative rule-making process was not completed in time. Additionally, the rule went into effect after regulations pamphlets were printed meaning there was limited notice of this opportunity. Extending the experiment to run through 2009 will ensure that there are actually two complete fall seasons of hunting and that the public has adequate notice of this opportunity. The department is not aware of complaints related to hunting activity during the October and November portions of the first year of the pilot season. Hunting wild turkeys with dogs in autumn is a traditional activity in other states where dogs are used to scatter flocks of turkeys that are then called back to the hunter.

Do you favor adding one year to the experimental fall season for hunting wild turkeys with the aid of dogs in nine counties so that there are two full seasons and the public is aware of this opportunity?

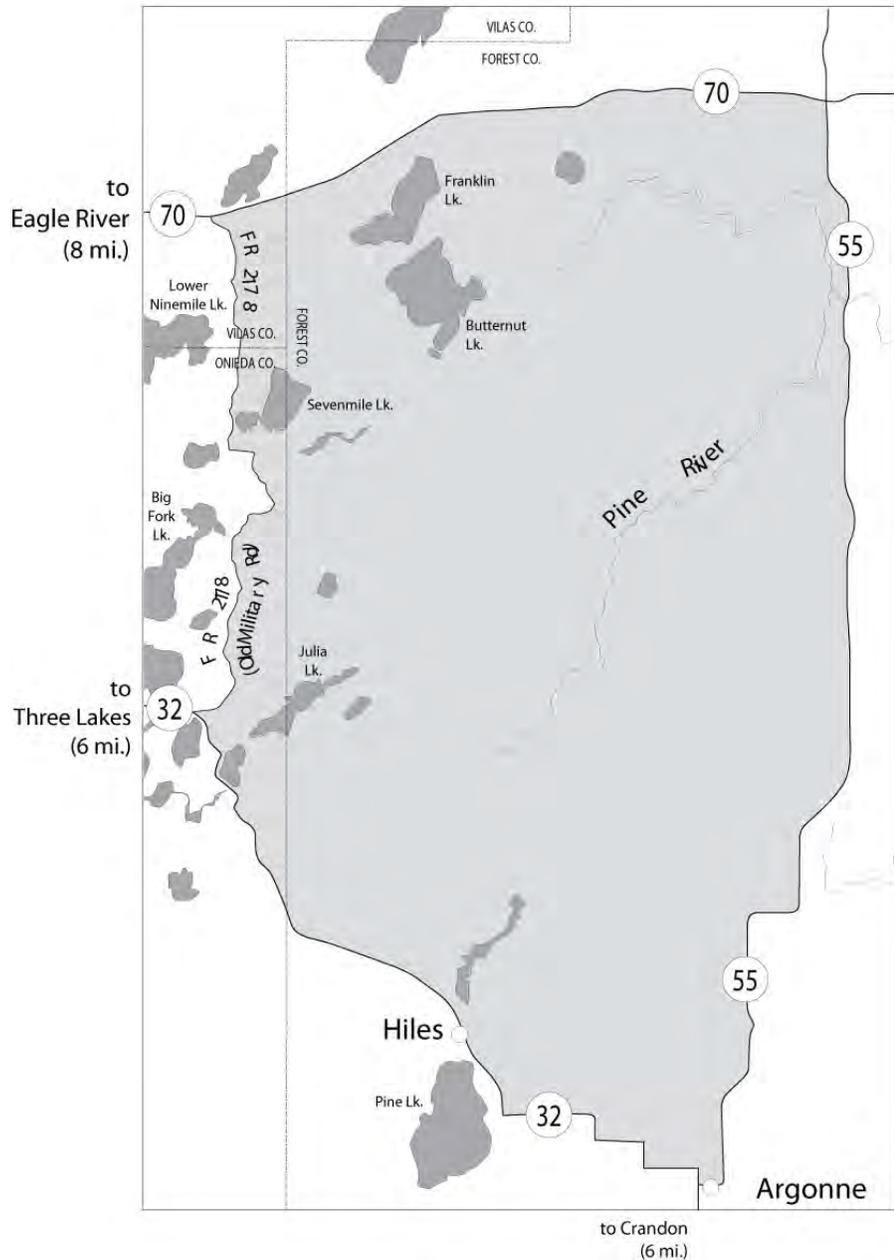
1. YES____NO____

2. Eliminate both of Wisconsin's fisher trapping closed areas and allow the use of dryland trapping techniques that protect pine marten (Vilas, Forest & Oneida and Bayfield, Sawyer & Ashland counties). (2009)

Clam Lake fisher/marten restoration area closed to dryland trapping



Forest County fisher/marten restoration area closed to dryland trapping



Currently there are two fisher and marten trapping closed areas which were established in order to aid in the reintroduction of those species. Dryland trapping is not allowed in either area. Fisher are now well established in available habitat throughout northern Wisconsin but marten have not expanded beyond the original reintroduction areas after nearly 50 years. The abundant fisher population may be suppressing pine marten. The prohibition on dryland trapping also reduces opportunities for people who would like to trap a variety of upland furbearers. This proposal will allow the use of trap types on dryland that are not likely to catch or kill pine marten but which will be effective for species like fisher, raccoon, bobcat, coyote and fox. Allowable trap types would include enclosed trigger type traps, cage or box type traps, and cable restraints.

Do you favor eliminating both of Wisconsin's fisher trapping closed areas and allowing the use of enclosed trigger, box or cage traps, and cable restraints for species other than pine marten?

2. YES_____NO_____

Fiscal Estimate — 2007 Session

<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected <input type="checkbox"/> Supplemental	LRB Number Bill Number	Amendment Number if Applicable Administrative Rule Number WM-01-08
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Subject
 2008 Wildlife Management Spring Hearing Rule Changes.

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
 ss. 20.370(1)(ea)

Assumptions Used in Arriving at Fiscal Estimate

This rule proposal would make the following changes to hunting, trapping, dog training and public land use regulations:

- Extend the raccoon trapping and hunting seasons by 15 days to coincide with the closing of the coyote and fox trapping season.
- Establish definitions for cage and box type (live) trap and body gripping type trap.
- Establish a new population goal for bobcat of 2,500 animals, plus-or-minus 20%.
- Add an additional year to the experimental fall season for hunting wild turkeys with the aid of dogs in nine counties in Southwest Wisconsin.
- Eliminate one fisher trapping closed area in Vilas, Forest and Oneida counties (Forest County), another in Bayfield, Sawyer and Ashland counties (Clam Lake), and establish unique trapping regulations to protect pine marten in those areas.
- Allow dog training with captive wild animals by permit during the period when dog training is prohibited in the northern restricted zone.
- Prohibit paintball activity on department managed lands except when approved by the department.

This rule proposal will have a negligible fiscal impact. The department already enforces trapping regulations during the period in February when raccoon hunting and trapping will be allowed. Trap type definitions and increased bobcat population goals will update furbearer management programs but do not significantly alter department activities. The department already enforces turkey hunting regulations and regulations related to firearms and airgun discharge on public lands.

New signs will be needed to indicate that dryland trapping is allowed in the Marten Closed Area. Dependable department partners, the Wisconsin Trappers Association, have volunteered to assist the department by placing new signs. It is anticipated that new signs and posts will cost approximately \$800.

Long-Range Fiscal Implications

No long range fiscal implications are anticipated. These rule proposals modify and modernize management and enforcement activities but do not require significant new efforts.

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

Fiscal Estimate — 2007 Session

Page 2 Assumptions Narrative Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-14-07

Assumptions Used in Arriving at Fiscal Estimate – Continued

Fiscal Estimate Worksheet — 2007 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-01-08

Subject
 2008 Wildlife Management Spring Hearing Rule Changes.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 The department anticipates expenses of approximately \$800 for replacing existing signs in the new marten closed area. The department already maintains signs in this area so no new annualized costs are anticipated.

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category		Increased Costs	Decreased Costs
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		\$ 0	\$ - 0
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
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		\$ 0	\$ - 0

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

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

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

The Wisconsin Natural Resources Board proposes and order to renumber s. NR 10.001(3t); to amend ss. NR 10.01(3)(b) and (bm), 10.13(1)(b)6., 10.145(2)(b), 10.25(4)(c), 11.10, 17.04(2)(b), 17.08(2)(b), 45.09(5); and to create ss. NR 10.001(3u), 10.001(5j) and 45.04(3)(u) relating to hunting and trapping regulations and the use of department managed lands.

WM-01-08

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: The department has interpreted the following statutes as providing the authority to promulgate rules regarding hunting, trapping, game refuges, dog training, and the use of department managed lands: 23.09(2)(b), 23.11, 27.01(2)(j), 29.014, 29.192(3), 169.20 and 169.21 Stats.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of these rules include, ss. 23.09(2)(b), 23.11, 27.01(2)(j), 29.014, 29.041, 29.192(3), and 169.20 and 169.21 Stats. These statutes specifically provide the department with authority to establish conditions regarding the use of state land such as state parks, public recreation areas and hunting grounds, to establish game refuges, and direct the department to manage, supervise, and police lands under its protection. These statutes authorize the department to establish hunting and trapping seasons, management zones, regulations regarding the techniques by which game animals and game birds may be harvested and other measures to ensure the citizens continued opportunities for good hunting and trapping. Finally, these statutes authorize the department to establish regulations on the possession and use of captive wild animals for purposes which include dog training and field trials. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Related Rule or Statute: There are no state rules or statutes currently under promulgation that directly relate to the provisions that are proposed in this administrative order.

Plain Language Analysis: The department has recommended modifications to chapter NR 10, 11, 17 and 45, Wis. Adm. Code, relating to hunting, trapping, closed areas, dog training and the use of public lands. These rule changes are proposed for inclusion in the 2008 Spring Hearing Questionnaire. Specifically, these proposals:

- Extend the raccoon trapping and hunting seasons by 15 days to coincide with the closing of the coyote trapping and fox trapping and hunting seasons.
- Establish definitions for live trap and body gripping type trap.
- Establish a new population goal for bobcat of 2,500 animals, plus-or-minus 20%.
- Add an additional year to the experimental fall season for hunting wild turkeys with the aid of dogs in nine counties in Southwest Wisconsin.
- Eliminate one fisher trapping closed area in Vilas, Forest and Oneida counties, another in Bayfield, Sawyer and Ashland counties, and establish unique trapping regulations to protect pine marten in those areas.

- Allow dog training with captive wild animals by license during the period when dog training is otherwise prohibited in the northern restricted zone.
- Prohibit paintball activity on department managed lands except when approved by the department.

Summary of, and Comparison with, Existing or Proposed Federal Regulations: 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.

All surrounding states have long raccoon hunting and trapping seasons and that species is common throughout the Upper Midwest. Trappers pursue raccoon and other species with a variety of trap types that are similar or identical to those used in Wisconsin. Michigan and Minnesota harvest bobcat during hunting and trapping seasons and have management plans in place to ensure sustainable use of that species.

Surrounding states all have fall turkey hunting seasons and the use of dogs is allowed in Iowa and Michigan.

All of Wisconsin's surrounding states allow dog training with the use of captive wild animals but regulate the practice, limiting where it may occur and the times of year.

Paintball games are expressly prohibited in state parks in Michigan and some other public properties in Michigan. Iowa prohibits the use of paintball guns on state parks, recreation areas and state preserves. Minnesota does not have specific regulations on paintball guns or games on state property. The Illinois DNR does not have specific paintball regulations however the possession and discharge of paintball guns are strictly regulated by many local units of government.

Summary of Factual Data and Analytical Methodologies: The rule changes included in this order do not deviate from current department policy on the management of wildlife and the regulation of hunting and trapping. By making those seasons run concurrently, the proposal to lengthen the raccoon trapping and hunting season will eliminate problems with the incidental catch of raccoons by fox and coyote trappers. Raccoon are an abundant wildlife species and the added 15 days of trapping and hunting will have no effect their overall population.

There are currently no definitions of "cage or box type (live trap)" or "body gripping" trap in administrative code. Establishing definitions will make current administrative rules easier to explain and enforce. Creating a definition of cage or box trap makes practical another proposal in this rule order to eliminate the fisher trapping closed area. This area will still be closed to marten trapping and only live traps and certain other types will be allowed in order to prevent the incidental catch or killing of marten.

This rule order would increase the population goal for bobcat in the area north of State Highway 64. The current goal is approximately 1,800 animals but department staff people believe that the

population has exceeded that goal. The public has been supportive of the increased population of approximately 3,000 animals and there have been few complaints or problems. There appears to be no reason to reduce the bobcat population to the current goal other than that Administrative Code requires it. Additionally, this proposal would create a range of plus-or-minus 20%. Establishing a target range is more practical for a species which has small over-all numbers and for which harvest success can vary greatly based on weather conditions.

Wisconsin is involved in a two-year experiment that allows hunting wild turkeys with the aid of dogs during the fall season. Extending the experiment to run through 2009 is necessary to ensure that there are actually two complete fall seasons of hunting. In 2007 hunting was not legal during the September portion of the season because the administrative rule process was not completed in time. Additionally, the rule went into effect after regulations pamphlets were printed meaning there was limited notice of this opportunity during the first year of the trial. There have been no complaints related to hunting activity during the October and November portions of the first year of the pilot season. Hunting wild turkeys with dogs in autumn is a traditional activity in other states where the dogs are used to scatter flocks of turkeys so that individual birds can then be called back to the hunter.

Currently there are two fisher and marten trapping closed areas which were established in order to aid with the reintroduction of those species. Dryland trapping is not allowed in the Clam Lake closed area which includes portions of Bayfield, Sawyer and Ashland counties or in the Forest County closed area which includes portions of Forest, Vilas and Oneida counties. Fisher are now well established in available habitat throughout northern Wisconsin but marten have not expanded beyond the original reintroduction areas after nearly 50 years. The abundant fisher population may be suppressing pine marten. The prohibition on dryland trapping also reduces opportunities for trappers. This proposal will allow the use of trap types on dryland that are not likely to catch or kill pine marten but which will be effective for species like fisher, raccoon, bobcat, coyote and fox. Allowable trap types would include enclosed trigger type traps, live or box type traps, and cable restraints.

Dog training utilizing captive wild animals such as pheasants, gray partridge, quail, raccoon and rabbit is currently allowed by the department by license. A license that allows training year-round on private land may be issued except that no dog training is allowed in the northern restricted zone from May 1 to June 30. The northern restricted zone is an area of Wisconsin that is generally north of highways 8, 64, 29 and 22. The prohibition is intended to protect free roaming ground nesting birds during the time of year when they are most likely to be nesting. The current prohibition is in conflict, however, with new rules that allow the use of captive wild animals year-round in hound dog training enclosures. That conflict would be resolved by this proposal. Additionally, the prohibition on the use of captive wild animals for dog training may not be necessary because free-roaming, wild pheasants and quail are generally not present in the northern restricted zone. All use of captive wild animals under this proposal would continue to be controlled by license at all times and the prohibition on training dogs on free-roaming wild animals during the closed period would remain in effect.

Paintball guns utilize compressed air or springs to fire a ball of paint which breaks upon impact and marks the intended target with water-soluble paint. This proposal would prohibit the use of paintball guns on department properties unless prior authorization is obtained from the department. Department staff have expressed concern with litter, user conflict, and firearm identification challenges for law enforcement and these concerns would be addressed by prohibiting the indiscriminate use of paintball guns. The discharge of firearms and airguns is prohibited on department properties in 17 counties meaning that most paintball guns are illegal in

those counties under current rule. To assure that the same rule applies statewide regarding paintball games and legitimate forestry practices for marking trees, this rule would exempt paintball guns from the existing blanket prohibition on the discharge of firearms and airguns in those counties. While paintball activities would generally not be allowed on department property, they could be allowed if it were determined that it is a legitimate outdoor activity that does not conflict with the intended property use. Requiring department permission to use paintball guns will better assure that the public, department staff and law enforcement officers can anticipate encountering people who possess and are using paintball guns.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: 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.

Effects on Small Businesses: These rules are applicable to individual sportspersons and paintball game enthusiasts and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

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

Deadline for Written Comments: The deadline for written comments is April 14, 2008. Comments may also be submitted electronically at the following internet site: <http://adminrules.wisconsin.gov>

Section 1. NR 10.001(3t) is renumbered to be NR 10.001(3x).

Section 2. NR 10.001(3u) is created to read:

NR 10.01(3u) "Body gripping trap" means a steal trap designed to allow the animal's head, neck or torso to enter the trap opening and be held by compression of the jaws around the head, neck or torso when the trap is sprung. It may not be used as a cage trap, enclosed trigger trap, snare, cable restraint or steel jawed trap.

Section 3. NR 10.001(5j) is created to read:

NR 10.001(5j) "Cage or box trap" means a trap that is designed to allow an animal to enter the trap enclosure, be captured and remain alive inside the cage or box type enclosure until it can be released unharmed or reduced to possession by the operator of the trap. It may not be used as a water set or in conjunction with a steel jawed trap, an enclosed trigger trap or body gripping trap and

Section 4. NR 10.01(3)(b) and (bm) are amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(3)(b) <i>Raccoon</i> (resident hunting and trapping) In all counties of the state	Beginning on the Saturday nearest October 17 and continuing through January 31 <u>February 15</u> .	None
(bm) <i>Raccoon</i> (non-resident hunting and trapping) In all counties of the state	Beginning on the Saturday nearest November 1 and continuing through January 31 <u>February 15</u> .	None

Section 5. NR 10.13(1)(b)6. is amended to read:

NR 10.13(1)(b)6. ‘Trap, snare, and cable restraint use.’ Set, place, operate or possess while ~~trapping on or adjacent to waters of this state~~, any trap other than a steel jawed trap, ~~enclosed trigger trap, live cage or box trap, body gripping trap of the conibear type, snare other than that defined in s. NR 10.001(25e) or cable restraint as defined in s. NR 10.001(5g)~~ for the purpose of taking, capturing, or killing furbearing animals. Live Cage traps shall be constructed so that not more than one animal can be taken or captured in any single trap setting after an animal has been captured, no additional animals may enter the trap until the captured animal is removed and the trap is reset.

Section 6. NR 10.145(2)(b) is amended to read:

NR 10.145(2)(b) *Bobcat*. The preharvest population goal north of the state highway 64 is 2,500 animals plus-or-minus 20% ~~one bobcat per 10 square miles of bobcat range.~~

Section 7. NR 10.25(4)(c) is amended to read:

NR 10.25(4)(c) With the aid of dogs, except during the open season for hunting turkeys described in s. NR 10.01(2)(f)2. in Crawford, Jackson, Juneau, La Crosse, Monroe, Richland, Sauk, Vernon and Wood counties in 2007, ~~and 2008~~ and 2009.

Section 8. NR 11.10 is amended to read:

NR 11.10 ~~Fisher/marten~~ Marten protection areas. No person may trap any species of wild animal thereon at any time, ~~except beaver, otter, raccoon, muskrat and mink may be trapped unless using cage traps or cable restraints in compliance with s. NR 10.13, except that steel jawed traps, enclosed trigger traps, snares, or body-gripping traps of the conibear type as authorized under s. NR 10.13 may be used as with water wet sets during the open seasons established in s. NR 10.01(4).~~

Section 9. NR 17.04(2)(b) is amended to read:

NR 17.04(2)(b) *Northern restricted zone*. Dog training on any ~~captive or free roaming~~ wild animal is prohibited May 1 to June 30 on all lands within the northern restricted zone except as described in sub. (3) (a).

Section 10. NR 17.08(2)(b) is amended to read:

NR 17.08(2)(b) *Northern restricted zone.* Dog trialing on any ~~captive or~~ free roaming wild animal is prohibited May 1 to June 30 on all lands north of the highway described in s. NR 10.07 (1) (i) except as described in sub. (3) (a).

Section 12. NR 45.09(5) is amended to read:

NR 45.09(5) No person may possess any loaded or uncased firearm or air gun, other than a paintball or paintmarker gun, while within the exterior boundary of state-owned lands posted with department signs in Dane, Dodge, Fond du Lac, Jefferson, Juneau, Kenosha, La Crosse, Milwaukee, Outagamie, Ozaukee, Racine, Sauk, Sheboygan, Walworth, Washington, Waukesha and Winnebago counties or on state forest lands in the Kettle Moraine or Point Beach state forests, state recreation areas, state natural areas or on state trails established on abandoned railroad grades, except as follows:

- (a) While engaged in hunting in accordance with the open seasons established in s. NR 10.01 on properties where hunting is authorized.
- (b) At target ranges designated by the department.
- (c) While engaged in dog trials under department permit.
- (d) While training dogs in designated areas under department permit.

Note: Paintball guns and similar devices are subject to NR 45.04(3)(u).

Section 13. NR 45.04(3)(u) is created to read:

NR 45.04(3)(u) *Paintball.* Except when authorized by the department, no person may engage in an activity involving the use of paintball guns, paint markers or discharge of similar devices on any lands subject to this chapter.

Section 14. Effective dates. These rules shall take effect on February 1, 2009.

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 _____
Matthew Frank, Secretary

(SEAL)