

Wisconsin Department of Natural Resources  
 Natural Resources Board Agenda Item

**CORRECTED (SUBJECT AND RECOMMENDATION AS UNDERLINED)**

**SUBJECT:** Request that the Board approve the statement of scope for Board Orders WM-21-13 and WM-22-13(E) and conditionally approve the public hearing notice for WM-21-13, and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting chs. NR 10 and 45 related to firearm discharge across trails, requiring dog-proof traps on state park properties, clean up chs. NR 10 and 45 to reflect Board determinations under Wis. Act 168, and simplify regulations.

**FOR:** August 2013 Board meeting

**PRESENTER'S NAME AND TITLE:** Dan Schuller, Bureau Director, Wisconsin State Park System

**SUMMARY:**

These emergency and permanent rules will implement Natural Resources Board amendments adopted at its December 2012 meeting. At that meeting, the board directed the department to establish emergency rules prohibiting the discharge of firearms from or across trails and to restrict trappers to the use of dog proof or underwater traps.

The permanent rule will provide an opportunity for the department to review state park hunting and firearms regulations that have been developed since the late 1960's. Many of these regulations are no longer needed because hunting is now allowed both under the authority of 2011 ACT 168 and through subsequent policies adopted by the board. For instance, separate state park turkey hunting zones are no longer needed to allow turkey hunting during the first three spring seasons. Some stand-alone state park deer management units are no longer needed and the department will evaluate simplifying hunting regulations by eliminating the access permit requirement and simply allowing deer hunting by anyone who possess the correct carcass tags for the surrounding deer unit.

Under 2011 Acts 35 and 51, regulations on the possession of concealed handguns and firearms transportation have changed and this permanent rule proposal will update administrative code to reflect those changes.

Through permanent rule development, the department will consider creating, repealing, or amending other rules where an opportunity to simplify or clarify state park hunting and trapping regulations is identified during this rule making process.

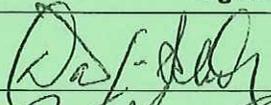
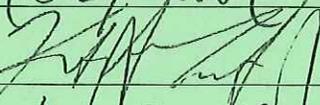
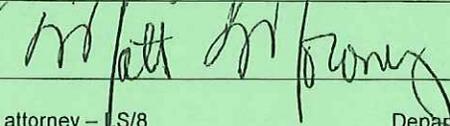
The department does not plan to use this rulemaking to establish new seasons or periods when hunting and trapping are allowed in state parks.

The department will hold four hearings spread geographically around the state during the fall of 2013.

**RECOMMENDATION:** That the Board approve the statement of scope for Board Orders WM-21-13 and WM-22-13(E) and conditionally approve the public hearing notice for WM-21-13, and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

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

- (choose one)
- Statement of scope
- Fiscal estimate and economic impact analysis (EIA) form
- Response summary
- Attachments to background memo
- Governor approval of statement of scope
- Environmental assessment or impact statement
- Board order/rule

Approved by	Signature	Date
Dan Schuller, Bureau Director		7/25/13
Kurt Thiede, Administrator		7/31/13
Cathy Stepp, Secretary		7/31/13

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: WM - 21 - 13

Relating to: Hunting and trapping in state parks, modifying NR Ch.'s 10 and 45

Rule Type: Permanent

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

These will be permanent rules.

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

These will be the first rule revisions related to hunting and trapping in state parks since passage of 2011 ACT 168 which established that those activities are generally allowed. These rules will amend or repeal portions of Ch.'s NR 10 and 45 so that hunting regulations promulgated under previous statutory authority will be consistent with the ACT. These rules will amend the same chapters so that hunting and trapping regulations in state parks are not in conflict with policies established by the Natural Resources Board under authority created by the ACT. Through this proposal, the department may significantly simplify hunting regulations.

For safety purposes, these rules may prohibit the discharge of firearms from-or-across certain trails. These rules may restrict trapping to the use of dog proof traps only and define those traps.

The department will not use this rulemaking to establish new season dates or to modify periods when hunting and trapping are allowed in state parks.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Prior to 2011 ACT 168, state parks were statutorily closed to hunting unless the department had written rules specifically allowing a hunting opportunity at an individual state park. Statutes did not grant rule authority for the department to allow bear hunting. Statutes did not grant rule authority to allow trapping. Today, hunting and trapping are both allowed at state parks except where the Natural Resources Board has prohibited the activities in order to protect public safety or a unique plant or animal community. Under Act 168, the Department may prohibit hunting or trapping on lands within 100 yards of a designated use area. Examples of designated use areas include locations such as campgrounds and beaches.

Because the old presumption that state parks are closed unless opened by rule has been replaced by a presumption that state parks are open unless board action has been taken to close them, some provisions of administrative rule have been pre-empted by the ACT or may no longer be needed. For example, NR 45.09(1) prohibits firearms discharge in state parks, except where seasons have been established in s. NR 10.01(3). This is no longer accurate because hunting is now allowed in many areas in addition to those established in s. NR 10.01(3).

Rules which establish certain small game hunting seasons at Governor Dodge, Mill Bluff, and Mirror Lake state parks may be in conflict with actions that have already been taken by the board under their new statutory authority. These rules will be reviewed.

State Ice Age Trail Areas fall under the statutory definition of state parks and are affected by the ACT in the same way as other state park properties. Specific hunting season frameworks and firearm possession and discharge restrictions established in NR 10.275(4) will also be modified for consistency with the ACT and subsequent action by the Natural Resources Board or may be repealed.

Other state trails and the North Country trail are also part of the state park system and these rules could apply to those properties as well.

Under previous statutory authority to allow turkey hunting at state parks, the department has established 18 state park turkey management units by rule. The only people who are allowed to hunt in those parks are people who draw one of a limited number of turkey permits specifically for that unit. Through these rules, the department proposes simplifying turkey hunting regulations by eliminating those units. Turkey hunting would be allowed at those parks by hunters who possess a harvest permit for the larger unit in which the state park property is located. This will simplify hunting regulations, expand the area for which turkey permits are valid, and streamline administration of the turkey permit system for the department. Through the hearing process, this proposal will be compared to the policy alternative of maintaining current rules, which some hunters may appreciate because competition from other hunters in a park is limited through the permit system.

Under previous statutory authority to allow deer hunting at state parks, the department has established 16 state park deer management units by rule. The only people who are allowed to hunt in parks for which a specific deer management unit is designated are people who purchase an access permit. Access permits are limited in number and issued on a first-come-first served basis. Through this rulemaking process, the department will evaluate simplifying hunting regulations by eliminating the access permit requirement and simply allowing deer hunting by anyone who possess the correct carcass tags for the surrounding deer unit. This will simplify hunting regulations, expand the area for which antlerless deer permits are valid, and streamline administration of permit systems for the department. Through the hearing process, this proposal will be compared to the policy alternative of maintaining current rules, which some hunters may appreciate because competition from other hunters in a park is limited through the access permit system.

Also under previous statutory authority, another 25 state parks are listed by rule and deer hunting seasons are established, although they do not have specific unit designations. Instead, they are simply a part of the surrounding deer management unit. Specifically naming these state parks by rule is no longer necessary and this rule proposal will strike most of that language.

These rules will establish that, in addition to the statutorily established prohibition of hunting from certain state park trails, no person may discharge a firearm, bow, crossbow or air gun from, on, or across any trail corridor on lands in the Wisconsin State Park system which are identified on a map produced by the department as a designated use area. This provision protects public safety by reducing the likelihood of archery gear and gun discharge from or across locations where people are likely to be present.

These rules may restrict trapping to the use of dog proof traps only and define those traps or modify existing trap-type definitions. A type of trap that would meet the requirements of being a "dog proof trap" is an "enclosed trigger trap" These are any trap with a pull-activated trigger, inside an enclosure, and recessed 1 1/4 inches or more, from an opening that is no greater than 1 3/4 inches in diameter. While these trap types are very effective for catching raccoons, they may be the only animal that is capable of activating the trigger and being captured.

Under 2011 Acts 35 and 51, the possession of concealed handguns and firearms transportation requirements have changed and this proposal will update administrative code to reflect those changes.

The department will consider creating, repealing, or amending other rules where an opportunity to simplify or clarify regulations is identified during this rule making process.

These rules will modify additional chapters of natural resources code where it is necessary to maintain cross references with chs. NR 10 and 45.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The state trails system and department responsibilities and powers are established in s. 23.175 Stats. State trails are described as part of the state park system in sub. (2)(a).

The state park system is established in s. 27.01 Stats. and specific authority for the department to promulgate rules necessary to govern the conduct of state park visitors and for the protection of state parks is found in sub. (2)(j).

The department's authority to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game is established in s. 29.014 Stats.

These proposed rules may use the statutory authority described above to interpret s. 29.089 Stats. related to trapping on land in state parks. This provision establishes that state parks are open to hunting and trapping and that the department may prohibit hunting or trapping in a park or portion of a park if necessary to protect public safety or a unique animal or plant community.

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

The department estimates that 400 hours of employee time will be needed to promulgate these rules.

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

Hunters, trappers, and other recreational users of state park lands are the principal groups that will be affected by this rulemaking. However, the department anticipates that the impacts of these rules for various state park enthusiasts will be minimal. The major policy decisions were made with the passage of 2011 ACT 168 and refined through decisions made by the Natural Resources Board using authority established in the ACT. Any impacts of this subsequent rule making are likely to be minor.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

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

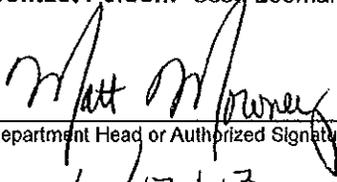
**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

These rules, and the legislation which grants the department rule making authority, will have no 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.

Significant policy decisions that could potentially result in increased use of state parks by some users or decreased use by other users were made with enactment of 2011 ACT 168 and again when the Natural Resources Board developed policies under authority of the ACT. These rules will not have significant additional impacts on the use of the state park system or the related economic activity of park users.

This is not a complete estimate of economic impacts but, rather, a summary which indicates that these rules could have none or a minimal economic effect locally or statewide. A 14 day comment period to gather public information will be sufficient to assist in the preparation of a final economic impact analysis.

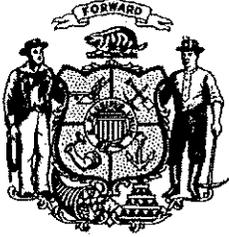
Contact Person: Scott Loomans, 608-267-2452



Department Head or Authorized Signature

6/17/13

Date Submitted



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

July 15, 2013

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

**RE: Scope Statement for WM-21-2013 modifying Chapters NR 10 and 45 relating to hunting and trapping in state parks**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on June 18, 2013, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 10 and 45 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker  
Governor

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: WM - 22 - 13 (E)

Relating to: Hunting and trapping in state parks, modifying NR Ch.'s 10 and 45

Rule Type: Emergency

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

This rule is necessary to protect the public safety and welfare of visitors to Wisconsin State Park properties by restricting gun and archery shooting activities in certain areas and trapping activities to certain methods.

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

These will be the first rule revisions related to hunting and trapping in state parks since passage of 2011 ACT 168 which established that those activities are generally allowed.

For safety purposes, these rules may prohibit the discharge of firearms from-or-across certain trails. These rules may restrict trapping to the use of dog proof traps only and define those traps.

The department will not use this rulemaking to establish new season dates or to modify periods when hunting and trapping are allowed in state parks.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Prior to 2011 ACT 168, state parks were statutorily closed to hunting unless the department had written rules specifically allowing a hunting opportunity at an individual state park. Statutes did not grant rule authority for the department to allow bear hunting. Statutes did not grant rule authority to allow trapping. Today, hunting and trapping are both allowed at state parks except where the Natural Resources Board has prohibited the activities in order to protect public safety or a unique plant or animal community. Under Act 168, the Department may prohibit hunting or trapping on lands within 100 yards of a designated use area. Examples of designated use areas include locations such as campgrounds, certain hiking trails and beaches.

The ACT allowed the department to prohibit hunting in designated use areas. For safety purposes, these rules would also prohibit the discharge of firearms, air-guns, bows, and crossbows from-or-across trails. For instance, under these rules, it would be illegal to discharge a firearm from an area where hunting is allowed to another area where hunting is allowed if the two areas are separated by a designated hiking trail.

These rules may restrict trapping to the use of dog proof traps only and define those traps or modify existing trap-type definitions. A type of trap that would meet the requirements of being a "dog proof trap" is an "Enclosed trigger trap" These are any trap with a pull-activated trigger, inside an enclosure, and recessed 1 1/4 inches or more, from an opening that is no greater than 1 3/4 inches in diameter. While these trap types are very effective for catching raccoons, they may be the only animal that is capable of activating the trigger and being captured. These rules may allow additional trap types in certain situations where the traps are submerged by water.

The effective dates of this rule will be delayed so that the provisions will be in effect for as long as possible while permanent rules are being promulgated.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The state trails system and department responsibilities and powers are established in s. 23.175 Stats. State trails are described as part of the state park system in sub. (2)(a).

The state park system is established in s. 27.01 Stats. and specific authority for the department to promulgate rules necessary to govern the conduct of state park visitors and for the protection of state parks is found in sub. (2)(j).

The department's authority to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game is established in s. 29.014 Stats.

These proposed rules may use the statutory authority described above to interpret s. 29.089 Stats. related to trapping on land in state parks. This provision establishes that state parks are open to hunting and trapping and that the department may prohibit hunting or trapping in a park or portion of a park if necessary to protect public safety or a unique animal or plant community.

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

The department estimates that 200 hours of employee time will be needed to promulgate these rules.

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

Hunters, trappers, and other recreational users of state park lands are the principal groups that will be affected by this rulemaking. However, the department anticipates that the impacts of these rules for various state park enthusiasts will be minimal. The major policy decisions were made with the passage of 2011 ACT 168 and refined through decisions made by the Natural Resources Board using authority established in the ACT. Any impacts of this subsequent rule making are likely to be minor.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

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

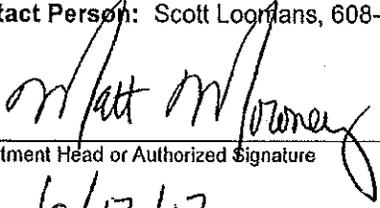
**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

These rules, and the legislation which grants the department rule making authority, will have no 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.

Significant policy decisions that could potentially result in increased use of state parks by some users or decreased use by other users were made with enactment of 2011 ACT 168 and again when the Natural Resources Board developed policies under authority of the ACT. These rules will not have significant additional impacts on the use of the state park system or the related economic activity of park users.

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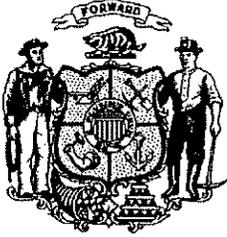
Contact Person: Scott Looftans, 608-267-2452



Department Head or Authorized Signature

6/17/13

Date Submitted



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

July 15, 2013

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

**RE: Scope Statement for WM-22-13 Emergency Rule modifying NR 10 and 45  
relating to hunting and trapping in state parks**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on June 18, 2013, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule modifying Chapters NR 10 and 45 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

A handwritten signature in black ink, appearing to be "S. Walker", written over a horizontal line.

Scott Walker  
Governor