

98-022 NR 27- WILDLIFE MANAGEMENT
LYNX ADDED

NR 27

98-022

State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. WM-2-98

Legislative Council Rules Clearinghouse Number 98-022

Subject of Rules Wildlife management housekeeping
Changes.

Date of Transmittal to Presiding Officers June 9, 1998

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LC/5, 101 South Webster

266-1959

REPORT TO LEGISLATURE

NR 10, Wis. Adm. Code
Wildlife management housekeeping changes

Board Order No. WM-2-98
Clearinghouse Rule No. 98-022

Statement of Need

The proposed rule:

1. Adds lynx to the list of protected species. Canada lynx were classified as an endangered species in ch. NR 27 from October 1, 1972 until August 1, 1997. They were removed from the endangered species list because they are not known to breed in the state and are considered extirpated. Protected status will provide some legal protection for any pioneering or transient animals found in our state.

2. Establishes shot size limits for turkeys. Regulating the size of shot is necessary to insure hunter safety. Smaller shot sizes are less likely to cause serious injuries. With the development of new shot materials, such as bismuth, hunters may use shells with shot as large as BB because the current code does not regulate shot types other than lead and steel.

3. Clarifies the prohibition on hunting turkeys over bait in the spring. A recent rule change requiring that hunting areas be free of bait for 10 days prior to hunting is designed to regulate fall hunting. This rule would extend the requirement to the spring.

4. Allows raccoon trapping with wet sets in fisher closed areas in the Nicolet and Chequamegon National Forests. The current prohibition was established in the early 1960's when raccoons were uncommon in northern forests. This rule would allow trappers who currently trap other wetland species within these areas to legally possess raccoon. This rule does not affect the current dryland trap restriction nor jeopardize the intent of the current rule.

5. Reduces the size of the refuge at Sheboygan Marsh. There is currently a 1,400 acre no entry refuge located on the south side of Sheboygan Marsh Wildlife Area. A 160 acre portion of the refuge is not connected and the small flowages are no longer functional, attracting few waterfowl. Eliminating the 160 acre portion from the refuge will increase the area open to hunting and other recreation.

6. Requires background checks for trapper education instructors. Background checks are required of most volunteer safety and education instructors because duties of these positions include working with people under the age of 18 with limited supervision.

7. Corrects scientific names for endangered and threatened species that are currently erroneously listed in the code.

Modifications as a Result of Public Hearing

No one attended the public hearing. However, the Department deleted the amendment prohibiting hunting of crows with rifles so that it can be considered by the Conservation Congress. The addition of Phantom Lake to the list of lakes where harvesting wild rice is prohibited was also deleted at the request of program staff.

Appearances at the Public Hearing and Their Position

There were no appearances.

Response to Comments of Legislative Council Rules Clearinghouse

The recommendations were accepted.

Final Regulatory Flexibility Analysis

The proposed rules regulate individual hunters and trappers; therefore, a final regulatory flexibility analysis is not required.

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 27.03(2)(d)1, (e)2, 4, 6, and 8, (i)3, 5 and 43, 27.03(3)(b)6, (e)2, 3, and 9, (g)1, (i) 4, 10, 50 and 52; amend NR 10.02(1), 10.09(1)(a)3.b., 11.10 (intro.), 19.30; repeal and recreate NR 10.25 (4)(e), 15.02(9); and create NR 27.03(2) (d)1m., (e)2m., 2t., 4m., and 6g., (i)5m., 25d., and 43m., (3)(b)6m., (e)5m., 5t., and 9m., (g)8., (i)4g., 28m., 50p., and 52. relating to hunting and trapping regulations

WM-2-98

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.174(3) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.174(2), 29.107, 29.1075 and 29.103, Stats.

In this order:

Section 1 adds lynx to the list of protected species

Section 2 establishes shot size limits for turkeys

Section 3 clarifies the prohibition on hunting turkeys over bait in the spring

Section 4 allows raccoon trapping with wet sets in fisher closed areas

Section 5 reduces the size of the refuge at Sheboygan Marsh

Section 6 requires background checks for trapper education instructors

Sections 7 and 8 correct scientific names for endangered and threatened species

SECTION 1. NR 10.02(1) is amended to read:

NR 10.02(1) Cougar, Canada lynx, badger, moose, elk, wolverine and flying squirrel.

SECTION 2. NR 10.09(1)(a)3.b., is amended to read:

NR 10.09(1)(a)3 b. Use or possess shells containing shot larger than ~~no. 4 lead or no. 2 steel or no. 4 for lead or other no. 4 non-steel shot~~ while hunting wild turkeys.

SECTION 3. NR 10.25(4)(e) is repealed and recreated to read:

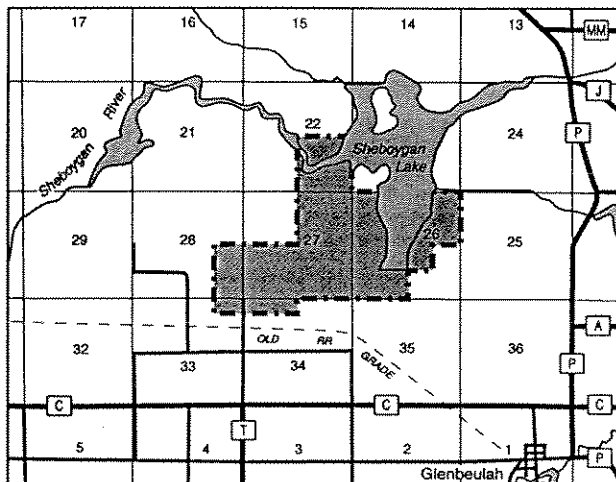
NR 10.25(4)(e) By the aid of bait or on or over a baited area in a manner prohibited by s. NR 10.12(1)(h).

SECTION 4. NR 11.10 (intro.) is amended to read:

NR 11.10 FISHER/MARTEN CLOSED AREA. (intro.) A closed season is established in the following area posted with department signs. No person may trap any species of wild animal thereon at any time, except beaver, otter, raccoon, muskrat and mink may be trapped with wet sets during the open seasons established in s. NR ~~10.04(4)~~ 10.01(4).

SECTION 5. NR 15.02(9) is repealed and recreated to read:

NR 15.02(9) SHEBOYGAN COUNTY. Sheboygan Marsh. Township 16 north, range 20 east, towns of Greenbush and Russell.



SECTION 6. NR 19.30 is amended to read:

NR 19.30 CRIMINAL HISTORY CHECKS; VOLUNTEER SAFETY INSTRUCTORS.

Whenever application is made to the department by a person interested in becoming certified to instruct as a volunteer all-terrain vehicle, boating, bowhunter, hunter education, Wisconsin cooperative trapper education program or snowmobile safety instructor, the bureau of law enforcement shall conduct a criminal history, character and background check on the applicant.

SECTION 7. NR 27.03(2)(d)1, (e)2, 4, 6, and 8, (i)3, 5 and 43, 27.03(3)(b)6, (e)2, 3, and 9, (g)1, (i) 4, 10, 50 and 52 are repealed.

SECTION 8. NR 27.03(2) (d)1m., (e)2m., 2t., 4m., and 6g., (i)5m., 25d., and 43m., (3)(b)6m., (e)5m., 5t., and 9m., (g)8., (i)4g., 28m., 50p., and 52. are created to read:

NR 27.03(2)(d)1m. Blanchard's Cricket Frog- *Acris blanchardii*

- (e) 2m. Crystal Darter- *Crystallaria asprella*
2t. Gravel Chub- *Erimystox x-punctata*
4m. Starhead Topminnow- *Fundulus disper*
6g. Striped Shiner- *Luxilus chrysocephalus*
- (i) 5m. *Asplenium trichomanes- namosum*- Green Spleenwort (Polypodiaceae: Fern Family)
25d. *Moerhingia macrophylla*- no common name (Caryophyllaceae: Pink Family)
43m. *Tanacetum bipinnatum spp huronense*- Lake Huron Tansy (Asteraceae: Composite Family)
- (3)(b) 6m. Yellow-Crowned Night Heron- *Nyctanassa violaceus*
- (e) 5m. Redfin Shiner- *Lythrurus umbratilis*
5t. Speckled Chub- *Macrhybopsis aestivalis*
9m. Ozark Minnow- *Notropis nubila*
- (g) 8. Ellipse- *Venustaconcha ellipsiformis*
- (i) 4g. *Arnoglossum plantagineum*- Prairie Indian Plaintain (Asteraceae: Aster Family)
28m. *Elymus lonceolatus ssp.*- Thickspike Wheatgrass (Poaceae: Grass Family)
50p. *Rhynchosjora scirysoides*- Bald Rush (Cyperaceae: Sedge Family)
52. *Solidago simplex var. Gillmanii*- Dune Goldenrod (Asteraceae: Composite Family)

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on May 27, 1998.

The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.,.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)