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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
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- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

**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:

Board Order No.: WM-01-09

Clearinghouse Number: CR 09-015

Subject of Rules: The 2009 Annual Spring Hearings relating to hunting, trapping, closed areas and game refuges.

Date of Transmittal: June 8, 2009

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

**DNR Bureau of Wildlife Management Rules Coordinator
Scott Loomans, DNR, GEF-2, WM/6, 101 South Webster
scott.loomans@wisconsin.gov**

An electronic copy of the proposed rules submittal may be obtained by contacting Scott Loomans.

REPORT TO LEGISLATURE

NR 10, 11 and 15, Wis. Adm. Code
The 2009 Annual Spring Hearing Rule relating to hunting, trapping,
closed areas and game refuges.
Board Order No. WM-01-09
Clearinghouse Rule No. 09-015

Basis and Purpose of the Proposed Rule

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 either from department staff or Conservation Congress advisory questions from the previous year that were forwarded by the Congress' executive council. The proposed rules will:

1. Clarify the definition of "open water hunting" for waterfowl.
2. Allow the harvest stocked hen pheasants at Sand Creek Fishery Area, Monroe County.,
3. Extend the fall turkey season to Dec. 31 in zones 1 - 5, except for the nine-day deer season.
4. Modify bobcat hunting, trapping, cable restraint seasons and reporting.
5. Allow the use of rifles for firearm deer hunting in Dunn and Shawano Counties.
6. Allow firearm deer hunting at Potawatomi and Whitefish Dunes state parks, Door County and allow the use of rifles for deer hunting at all of Hartman Creek state park, Waupaca and Portage counties.
7. Establish that the 19-day muzzleloader-only season and late archery season is antlerless only but buck hunting can be allowed in certain years at Wildcat Mountain state park, Vernon County.
8. Eliminate the special state park hunting season and allow hunting during all normal deer seasons at Cadiz Springs Recreation Area.
9. Establish a special migratory bird hunt with a 1:00 p.m. closure, regulations, and modify refuges at Mead wildlife area, Wood, Portage and Marathon counties and Lake Mills wildlife area, Jefferson County.
10. Clarify the definition of legal firearm types for hunting.
11. Create flexibility in the methods for issuing left-over turkey hunting permits.
12. Create flexibility to register wild turkeys by methods other than in person at registration stations.
13. Allow the use of electronic calls for turkey hunting by certain holders of disabled hunting permits.
14. Allow the use of dogs for turkey hunting during the fall season statewide.
15. Allow hunting during special turkey hunts by holders Class B disabled hunting permits that are valid for hunting from a vehicle and issued for more than one year.
16. Eliminate the Nelson-Travino Mississippi River closed area in Buffalo County.
17. Reduce the size of Dike 17 waterfowl refuge and allow trapping and firearm deer hunting (Jackson County).
18. Reduce the size of Vernon Marsh waterfowl refuge because certain areas are no longer needed as goose refuge (Waukesha County).

Summary of Public Comments

On Monday April 13, a hearing was conducted in each county of the state. Statewide attendance was 7,939. Hearing attendees had the opportunity to register support or opposition by voting on individual proposals in this package of rules. The following two pages summarize voting activity.

2009 Spring Hearings - Results of Wildlife Management Proposals

Question Description	Yes Votes	No Votes	Statewide Vote	County Vote (Yes/No/Tie)	Local Vote (Yes / No)
Definition of "open water hunting" for waterfowl	3,133	2,424	Yes	54 / 17 / 1	
Extend the fall turkey season through December 31	4,607	2,142	Yes	62 / 10	
Registration of wild turkeys	5,743	1,051	Yes	72 / 0	
Modify the bobcat hunting and trapping seasons, two time periods	3,447	1,851	Yes	72 / 0	
Modify the bobcat hunting and trapping seasons, cable restraints	3,061	2,071	Yes	58 / 12 / 2	
Clarify types of guns allowed for hunting	3,956	2,156	Yes	63 / 8 / 1	
Issuance of left-over turkey hunting permits	3,639	2,753	Yes	57 / 14 / 1	
Turkey hunting by disabled permit holders, electronic calls	4,290	1,918	Yes	70 / 0 / 2	
Turkey hunting by disabled permit holders, special turkey hunts	4,745	1,426	Yes	72	
Special waterfowl hunting regulations at Mead, 1:00 p.m. closure	2,107	2,046	Yes	36 / 33 / 3	Mar./Port./Wood Co's.* 263 / 135
Special waterfowl hunting regulations at Mead, early season closed area	2,086	2,006	Yes	36 / 32 / 4	Mar./Port./Wood Co's.* 254 / 143
Special waterfowl hunting regulations at Mead, Townline Reservoir	2,280	1,484	Yes	58 / 9 / 5	Mar./Port./Wood Co's.* 247 / 135
Special waterfowl hunting regulations at Mead, Rice Lake	2,269	1,505	Yes	57 / 12 / 3	Mar./Port./Wood Co's.* 248 / 132
Fall turkey hunting with dogs, statewide	3,168	3,398	No	33 / 38 / 1	

* Proposal was approved in each directly affected county

Question Description	Yes Votes	No Votes	Statewide Vote	County Vote (Yes/No/Tie)	Local Vote (Yes / No)
Stocked hen pheasant hunting at Sand Creek Fishery Area, Monroe County	2,629	1,200	Yes	67 / 4 / 1	66 / 14
Rifles for deer hunting in Dunn County	3,532	836	Yes	71 / 0 / 1	63 / 16
Eliminate Nelson-Trevino Mississippi River closed area, Buffalo County	2,969	1,068	Yes	66 / 5 / 1	52 / 13
Rifles for firearm deer hunting in SW Shawano County	3,667	959	Yes	71 / 0 / 1	172 / 47
Whitefish Dunes S.P. deer season, Door	3,464	667	Yes	72 / 0	190 / 37
Antlerless-only with periodical buck harvest, Wildcat Mountain S.P., Vernon Co	1,949	1,922	Yes	34 / 32 / 6	Vernon, 18 / 22 Monroe, 42 / 37
Eliminate S.P. deer season framework at Cadiz Spring Rec. Area, Green Co.	2,805	786	Yes	71 / 1	54 / 15
Reduce Dike 17 waterfowl refuge, Jackson	2,625	982	Yes	68 / 2 / 2	31 / 13
Reduce Vernon Marsh refuge, Waukesha	3,039	622	Yes	72 / 0	194 / 12
1:00 p.m. closure of migratory bird hunting, Lake Mills Wildlife Area, Jefferson	1,649	1,633	Yes	39 / 31 / 2	Jefferson / Dane* 191 / 113
Potawatomi state park deer season, Door	3,622	622	Yes	72 / 0	115 / 42
Rifles for deer hunting in all of Hartman Creek state park, Waupaca/Portage co.'s.	3,260	926	Yes	71 / 0 / 1	Waupaca / Portage* 226 / 101

* Proposal was approved in each directly affected county

Statewide attendance – 7,939

Modifications Made

Effective date of allowing the use of rifles in portions of Shawano and Dunn Counties

Allowing rifles for deer hunting in these areas was initially proposed to be effective for the 2010 season in order to better coordinate the timelines of regulation pamphlet printing and the rule making process. Several individuals requested a 2009 effective date. In this proposal, both changes will be effective for this fall's hunting season. If the rule making process is not complete when regulations go to the printer, the regulations will contain a notice that rifles may be allowed in these areas and a recommendation that hunters contact the DNR or watch for media releases.

Lake Mills and Zeloski Marsh Unit of the Lake Mills Wildlife Area hunting regulations This wildlife area is divided into two separate units. The eastern unit is located immediately southwest of the City of Lake Mills and is called Lake Mills Wildlife Area (approximately 1,300 acres). The western unit is about 2 miles further west and is called Zeloski Marsh Unit (approximately 2,000 acres). Since authorization for hearings of this proposal in January, department staff have identified that there is some privately held land in and adjacent to the Lake Mills Wildlife Management area where the proposed 1:00 p.m. closure of migratory bird hunting would not apply as the rule was drafted. The early closure may not be effective at holding migratory birds in this area if a handful of hunters are not subject to the same regulations.

To correct this situation, the department is now proposing the 1:00 p.m. closure only for the recently acquired and restored Zeloski Marsh portion of the property. All of these lands are publicly owned and easily posted and the regulation would apply consistently throughout this portion of the property. People who wish to hunt in evenings after work or school would still have that opportunity on the Lake Mills Wildlife Area portion of the property.

Require the registration of harvested sharp-tailed grouse

This proposal was not supported by voters at spring hearings and has been removed from this rule. Currently, sharp-tailed grouse hunters are asked to voluntarily report their harvest by mailing in a harvest stub. The Department will continue with this practice and will be re-evaluating harvest reporting as a part of the updated sharp-tailed grouse management plan. The department may make a new recommendation after plan approval, possibly in 2010.

Elimination of the late archery deer hunt at Brunet Island state park

This proposal was not supported at hearings by either the statewide or local vote and has been removed from this rule.

Appearances at the Public Hearing

Statewide attendance was 7,939.

Changes to Rule Analysis and Fiscal Estimate

The rule analysis and fiscal estimate were revised to reflect modifications made.

Response to Legislative Council Rules Clearinghouse Report

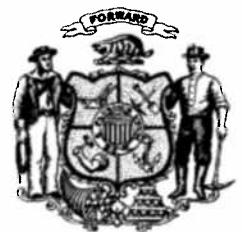
The recommendations have been incorporated into the rule.

Final Regulatory Flexibility Analysis

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.



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **09-015**

AN ORDER to repeal NR 11.032 (b) and 15.022 (4); to amend NR 10.01 (2) (c) 2. and (f) 2. and (3) (d) and (e) 1. b., 2. and 2.d. and (em) 4. c. and d. and (et) c., 10.09 (1) (c) (intro.), 10.13 (1) 15., 10.25 (1) (f) 2., 10.25 (3), 10.25 (4) (b) and (c), 10.26 (2) (title) and 10.40 (4) and (5) (a) 2. and b.; to repeal and recreate NR 10.001 (20), 15.022 (8) (b) and (e) and 15.024 (4); and to create NR 10.01 (3) (e) 2. h., 10.06 (9) (a) and (b), 10.145 (3) (f) and (8), 10.26 (2) (c), 11.042 (2), and 11.044 (title) (1), relating to hunting and trapping regulations, closed areas and game refuges.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

02-13-2009 RECEIVED BY LEGISLATIVE COUNCIL.

03-06-2009 REPORT SENT TO AGENCY.

RS:REL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-015

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

- a. Section NR 10.001 (20) should be restructured in the following way:
NR 10.001 (2) “Open water” means any portion of a navigable water body that does not contain a naturally occurring growth of emergent vegetation rooted to the bottom and that provides all of the following:
 1. The vegetation is....
 2. The vegetation that provides 50% concealment extends....

(b) In this subsection, “naturally occurring growth of emergent vegetation” does not include naturally occurring dead stumps or trees or include vegetation placed in the bottom by a person.
- b. In s. NR 10.001 (20) (b), “must” should be changed to “shall.” This problem also occurs in the Note following sub. (20) (b).
- c. In the treatment clause of SECTION 7, the phrase “to read” should be inserted after the word “amended.” The entire rule should be reviewed for the inclusion of this phrase in treatment clauses that purport to amend, repeal and recreate, or create rule provisions.
- d. Section NR 10.06 (9) should be structured in the following way:

NR 10.06 (9) DAILY MIGRATORY BIRD REST PERIOD. (a) Migratory bird hunting hours...on the following dates:

1. George W. Mead Wildlife Area....
2. Lake Mills Wildlife Area....

(b) This subsection does not apply after December 31, 2012.

Also, in this subsection, the two occurrences of the notation "subd." should be replaced by the notation "s."

e. In SECTION 18, the notation "(intro.)" should be inserted before the phrase "is amended" and after the word "REGISTRATION."

f. In s. NR 10.26 (2), the notation "(title)" should be inserted before the word "TAGGING."

g. In s. NR 10.40 (5) (b), the citation to "s. 29.193, Stats.," is in the current text of the rule and, therefore, the number "29.193" should not be underscored.

h. In the treatment clause of SECTION 27, "(title) (1)" should be deleted and "(1)" in the rule text should be deleted. Also in this section, "Early waterfowl hunting season closed area" should be in bold print.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the statutes interpreted and explanation of agency authority section of the rule analysis, the semi-colon should be changed to a colon. This problem also occurs in the statutory authority and explanation of agency authority section.

b. In the rule preface discussion of a related rule or statute, the phrase "currently under promulgation" should be deleted. This section of the rule preface is meant to discuss related rules or statutes currently in force.

c. In the plain language analysis section of the rule analysis, in the first paragraph, "chapter" should be "chapters" and "do the following" should be added after "Specifically, these proposals." In the sentence beginning with "Section 2," "of" should be inserted after "harvest." In the sentence beginning with "Section 6," "allow" should be changed to "allows." In the sentence beginning with "Section 7," "through" should be changed to "to" and "is" should be changed to "are." In the sentence beginning with "Section 23," "of" should be inserted after "holders." In the sentence beginning with "Sections 26 and 28," a period should be added at the end of the sentence.

d. In the rule preface comparison of rules in adjacent states, in the last paragraph, the word "a" should be inserted before the phrase "given time."

e. In the summary of factual data section of the rule analysis, in the first full paragraph on page 3, "bobcat" should be inserted between "one" and "season." On page 3 in the third

paragraph, "1 through 5" should be changed to "1 to 5." On page 3 in the sixth paragraph, "Class A and C disable" should be changed to "Class A and C disabled." Also in this paragraph, "Long" should be changed to the lowercase. On page 3 in the third sentence of the last paragraph, "a" should be inserted between "provide" and "hunting." On page 4, in the last paragraph of the summary of factual data section, "Waterfowl closed areas area" should be changed to "Waterfowl closed areas are a." Also in this paragraph, "Those are a portion" should be changed to "The closed areas are a portion."

f. In s. NR 10.01 (3) (e) 2. h., a period should be added after "s. NR 10.104."

g. In s. NR 10.40 (4) (a), the word "permit" should be added after "Class A." This problem also occurs in subs. (4) (b) 2. and (5) (a) 2. c. and (b).