

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

SUBJECT:

Request that the Board approve the statement of scope for Board Order WM-09-21 and conditionally approve the public hearing notice for Board Order number WM-09-21 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for proposed rules affecting chapters NR 8, 10, 11, 12,17, 18, 19, and 27 related to the 2021 Bureau of Wildlife Management housekeeping rule.

FOR: May 2022 Board meeting

PRESENTER'S NAME AND TITLE: Scott Karel, Wildlife Policy Specialist

SUMMARY:

This scope statement may make changes are proposed to update administrative code language to correct inconsistencies, update outdated language, and provide clarification when appropriate.

Specifically, these rules may:

- 1. Update the scientific name of species listed in code to the new correct name.
2. Clarify that free bonus farmland antlerless deer permits must be used on private land.
3. Change the definition of a muzzleloading rifle to better reflect advances in technology.
4. Clarify the license requirements for bear damage shooting permits.
5. Update the list of animals causing damage or nuisance that may be live-trapped and relocated without written authorization from the department.
6. Clarify the bag limit for turkeys during the youth season.
7. Align code with statute to ensure the appropriate scientific collector or research license is being issued in the correct scenario.
8. Adjust refuge boundaries to reflect recently acquired property.
9. Removes refences to backtags which is prohibited in statute for certain species.
10. Update the definition of wildlife-related violation to include the invasive species violations.

Additional rule changes may be pursued which are reasonably related to those discussed here.

A preliminary public hearing on this scope statement was held on December 16, 2021. A recording of that hearing can be viewed here: https://wi-dnr.widencollective.com/c/u4qq8kyj

RECOMMENDATION: That the Board approve the statement of scope for Board Order WM-09-21 and conditionally approve the public hearing notice for Board Order WM-09-21 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

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

- [X] Statement of Scope
[X] Governor's Approval of Statement of Scope
[X] Public Comments Summary
[] (insert document name)
[] (insert document name)
[] (insert document name)

Table with 3 columns: Approved by, Signature, Date. Rows include Eric Lobner, Tami Ryan, and Preston D. Cole, Secretary, with their respective signatures and dates.

cc: Board Liaison - AD/8 Department Tribal Liaison - AD/8 Program attorney - LS/8 by Sarah Barry Department rule officer - LS/8 Sarah Barry

This page was intentionally left blank.

CORRESPONDENCE/MEMORANDUM

DATE: April 22, 2022

TO: All Members of the Natural Resources Board

FROM: Preston D. Cole, Secretary

SUBJECT: Background memo on preliminary public hearing and public comments received on the revised scope statement for Board Orders WM-09-21, relating to the 2021 Bureau of Wildlife Management housekeeping rule.

On November 10, 2021, the co-chair of the Joint Committee for the Review of Administrative Rules (JCRAR) requested that the department hold a preliminary public hearing and comment period on the revised scope statement for Board Order WM-09-21 under s. 227.136, Wis. Stats. This memo summarizes all comments received during the public hearing and comment period.

Public Hearing and Written Public Comments

The Department held a virtual preliminary public hearing on the statement of scope on Thursday, December 16 at 1:00 p.m. Only one member of the public attended the hearing. This individual represented the WI Coon Hunters Association and the WI Association of Sporting Dog Clubs. They expressed interest on what would be changed regarding the item that would update the list of animals causing damage or nuisance that may be live-trapped and relocated without written authorization from the department and whether it would apply to raccoons. No members of the public submitted written comments on the scope statement during the open comment period.

A recording of the preliminary public hearing is available should members of the board like to have more detailed information.

Drafter: Scott Karel



Tony Evers

Office of the Governor | State of Wisconsin

October 22, 2021

By Electronic Mail Only

Dear Secretaries and Agency Heads:

On this day, I approved the following statements of scope pursuant to Wis. Stat. § 227.135(2):

- A statement of scope by the Department of Natural Resources, submitted September 30, 2021, relating to the 2021 Bureau of Wildlife Management housekeeping rule amending chs. NR 8, 10, 11, 12, 17, 18, 19 and 27 (Wis. Admin. Code chs. NR 8, 10, 11, 12, 17, 18, 19 and 27); and
- A statement of scope by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors, submitted October 7, 2021, relating to sealing and stamping of documents (Wis. Admin. Code chs. A-E 2, 7 and 8); and
- A statement of scope by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors, submitted October 7, 2021, relating to engineer in training and continuing education requirements (Wis. Admin. Code chs. A-E 4 and 13); and
- A statement of scope by the Pharmacy Examining Board, submitted September 3, 2021, relating to required disclosures to consumers (Wis. Admin. Code chs. Phar 7 and 10); and
- A statement of scope by the Funeral Directors Examining Board, submitted September 14, 2021, relating to apprenticeship and renewal (Wis. Admin. Code ch. FD 1).

On this day, I approved the following proposed administrative rules pursuant to Wis. Stat. § 227.185:

- A proposed emergency rule by the Psychology Examining Board, submitted October 1, 2021, relating to definitions, interim psychologist licensure requirements, reciprocity requirements, reciprocal credentials for service members, former service members, and their spouses, supervised psychological experience, temporary practice for out of state providers, and renewal requirements (Wis. Admin. Code chs. Psy 1, 2, and 4); and
- A proposed rule by the Podiatry Affiliated Credentialing Board, submitted October 13, 2021, relating to reciprocal credentials for service members, former service members and their spouses (Wis. Admin. Code ch. Pod 1); and
- A proposed rule by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors, submitted September 16, 2021, relating to professional conduct (Wis. Admin. Code ch. A-E 8); and
- A proposed rule by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors, submitted September 16, 2021, relating to general procedures and licensing requirements (Wis. Admin. Code ch. A-E 2).

Please direct any questions about this letter to my deputy policy director, Katie Domina.

Sincerely,



Tony Evers
Governor

cc: Ryan Nilsestuen, chief legal counsel (ryan.nilsestuen1@wisconsin.gov)
Katie Domina, deputy policy director (katherine.domina1@wisconsin.gov)
DOA State Budget Office (SBOAdminRules@spmail.wi.gov)
Emma Esch, DNR (emma.esch@wisconsin.gov)
DSPS (DSPSAdminRules@wisconsin.gov)

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-09-21

Relating to: The 2021 Bureau of Wildlife Management housekeeping rule amending chs. NR 8, 10, 11, 12, 17, 18, 19, and 27, Wis. Admin. Code

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 rule changes are proposed to update administrative code language to correct inconsistencies, update outdated language, and provide clarification when appropriate. This rule package will amend regulations for hunting and trapping, found in chs. NR 8, 10, 11, 12, 17, 18, 19, and 27 Wis. Admin. Code

Specifically, these rules would:

1. Update the scientific name of species listed in code to the new correct name.
2. Clarify that free bonus farmland antelerless deer permits must be used on private land.
3. Change the definition of a muzzleloading rifle to better reflect advances in technology.
4. Clarify the license requirements for bear damage shooting permits.
5. Update the list of animals causing damage or nuisance that may be live-trapped and relocated without written authorization from the department.
6. Clarify the bag limit for turkeys during the youth season.
7. Align code with statute to ensure the appropriate scientific collector or research license is being issued in the correct scenario.
8. Adjust refuge boundaries to reflect recently acquired property.
9. Removes references to backtags which is prohibited in statute for certain species.
10. Update the defition of wildlife-related violation to include the invasive species violations.

Additional rule changes may be pursued which are reasonably related to those discussed here.

This rule may make additional updates such as correcting cross-reference citations, updating road names on maps, changes needed to update application forms, or revisions which are necessary for consistency with recently enacted legislation.

The department may include other, minor, non-controversial rule proposals including ones which have passed at the annual Spring Fish & Wildlife Hearings as advisory questions by the Conservation Congress.

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:

All of the policies in this rule are consistent with past board policies of regulating fish and game harvest for conservation purposes. The changes proposed in this rule will have a minimal impact on the activities of hunters or trappers and are proposed primarily to maintain consistency with recently revised statutes or to update cross-references.

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

The chapter on wild animals and plants, in s. 29.014, Stats., “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 and hunting regulations.

Under s. 29.164 (2) (a), Stats., the department is prohibited from requiring the possession or validation of a turkey carcass tag. In s. 29.164 (2) (c) 2., Stats., and in numerous other locations the term “authorization” is established as an alternative to “carcass tag” related to turkey hunting. In the s. 29.347 (2), Stats., provisions establishing that the department shall require the possession or validation of a deer carcass tag are eliminated.

Additionally, s. 29.885, Stats., grants the department the authority to remove or authorize the removal of a wild animal that is causing damage or that is causing a nuisance.

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

Approximately 40 hours will be needed by the department prior to and following the hearings

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

Hunters and trappers are the primary people who will be affected by this rulemaking. Any impacts will be very 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:

States possess inherent authority to manage the wildlife resources located within their boundaries, except insofar as preempted by federal treaties and laws, including 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 an economic impact on small businesses):

These rules, and the legislation which grants the department rulemaking 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.

These proposed rule changes are not expected to impact the activities of hunters, trappers, or other outdoor enthusiasts and will not have an impact on their related spending activities. Correspondingly, no economic impacts are anticipated.

9. Anticipated number, month and locations of public hearings:

The Department anticipates holding one virtual public hearing in the fall of 2021

Contact Person: Scott Karel. 608-206-0222

DocuSigned by:

Todd Ambros

6793A7BA427C46D...

FOR

Preston D. Cole, Secretary

9/30/2021 | 11:46 AM CDT

Date Submitted