Form 1100-001N (Rev. 10/12)

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

Item No. 3.C.1.

SUBJECT: Request approval of the statement of scope for Board Order WM- 02-16 and conditionally approve the public hearing notice and notice of submittal to the legislative council rules clearinghouse for proposed rules modifying Ch's. NR 10 and 45 related to hunting hours and on the placement and use of tree stands and hunting blinds on DNR managed lands.

FOR: January 2016 Board meeting

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

SUMMARY:

This proposal would establish rules and conditions for allowing the overnight placement of tree stands and ground blinds on lands which are managed by the Department of Natural Resources in areas North of State Highway 64.

For clarity of meaning, these rules would change the way the department describes the times of day when hunting is allowed for certain species, potentially identifying them as "shooting hours" rather than "hunting hours".

If approved, both rules could be subjects of voting at the 2016 spring fish & wildlife rules hearings in each county on the evening of April 11.

Typically, the department promulgates spring hearing rules on an every-other-year cycle so that we are not continually in a situation of modifying rules that are already being modified by the previous year's proposal, but are not fully promulgated. However, these rules would require only modest changes of terminology in Ch. NR 10 and modifications in Ch. NR 45 which is typically not a chapter modified by spring hearing rules, and so the department is proposing this exception to the every-other-year rules cycle.

RECOMMENDATION: Approval of the statement of scope and conditional approval of the hearing notices and notices of submittal to the legislative council clearinghouse for Board Order WM- 02-16, proposed rules modifying Ch's. NR 10 and 45 related to placement and use of tree stands and hunting blinds on DNR managed lands and hunting hours

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

- ☐ Background memo
- ☒ Statement of scope
- ☒ Governor's letter of approval
- ☐ N/A

Approved by	Signature	Date
Tom Hauge, Bureau Director	Thomas M. Hauge	12/21/15
Sanjay Olson, Administrator		12/29/15
Cathy Stepp, Secretary		1/6/16

cc: Board Liaison – AD/8

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-02-12

Relating to: Placement and use of tree stands and hunting blinds on DNR managed lands and hunting hours, Ch. NR 45, Use of Department Properties

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:

This proposal would allow the overnight placement of tree stands and ground blinds on lands which are managed by the Department of Natural Resources. For clarity of meaning, these rules would change the way the department describes the times of day when hunting is allowed for certain species, potentially identifying them as "shooting hours" rather than "hunting hours".

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:

The policies in this rule are generally consistent with past board policies of regulating hunting activities and managing the use of department managed lands.

Currently the overnight, unattended placement of tree stands and ground blinds for hunting is not allowed on department managed lands. This regulation is designed to prevent the "staking out" or making advance claims to hunting locations in favor of a first-come-first served practice. However the overnight placement of stands is allowed on many other public lands which are not managed by DNR and may also be practical on department lands.

One policy alternative to evaluate would be a trial period of a number of years when the overnight placement of tree stands would be allowed on DNR managed lands north of State Hwy. 64. Use might be allowed during all seasons or could be more limited. This would provide experience to hunters who would be able to balance and compare the convenience of not having to carry and place a tree stand or blind for each hunt, especially for an aging demographic of hunters, with a philosophy of trying to reduce competition on public lands. Some hunters have observed that competition for hunting locations in areas north of Hwy. 64 is already reduced compared to times when people felt that deer were more abundant.

The department would consider requiring that all unattended tree stands be marked with the owner's department customer identification number or name and address. It would be illegal to cause damage to a tree, but careful pruning of limbs less than 1 inch in diameter would not be considered causing damage to the tree the stand is placed in. This would not permit cutting trees, brush and other vegetation for shooting lanes.

The rule should address the types of questions that hunters will have about tree stand use on department lands. This proposal might clarify that any person may use a stand that is not occupied and being used by the owner and that stand placement does not reserve a location for exclusive use by any individual. However, the owner of the blind or stand would retain the authority to remove and relocate their stand at any time. Another policy alternative that will be considered is to make it illegal to relocate a blind or stand that was lawfully placed by another.

The department would survey hunter's opinions and evaluate concerns that are identified during the trial period.

In statewide voting on a comparable advisory proposal at 2015 spring fish & wildlife hearings, voting was supportive with results of Ayes, 1,814; Noes, 1,687. The county vote included 45 in support, 26 opposed, and a tie in one. For counties with area north of State Hwy 64, support was stronger and included 15 in support, 5 opposed, and a tie vote in one.

For many species, the department has established "hunting hours" so that the times of day when hunting can occur are limited. Typically, hunting is only allowed from 30 minutes before sunrise until 20 minutes after sunset. For clarity of meaning, these rules would change the way the department describes the times of day when hunting is allowed for certain species, potentially identifying them as "shooting hours" rather than "hunting hours". In some people's view this would, for instance, clarify that it is legal to remain in a hunting blind or stand after hunting hours in order to observe game or prevent spooking game from an area as long as the person does not shoot.

Finally, these rules may make other remedial or non-controversial revisions which are necessary to maintain the accuracy of natural resources code or to implement hunting seasons.

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

Related to the overnight placement of tree stands on department managed lands, the agency is generally charged with the care, protection, and supervision of state lands by s. 23.11 Stats. Under s. 23.09 (2) (d) related to conservation and department lands, the agency is directed to provide an adequate and flexible system for the use of outdoor resources in this state and may promulgate such rules as are necessary.

The chapter on wild animals and plants, in s. 29.014, "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 establish the periods of time during the day when hunting is allowed.

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

Approximately 80 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:

These rules will impact deer hunters on department managed lands and, to a lesser extent, wild turkey hunters who also commonly place hunting blinds for concealment.

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 and lands 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):

No economic impacts are anticipated. The hunting regulations proposed in this rule related to the times when hunting is allowed and the use of department managed lands will not be significantly different those in place during previous seasons. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Contact Person: Scott Loomans (608)267-2452

Department Head or Authorized Signature

11/17/15

Date Submitted

SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. BOX 7863
MADISON, WI 53707

December 17, 2015

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

RE: Scope Statement for NR 45 (WM-02-16) relating to placement and use of tree stands and hunting blinds on DNR managed lands and hunting hours, Ch. NR 45, use of department properties

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on November 23, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter NR 45 (WM-02-16) 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