

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARINGS
WM-21-13

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11(2)(a), and 227.16 Stats., the Department of Natural Resources will hold public meetings on revisions to ch.'s NR 1, 10, 19, and 45 Wis. Adm. Code, related to hunting and trapping in state parks.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will begin at 6:00 p.m. at each of the following locations:

January 14, 2014 Appleton, Fox Valley Technical College, D.J. Bordini Business & Industry Center, 5 Systems Drive, 54912

January 21, 2014 Eau Claire DNR Service Center, 1300 W Clairemont, 54701

January 22, 2014 Wausau, Town of Rib Mountain Town Hall, 3700 N. Mountain Rd, 54401

January 23, 2014 Fitchburg DNR Service Center, 3911 Fish Hatchery Rd, 53711

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with rulemaking. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Plain Language Analysis: 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 eliminate language that is no longer needed, simplify existing regulations, and create new rules related to safety. These rules will not establish new season dates or modify periods when hunting and trapping are allowed in state parks. Specifically, these rules will:

SECTION 1 updates a cross-reference to reflect where the authority to allow hunting on Ice Age Trail area properties is now established.

SECTIONS 2, 12 and 13 simplify turkey hunting regulations by eliminating the state park turkey hunting zones so that they will become part of the surrounding zone.

SECTION 3 corrects a misspelled word.

SECTION 4 creates a note in the section of Ch. NR 10 related to furbearing animals and trapping to alert readers that additional trapping regulations are established in the section related to hunting and trapping in state parks.

SECTIONS 5 and 11 establish that dry land trapping on lands which are part of the Wisconsin State Park System is limited to the use of dog proof traps in order to protect the public safety as established in s.

29.089 (1m) (b) 2. Stats., a provision created by 2011 ACT 168. Trapping on dry land will be allowed with the use of enclosed-trigger-type-traps. Raccoons are the primary species which are targeted with this trap type. Trapping will continue to be allowed using any type of trap that is otherwise legal if it is completely submerged under water.

SECTION 6 clarifies, consistent with natural resources board policy established following the enactment of 2011 ACT 168, that hunting can be allowed using archery gear after December 15 at Mirror Lake, Governor Dodge, and Mill Bluff state parks. The type of hunting specifically addressed in this section is migratory bird hunting if the seasons are still open after December 15.

SECTION 7 eliminates a prohibition of hunting small game with rifles or pistols at three state parks where small game hunting is allowed under current rules. Where hunting is allowed, rifles may be used at all other state parks and the department recently allowed the use of rifles for deer hunting statewide.

SECTION 8 creates an exception to the current noon closure of hunting hours at Governor Dodge, Mill Bluff, and Mirror Lake state parks (except that all day hunting is allowed for migratory birds at Mirror Lake) so that hunting is allowed all day at times when hunting is generally allowed at most state parks.

SECTION 9 repeals a specific exemption from the state park leash law for hunters' dogs actively engaged in hunting at three specific parks. This provision is not necessary because a similar exemption in NR 45.06 (2) applies to all DNR managed lands where hunting is allowed, including state parks.

SECTION 10 eliminates registration and check-in requirements for small game hunting at three state parks where small game hunting is allowed under current rules. Additionally, this section repeals rules which would have allowed hunting at State Ice Age Trail areas. These rules are no longer needed following the enactment of 2011 ACT 168.

SECTION 14 updates a cross reference to statute and clarifies that special educational hunting events may be held at state parks for species in addition to deer and turkeys, with the enactment of 2011 ACT 168.

SECTION 15 clarifies that it is illegal to discharge a firearm, bow, crossbow, or air gun in an area of a state park where hunting is not allowed.

SECTION 16 amends an exception to a prohibition of hunting in state parks to reflect new rules and current law, including elimination of a cross-reference with statutes that is no longer relevant.

Summary of, and Comparison with, Existing or Proposed Federal Regulations: Federal regulations allow states to manage the wildlife and property 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.

Comparison with Rules in Adjacent States: These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of public lands which are under their control.

Summary of Factual Data and Analytical Methodologies: 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 the ACT, 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.

These rules simplify turkey hunting regulations by eliminating the 16 state park turkey hunting zones so that they will become part of the surrounding unit. As a result, most parks will be open to turkey hunting by people who possess a turkey permit for the zone surrounding the state park. Under previous law, it was necessary under the authorizing statute for each state park to have a season established by administrative rule. With changes that resulted from the 2011 ACT 168, these parks can now open to hunting without establishing a specific season by rule for each park. This change may result in an initial increase in turkey hunting pressure because anyone who holds a turkey hunting permit for the surrounding larger zone would be able to hunt in a state park in that zone. However, turkey hunter numbers are controlled in the larger zone by the use of a permit system. The limited nature of the spring turkey season helps to assure a high quality hunt with limited amounts of interference from other hunters. The department anticipates that our limited draw permit system for the larger zone will continue to assure a quality hunt on state park areas, just as the permit system does for other public properties in a zone.

Of the 16 state park hunting zones repealed by these rule, the following 11 were open to all applicants; Governor Dodge, Devils Lake, Wyalusing, Wildcat Mountain, Mirror Lake, Buckhorn (including the wildlife area), Newport, Hartman Creek, Interstate, Willow River, Straight Lake. Another 5 state parks turkey hunting zones which are currently open only to applicants who hold disabled permits are; Natural Bridge, Nelson Dewey, Belmont Mound, New Glarus Woods and Rocky Arbor. Special turkey hunting opportunities for disabled hunters on private lands are not affected by these rules.

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 closed areas. 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 or other area which is closed to hunting.

These rules restrict trapping to the use of dog proof traps only. The type of trap that meets the requirement of being a "dog proof trap" is an "enclosed trigger trap". These are already defined by administrative rule as 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 allow all trap types which are normally allowed in locations where the traps are completely submerged under water.

These rules expand an exemption from the state park leash law for hunters' dogs actively engaged in hunting from three named parks under current rules to any areas where hunting is allowed.

These rules allow small game hunting with rifles or handguns at three parks where small game hunting has been allowed under current rules; Governor Dodge, Mill Bluff, and Mirror Lake. Other state parks where hunting is now allowed under 2011 ACT 168 do not have similar restrictions and the department believes that the prohibition is not necessary for safety or wildlife management purposes.

These rules eliminate a requirement to obtain an access permit and sign-in at a check station before small game hunting at three parks where small game hunting has been allowed under current rules; Governor Dodge, Mill Bluff, and Mirror Lake. Other state parks where hunting is now allowed under 2011 ACT 168 do not have similar requirements. Experience with these requirements has demonstrated that they are

not necessary to control hunter activity and the information collected is infrequently or not used by the department.

Additionally, this proposal repeals rules which would have allowed hunting at State Ice Age Trail areas. These rules are no longer needed following the enactment of 2011 ACT 168 because State Ice Age Trail areas are established by statute as part of the state park system.

Current rule clarifies current rules primarily related to special learn-to-hunt events because, with the enactment of 2011 ACT 168, it is no longer necessary to limit them to just deer and turkey if they are held at state parks.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m) Stats.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov> or by searching the keywords "administrative rules" on the department's website. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707 or by email to scott.loomans@wisconsin.gov. Comments may be submitted until January 24. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

Dated at Madison, Wisconsin

DECEMBER 13, 2013
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
By Cathy Stepp
Cathy Stepp, Secretary *eh*