

## **Report From Agency**

### **REPORT TO LEGISLATURE**

NR 10 11, 17, and 45, Wis. Adm. Code  
The 2013 Wildlife Management Spring Hearing Rule relating to hunting, trapping, closed areas,  
dog training, and the use of department lands.  
Board Order No. WM-01-13  
Clearinghouse Rule No. 13-021

#### 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:

SECTIONS 1, 3 to 5, 7 and 11 simplify firearm deer hunting regulations by allowing the use of rifles statewide. Currently, only shotguns, muzzleloaders and handguns may be used in some areas. If the statewide use of rifles were not to win support during the rule making process, the department would consider expanding rifle use in Shawano and Outagamie as recommended in spring hearing voting. These sections also make housekeeping updates in response to 2011 ACT 50 which prohibited certain firearm deer seasons from being held prior to the Saturday before the Thanksgiving holiday.

SECTIONS 2 and 6 simplify pheasant hunting regulations by eliminating the requirement to tag harvested birds at stocked hen/rooster pheasant hunting areas. Instead, field dressed carcasses of pheasants would need to retain proof of species and sex identification while being transported.

SECTIONS 8 and 15 to 19 establish that, when the bear hunting season is open, hunting hours apply to people who are training bear hunting dogs as well as to people who are hunting bears.

SECTION 9 establishes that certain traps placed for weasels need to be checked by the trapper at least once every four days instead of daily.

SECTION 10 requires reporting the harvest of otter and fisher within 24 hours.

SECTION 12 simplifies regulations for pheasant hunters at Richard Bong State Recreation Area in Racine County, including eliminating the arm band requirement for pheasant hunters.

SECTION 13 establishes a controlled dove hunt at Bong State Recreation Area in Racine County in order to improve hunter satisfaction by reducing hunter interference.

SECTION 14 eliminates the refuge/closed area at Mecan Springs, Waushara County, as recommended in voting by the Conservation Congress in 2012.

SECTION 20 establishes that, in addition to collecting certain food items, it is also legal to cut and gather willow stakes on department managed lands for non-commercial uses, if prior permission is obtained from the property manager. Willow stakes are often used by trappers and individuals using licensed set lines and bank poles.

SECTION 21 increases the daily pheasant hunting fee at Bong State Recreation Area in Racine County from \$3.00 to \$12.00 for adults and \$7.00 for youths (\$5.00 if stocking did not occur on that day) because the current fee is not sufficient to cover the cost of this stocking program.

#### Summary of Public Comments

On Monday April 8, a hearing was conducted in each county of the state. Statewide attendance was 6,069. Hearing attendees had the opportunity to register support or opposition by voting on individual proposals in this package of rules. The following tables summarize voting activity.

**Appendix B – Summary of April 8, 2013 Spring Hearing Voting**

2013 Attendance: 6,069

| Question Number                              | Question Description   | Yes Votes | No Votes | Statewide Vote | County Vote (Yes/No/Tie) | Local Vote (Yes / No)                 | Department Recommendation |
|--|--|-----------|----------|----------------|--------------------------|---------------------------------------|---------------------------|
| <b>Statewide Department Questions</b>        |  |           |          |                |                          |                                       |                           |
| 33   | Allow the use of rifles for deer hunting statewide                     | 3,007     | 2,171    | Yes            | 60 / 11 / 1              |                                       | Advance                   |
| 34   | Eliminate pheasant leg bands   | 2,157     | 1,805    | Yes            | 55 / 14 / 3              |                                       | Advance                   |
| 35   | Require species/sex identification of pheasants in transportations     | 3,073     | 1,120    | Yes            | 71 / 1 / 0               |                                       | Advance                   |
| 36   | Cutting and gathering willow stakes on Department managed lands        | 3,346     | 1,119    | Yes            | 72 / 0 / 0               |                                       | Advance                   |
| 38   | Hours requirement for bear dog training                                | 3,943     | 871      | Yes            | 72 / 0 / 0               |                                       | Advance                   |
| 39   | Weasel box trap check requirements                                     | 2,607     | 1,834    | Yes            | 63 / 9 / 0               |                                       | Advance                   |
| 40   | Otter and fisher harvest reporting                                     | 3,537     | 945      | Yes            | 71 / 1 / 0               |                                       | Advance                   |
| <b>Proposals of primarily local interest</b> |  |           |          |                |                          |                                       |                           |
| 42   | Eliminate the refuge/closed area at Mecan Springs, Waushara County     | 1,966     | 1,110    | Yes            | 62 / 7 / 3               | 21 / 9                                | Advance                   |
| 43   | Eliminate arm band requirement for pheasant hunters and Bong Rec. Area | 1,926     | 1,016    | Yes            | 63 / 7 / 2               | 44 / 31 (Kenosha)<br>62 / 15 (Racine) | Advance                   |
| 44   | Controlled dove hunt at Bong Rec. Area                                 | 1,940     | 1,029    | Yes            | 61 / 10 / 1              | 60 / 15 (Kenosha)<br>49 / 22 (Racine) | Advance                   |
| 45   | Increase daily pheasant hunting fee at Bong Rec. Area                  | 2,440     | 719      | Yes            | 69 / 2 / 1               | 45 / 31 (Kenosha)<br>46 / 34 (Racine) | Advance                   |

Written Comments

In addition to voting on April 8, the department received a handful of written comments and phone calls during the official comment period. Most were simple statements of support or opposition and are summarized in Table 1 below. One person submitted comments in opposition to allowing the long-term placement of tree stands on public land and relayed personal experiences about how the practice detracted from his enjoyment of the hunting season. A number of people who expressed support for legislation to prohibit training and the use of dogs to assist hunters in tracking and trailing wolves also explained the extent of their opposition in some detail.

Table 1.

| Statewide Department Questions |   | Ayes | Noes |
|--------------------------------|---|------|------|
| 33                             | Allow the use of rifles for deer hunting statewide  |      | 1    |
| 41                             | Allow unattended, overnight placement of portable stands and blinds on Department owned and managed lands |      | 1    |

Allowing the use of rifles for deer hunting statewide

This proposal had strong overall support with a vote of 3,007 in favor and 2,171 opposed. Rifles are currently prohibited in portions or all of the 19 counties listed below. Note that, by local ordinance, firearm hunting is not allowed in Milwaukee County and this proposal would have no local impact there. The results of voting in the counties which are currently shotgun-only are summarized in Table 2.

Table 2.

|  | Ayes  | Noes  |
|--|-------|-------|
| Brown  | 47    | 30    |
| Calumet  | 26    | 29    |
| Dane   | 194   | 322   |
| Dodge  | 70    | 32    |
| Fond du Lac  | 45    | 50    |
| Kenosha  | 47    | 30    |
| LaCrosse   | 31    | 14    |
| Manitowoc  | 83    | 53    |
| Milwaukee (no firearm hunting allowed under local ordinance) | 118   | 135   |
| Outagamie  | 67    | 39    |
| Ozaukee  | 32    | 26    |
| Pierce   | 29    | 5     |
| Racine   | 45    | 32    |
| St. Croix  | 36    | 14    |
| Shawano  | 61    | 10    |
| Sheboygan  | 58    | 74    |
| Washington   | 87    | 74    |
| Waukesha   | 100   | 54    |
| Winnebago  | 92    | 37    |
| Total  | 1,268 | 1,060 |

The department recommends advancing this proposal to allow the use of rifles statewide. We have not identified a safety-related advantage to shotguns and there is no deer herd management purpose for this regulation. This proposal did not have popular support in 4 current shotgun-only counties where firearm hunting is allowed. However, an added consideration at this time is that regulations simplification has been an emphasis of the governor and Conservation Congress during the past year. The department answers many questions each year from people

who wonder if they can use high-powered rifles for other species outside of the firearm deer season (yes), if they can use muzzleloaders (yes), or if they can use high-powered rifle and other cartridges in handguns during the firearm deer season (yes). We have also observed a steady trend of one or two counties or portions of counties switching to rifles each year and think this trend will continue.

There is public interest, relayed to the department through the Conservation Congress Executive Council, in allowing the use of rifles for this fall's November nine-day season. The rule making timeline, which still requires legislative review and publication in the administrative register, may allow for a November 1, 2013 effective date. Because of this timeline, the deer hunting regulations pamphlet will not contain final information about the regulation. The department will publicize the results of this rules process in its pre-deer season public outreach efforts.

#### Modification Following Hearings - Tree Stand Use on Department Managed Lands

The proposal to allow the overnight placement of portable tree stands on department managed lands received 43% support and is not recommended for adoption. An observation is that this question in particular was a topic of thoughtful discussion at a number of county hearings.

#### Modification Following Hearings – Mink and Muskrat Trapping Seasons

Board Order WM-01-13 initially proposed that the mink and muskrat trapping seasons would open on the third Saturday in October and close on the Sunday nearest March 7 statewide except in the Mississippi River Zone, where the season opening date would not be modified.

The proposal to consolidate mink and muskrat trapping zones, which would have resulted in an earlier season opener in the south, was tabled by the board. It can still be considered in a separate board order or with other rulemaking, but it is set aside for now. This is a continuation of the age-old challenge of balancing rule simplification with the desire for locally tailored specific regulations.

#### Modification Following Hearings – Youth Hunters and Bong Rec. Area Pheasant Hunting Fee

The department is proposing a \$7.00 fee for pheasant hunters age 17 or younger which is a 40% reduction from the new regular cost of \$12.00.

Several people at local hearings gave verbal comments suggesting a lower fee for youth hunters. The department also heard this suggestion from attendees of a separate meeting at the recreation area where this fee increase was discussed. The suggestion was offered as a way to keep it easier for parents and mentors to take young people pheasant hunting.

The department agrees and this proposal is generally consistent with the fee structure for certain other hunting licenses and antlerless deer permits. The cost savings for other junior licenses varies by license or permit type (Conservation Patron, Sports, Gun Deer and Archery Deer, antlerless permits for 10 and 11 year olds) but averages 40%.

The proposal to increase the daily fee for pheasant hunting at Richard Bong State Recreation Area received strong support statewide, regionally, and locally. In Racine County hearing attendees supported the proposal by a vote of Ayes, 46; Noes, 34 and in Kenosha County by a vote of Ayes, 45; Noes, 31 and Walworth County voted Ayes, 37; Noes, 18

#### Appearances at the Public Hearing

Statewide attendance was 6,069.

#### 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.