

## **Report From Agency**

### REPORT TO LEGISLATURE

NR 11 & 15, Wis. Adm. Code

Board Order No. WM-24-18  
Clearinghouse Rule No. CR 19-090

#### Basis and Purpose of the Proposed Rule

The proposed rule addresses changes to the chapters of administrative code that regulate wildlife refuges and closed areas, chs. NR 11 and 15. These chapters have not been comprehensively reviewed in over thirty years and refuges and closed areas have been added or removed on an individual basis since then. Many of these refuges and closed area designations are primarily for the protection of migratory birds. Since the establishment of many of these designations, waterfowl numbers have increased, migration patterns and use of properties by migratory birds have changed. All of these factors together have necessitated a compressive review of chs. NR 11 and 15.

#### Summary of Public Comments

The Department received many written comments on the rule. The Wisconsin Waterfowl Association (WWA) supported the department's efforts to harmonize and simplify the refuge and closed area designations and agreed that private lands not managed by the DNR should not be designated as state refuge or closed area. The WWA encouraged the department to allow exemptions to the refuge system for learn-to-hunt or other education opportunities which have historically taken place on some properties and encouraged the department to revisit this rule on a routine schedule.

The Great Lakes Indian & Fish Wildlife Commission (GLIFWC) also submitted comments supporting the department's efforts to harmonize refuge and closed area restrictions and noted that there has been some confusion and inconsistency in the past. GLIFWC noted that these changes may not immediately impact tribal members exercising their treaty-reserved rights and indicated that the tribes will consider adopting some or all of these changes on a case-by-case basis.

Most of comments that were received were specific to a single refuge or closed area. For example, ninety-six individuals submitted an identical form letter opposing the removal of the Lake Closed Area located in White Lake in Waupaca County. This letter feared reducing the quality of waterfowl hunting should the closed area be removed. An additional written comment was received opposing the removal of this closed area.

Six individuals opposed the removal of the refuge on the Wilcox Lake Waterfowl Production Area in Waushara County. This property is fully owned and managed by the USFWS and is currently closed to hunting by USFWS rules. The concern was that removal of the state refuge could potentially allow hunting on the lake located within the property which is a state navigable waterway.

The Clark County Forest and Parks Department along with the Winx Club of Neillsville jointly requested that not all waterfowl closed area be eliminated since this would affect the Winx Flowage. This is a property located in Clark County that is owned by the county and not managed by the department.

One individual requested that the beaver/otter closed area on the Tiffany Wildlife area be removed so that trapping of beaver and otter could take place on this property.

#### Modifications Made

The department made one modification to the rule based on the comments received. The rule was edited to ensure that an exemption for learn-to-hunt activities would continue on properties regulated as refuges or closed areas v .

#### Appearances at the Public Hearing

The department held four public hearings at locations across the state. Hearing dates and locations included; July 29<sup>th</sup> at the Superior Public Library, July 30<sup>th</sup> at the Mead Wildlife Area Education and Visitor Center, August 1<sup>st</sup> at the Navarino Nature Center, and August 2<sup>nd</sup> at the Horicon Marsh Education and Visitor Center. No individuals attended the Superior and Mead public hearings, fifteen attended the hearing at Navarino and seven attended the Horicon hearing.

The individuals who chose to comment the Navarino public hearing were primarily concerned with how the new regulations would affect the education center since it is currently regulated as a waterfowl closed area and they hold many outdoor activities on the property. The concern was that moving to a no-entry refuge could make these activities more difficult to hold. After hearing the concerns about Navarino the department decided it would be more appropriate to designate the property an NR 45 closure since the need for the closure was primarily to protect people and not wildlife. The Green Bay Duck Hunters expressed concern regarding the learn to hunt that is held on the Sensiba property since the new no entry refuge designation wouldn't allow the hunt to continue. The department responded to this concern by adding in a general exception to any refuge that would allow a department approved learn to hunt to take place on any refuge. Other individuals commented that we shouldn't be protecting areas that are not good refuges and instead focusing on high-quality properties.

Of the seven people who attended the Horicon public hearing, only three chose to make an oral statement. One individual supported the department's efforts and was happy that the rules were being simplified. Another individual expressed concern that the existing refuges have gone into disrepair which is why they are being removed and that the refuges need to be managed better. Finally, one individual opposed the removal of the Lake Wilcox refuge.

#### Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or fiscal estimate through the public comment process. No public comments on the fiscal estimate were received.

#### Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on July 22, 2019. The LCRC provided comments on the statutory authority, the form, style and placement in administrative code and on clarity, grammar punctuation, and use of plain language. All suggested changes by LCRC were made to the rule.

#### Final Regulatory Flexibility Analysis

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. 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.