

The statement of scope for this rule, SS 028-21 was approved by the Governor on February 26, 2021 published in Register No. 783A2 on March 8, 2021, and approved by the Natural Resources Board on April 14, 2021. This rule was approved by the Governor on insert date.

## Clearinghouse Rule 21-078

### ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **amend** NR 10.01 (3) (a) 1., NR 10.13 (1) (b) 15., NR 10.24 (6) (d) and NR 45.09 (5) (intro) ; to **repeal and recreate** NR 10.01 (4) (a) and (d); and to **create** NR 10.39 relating to the 2021 Wildlife Management spring hearing rule related to hunting, trapping, and target shooting.

### WM-18-20

#### Analysis Prepared by the Department of Natural Resources

**1. Statute Interpreted:** In promulgating this rule, s. 29.014 has been interpreted as providing the department the authority to establish seasons and bag limits while ensuring public hunting and recreational opportunities.

In addition, s. 23.11 & 23.09(2)(d), Stats., grants the department the authority to regulate outdoor recreational use on state lands.

**2. Statutory Authority:** Statutes that authorize the promulgation of this rule order include ss. 29.014, 23.11, and 23.09, Stats.

**3. Explanation of Agency Authority:** 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.

The department is generally charged with the care, protection, and supervision of state lands by s. 23.11 Stats.

Under s. 23.09(2)(d), Stats., related to conservation, the department 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. These rules are necessary to preserve public opportunities to hunt with firearms on lands that have been acquired as areas where any citizen may hunt or trap.

**4. Related Statutes or Rules:** There are no currently active related administrative rules.

#### **5. Plain Language Analysis:**

SECTION 1 Changes the closing of the gray and fox squirrel hunting season so it ends on the same day of the cottontail rabbit season.

SECTIONS 2 AND 5 Creates a three-zone framework for mink and muskrats.

SECTION 3 Increases the time that cable restraints are allowed during regulated tapping seasons.

SECTION 4 Allows falconry to take place on the Richard Bong State Recreation Area after the 2 p.m. closure.

SECTION 6 Regulates shooting on DNR lands in Columbia County.

**6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:**

Federal regulations allow states to manage the wildlife 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.

**7. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:**

No preliminary public hearing was required on the Statement of Scope for this rule.

**8. Comparison with Similar 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 wild game and furbearer species that are established based on needs that are unique to that state's resources and public desires.

**9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:**

Currently, hunting season for gray and fox squirrels opens on the second Saturday of September and closes on January 31st. This regulation change would keep the original start date of the second Saturday in September but extend the season to be open through the last day of February. This proposal would potentially simplify the closing dates for small mammal hunting by synchronizing the season closure date of squirrels with the that of cottontail rabbits.

Falconry is a unique sport that has a low or no impact on other activities. Due to Bong's popular managed pheasant hunting program (8,770 average annual pheasant hunters from 2015- 19) and high number of falconers have stopped practicing their sport during legal hunting hours due to safety concerns of the falcons used. Due to the nature of pheasant hunting, falconry birds are at a high risk of being mistaken for pheasants while partaking in their sport. This rule will specifically allow falconry hunting on the Bong property after the 2p.m. hunting closure to ensure a safe continuation of the sport. At this time two hunting activities are allowed after 2p.m. (waterfowl and bow deer), this proposal would add falconry as a third.

In 2014, as part of a larger rule simplification effort, the department switched to a one zone, one opening day format for managing muskrat and mink. This resulted in earlier opening dates in the central and southern zones and a uniform end date (beginning on the Saturday nearest October 25 and continuing through the Sunday nearest March 7). Prior to this simplification, the department had managed mink and muskrats through multiple harvest zones. At one time, the muskrat and mink season framework included a north zone, central zone and south zone all having progressively later starting dates. Additionally, there were at least two local zones with later closing dates. There is a segment of the trapping community requesting a return to a three-zone (plus Mississippi) system and extend the spring season.

Currently, trappers cannot use cable restraints until December 1st. This rule would allow the use of cable restraints beginning on the dryland trapping opener (Saturday nearest October 17th) for bobcat, fox and

coyote. A study evaluated the use of cable restraints on dryland was conducted in Wisconsin from 2001-2002. Results of this study resulted in new regulations allowing the use of cable restraints on dryland from Dec 1<sup>st</sup> – Feb 15<sup>th</sup> for fox, coyote and bobcat. The start date of December 1<sup>st</sup> was chosen to avoid any incidents involving the new cable restraint and other hunting dogs in the months of October and November. A review of previous trap incident reports involving cable restraints has confirmed this tool is selective and doesn't pose a threat to domestic dogs.

Target shooting is unregulated on DNR owned lands unless these lands are in counties listed s. NR 45.09(5), Wis. Adm. Code. Prior to the opening of a public shooting range at the Mud Lake Wildlife Area in 2018, problems existed regarding target shooting on state lands in Columbia County, including littering and bullets ricocheting into inhabited areas. Local support was resistant to closing properties until a public range could be built. The state secured funding for a public range and the range has been open to the public since 2018. However, even after the opening of the new range, vandalism and littering is still taking place from individuals target shooting on nearby state lands. Closing the remainder of state-owned properties to target shooting would funnel those activities to the public range.

**10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:**

These rules, and the legislation which grants the department rule-making authority, do not have fiscal effects on the private sector or small businesses. No costs to the private sector or small businesses are associated with compliance to these rules.

**11. Effect on Small Business (initial regulatory flexibility analysis):** These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design standards are contained in the rule.

**12. Agency Contact Person:** Scott Karel, 101 South Webster Str., PO BOX 7921, Madison, WI 53707-7921. (608) 267-2452, [scottr.karel@wisconsin.gov](mailto:scottr.karel@wisconsin.gov).

**13. Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearings, by regular mail, or email to:

Scott Karel  
Department of Natural Resources  
P.O. Box 7921  
Madison, WI 53707  
[Scottr.karel@wisconsin.gov](mailto:Scottr.karel@wisconsin.gov)  
608-267-2452  
608-267-7857 (fax)

Comments may be submitted to the department contact person listed above or to [DNRAAdministrativeRulesComments@wisconsin.gov](mailto:DNRAAdministrativeRulesComments@wisconsin.gov) until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's website, at <https://dnr.wi.gov/calendar/hearings/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

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**RULE TEXT**

**SECTION 1. NR 10.01 (3) (a) 1. is amended to read:**

Kind of Animal and Locality	Open season (all dates inclusive)	Limit
<p><b>NR 10.01 (3) (a)</b> <i>Gray and fox squirrels</i></p> <p>1. In all counties of the state except in the parks listed in subd. 2.</p>	<p>Beginning on the Saturday nearest September 15 and continuing through <del>January 31</del> <u>the last day in February.</u></p>	<p>Daily bag (total of both species) 5; possession 15</p>

**SECTION 2. NR 10.01 (4) (a) and (d) are repealed and recreated to read:**

Kind of Animal and Locality	Open season (all dates inclusive)	Limit
<p><b>NR 10.01 (4) (a)</b> <i>Muskrat trapping.</i></p> <p>1. The Northern Zone as described in s. NR 10.39.</p> <p>2. The Central Zone as described in s. NR 10.39.</p>	<p>Beginning on November 1, if that date falls on Saturday, or on the first Saturday following November 1, whichever comes first, and continuing through March 15.</p> <p>Beginning on November 1, if that date falls on Saturday, or on the first Saturday following November 1, whichever comes first, and continuing through March 15.</p>	<p>None</p> <p>None</p>

<p>3. The Southern Zone as described in s. NR 10.39</p>	<p>Beginning on November 1, if that date falls on Saturday, or on the first Saturday following November 1, whichever comes first, and continuing through March 15.</p>	<p>None</p>
<p>4. The Mississippi River Zone as described in s. NR 10.39</p>	<p>Beginning on the second Monday in November and continuing through the Sunday nearest March 7.</p>	<p>None</p>
<p>(e) <i>Mink trapping.</i></p>		
<p>1. The Northern Zone as described in s. NR 10.39.</p>	<p>Concurrent with the muskrat season established in par. (a) 1.</p>	
<p>2. The Central Zone as described in s. NR 10.39.</p>	<p>Concurrent with the muskrat season established in par. (a) 2.</p>	<p>None</p>
<p>3. The Southern Zone as described in s. NR 10.39</p>	<p>Concurrent with the muskrat season established in par. (a) 3.</p>	<p>None</p>





**SECTION 6. NR 45.09 (5) (intro.) is amended to read:**

NR 45.09 (5) No person may discharge any firearm or air gun while within the exterior boundary of state-owned lands posted with department signs in Dane, Dodge, Columbia, Fond du Lac, Jefferson, Juneau, Kenosha, La Crosse, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha and Winnebago counties, or on state forest lands in the Kettle Moraine or Point Beach state forests, fish hatcheries, state parks, state recreation areas, state natural areas, from or across a state campground, picnic area or

other special use area designated by the department which is not open to hunting, or on state trails established on railroad grades, except as follows:

**SECTION 7. EFFECTIVE DATE.** This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

**SECTION 8. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

BY \_\_\_\_\_

For Preston D. Cole, Secretary