

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-10-18

Relating to: Marten protection closed areas (chs NR 10 and 11)

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

This will be a permanent rule.

2. Detailed description of the objective of the proposed rule:

This proposal would create a third Marten Protection Area (MPA) to include the Apostle Islands that are included in the Apostle Islands National Lakeshore. Foothold traps, with a pan tension device that would avoid incidental capture of marten and weasel boxes with a maximum 1 3/8" diameter entrance hole would be allowed in all of the MPAs. This rule will also give the department the flexibility to allow additional types of traps in a MPA that can be proven to not cause the incidental capture of marten.

Additional rule changes may be pursued which are reasonably related to those discussed here.

These rules may make additional updates such as correcting cross-reference citations, updating road names on maps, changes needed in order to update application forms, or revisions which are necessary for consistency with recently enacted legislation.

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:

Current rules establish a closed season for trapping any species of wild animals in certain areas of the state where the American (pine) marten are found, with certain exceptions. There are two American (pine) Marten Protection Areas and exceptions for certain type of traps which don't cause a danger to the marten. American marten have recently been confirmed on 7 Apostle Islands (Stockton, Cat, Manitou, Rocky, Otter, Bear and Outer). This proposal may establish a third MPA on those islands that are within the Apostle Islands National Lakeshore.

Current language allows cable restraints and box traps as the types of traps that can be used in dryland sets in an MPA. This proposal may include language that allows flexibility to add or remove trap types allowed in MPA's. Research has shown that weasel boxes with a hole opening of 1 3/8" or less will prevent entry of American marten. Records also indicate that dryland foothold traps, with mandatory pan tension devices, can be used within marten range without risk of incidental capture of marten. These changes would provide trappers additional opportunities while not jeopardizing the welfare of the marten.

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

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 promulgate rules related to trapping.

In addition, s. 29.053 (2) grants the department the ability to exercise its authority under s. 29.014 to establish open and closed seasons to the state as a whole, or for any specified county or part of a county.

The Apostle Islands National Lakeshore was authorized by an act of Congress on September 26, 1970 (Public Law 91-424). This act allowed hunting, fishing, and trapping within the borders of the lakeshore in accordance with the appropriate laws of the State of Wisconsin and the United States.

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 :

Trappers are the principal group that will be affected by this rulemaking. Part of the lakeshore is within the reservation of the Red Cliff Band of Lake Superior Chippewa. The remaining land areas are within territory that was ceded as part of the 1842 Treaty with the Ojibwe. Within this area, the Ojibwe reserved their rights to hunt and trap. These proposed rules will not affect existing tribal trapping rights.

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 located within their boundaries provided they do not conflict with regulations established in the Federal Register. In general, hunting and trapping within the Apostle Islands National Lakeshore follows state regulations. However, in some instances, there are specific restrictions set in place by the federal government. 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):

Based on our preliminary analysis, we do not anticipate an economic impact to individuals or groups. If there were to be any economic impact resulting from this rule, we anticipate that it would be very minimal. 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.

9. Anticipated number, month and locations of public hearings:

The Department anticipates holding one public hearings in the fall of 2018. The hearing city will likely be Minoqua.

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