

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT: Request that the board adopt Board Order WM-12-15, proposed rules modifying Ch. NR 10, 12, 15, 19 and 40 related to minor revisions of rules for hunting, trapping, refuges and closed areas, and invasive species.

FOR: December 2016 Board meeting

TO BE PRESENTED BY: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

Commonly referred to as the wildlife management housekeeping rule, these rules changes are proposed to correct inconsistencies, update outdated language, revise scientific and common name spellings, provide clarification when appropriate, and make other minor revisions. This rule package will amend regulations for hunting, trapping, possession of animals killed in motor vehicle accidents, gathering wild rice, invasive species, and wildlife refuges found in Ch's. NR 10, 12, 15, 19, and 40.

All of the policies in this rule are consistent with past board policies of regulating fish and game harvest and invasive species for conservation purposes and establishing closed areas for hunting.

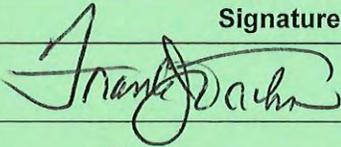
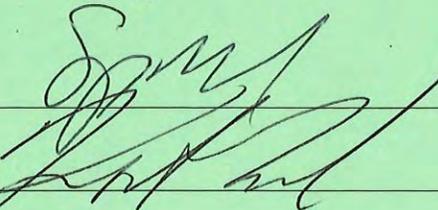
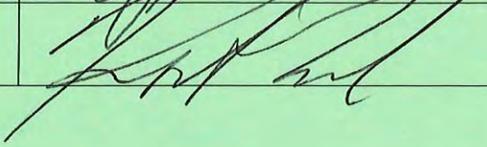
Hunters, trappers, recreational users of DNR lands, and motorists who are involved in collisions with wild animals are the principal groups that will be affected by this rulemaking. Any impacts will be very minor.

The department held one hearing in Madison on June 29. There were no public appearances.

RECOMMENDATION: That the board adopt Board Order WM-12-15, proposed rules modifying Ch. NR 10, 12, 15, 19 and 40 related to minor revisions of rules for hunting, trapping, refuges and closed areas, and invasive species.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- Background memo
- Scope statements
- Governor's approval of scope statements
-

Approved by	Signature	Date
Frank Trcka, Deputy Bureau Director		10-6-16
Sanjay Olson, ^{fwp} Land Division Administrator		10-7-16
Cathy Stepp, Secretary		11/8/16

DATE: October 4, 2016

TO: Natural Resources Board Members

FROM: Cathy Stepp

SUBJECT: Adoption of Board Order WM-12-15, modifications to Ch.'s NR 10, 12, 13, 15, 19 and 40, the 2015 Wildlife Management housekeeping rules package

I am requesting that the Natural Resources Board adopt Board Order WM-12-15, a housekeeping rules package modifying Ch.'s NR 10, 12, 13, 15, 19 and 40, Wis. Adm. Code.

These technical rule changes are minor and non-controversial in nature and can most effectively be handled through wildlife management's annual housekeeping rule package. The intent of these rule changes is to correct drafting errors, provide clarification to existing rules, simplify regulations and update administrative code language and references. Most policy issues affected by this rule are ones which have already been addressed by previous rulemaking.

Rule Summary:

Commonly referred to as the wildlife management housekeeping rule, these rules changes are proposed to correct inconsistencies, update outdated language, revise scientific and common name spellings, provide clarification when appropriate, and make other minor revisions. This rule package will amend regulations for hunting, trapping, possession of animals killed in motor vehicle accidents, gathering wild rice, invasive species, and wildlife refuges found in Ch.'s. NR 10, 12, 15, 19, and 40. Specifically, these rules would:

1. Repeal the definition of "blind" related to goose hunting in the former Horicon intensive management zone for Canada goose hunting. The Horicon intensive management zone has been repealed.
2. Replace the word "drowning" with "submersion" to better describe how that type of trap set functions.
3. Establish a definition of "culvert" because the term is used regularly in the chapter related to regulations for trap placement.
4. Repeal references to the Class B bear hunting license which was repealed by 2015 ACT 55.
5. Eliminate the reference to the material that a foothold trap is made out of so that modern traps made of polymer or other materials can be used, instead of just steel. This section also eliminates the definition of "unforked antler" because the term is not used in this chapter.
6. Repeal a reference to a firearm deer season occurring over the Christmas holiday period that is now extraneous because that season is an optional instead of an annual event.
7. Clarify that illegal possession of a protected animal includes possession of the animal's carcass.

8. Note that porcupines are an unprotected species. Porcupines are unprotected under current law and providing that information in this location will reduce the number of questions to staff and make the code more useful.
9. Clarify that modern archery gear used normally for hunting will not cause a person to be in violation of the prohibition of marking and releasing wild animals.
10. Modernize language related to pheasant hunting at the Bong State Recreation Area to reflect elimination of arm bands that hunters were required to wear in the past and the switch to a daily permit that hunters are currently required to possess.
11. Relax regulations for dove hunting in the special use zone at Bong State Recreation Area. Hunters would be required to be within 25 feet, instead of 10, from assigned blind locations. This provision would also allow four people to hunt from a location instead of three.
12. Allow up to ten people to apply as a group for turkey hunting permits instead of just four under current rules.
13. Replace the word “zone” with “unit” which is the preferred terminology for the old deer management unit map that was preserved for continuity of reporting sharp-tailed grouse, fisher, and bear harvest. The proposal also clarifies, in the turkey hunting zone map, that Chambers Island is included with Door County as part of zone 2 instead of zone 5.
14. Clarify that all for-fee hunting is illegal related to department issued shooting permits.
15. Remove an outdated reference to seasons for hunting deer with shotguns only.
16. Remove a reference to the prohibition of discharging firearms on the day before the traditional nine-day firearm deer hunting season because the prohibition was repealed by previous rulemaking.
17. Eliminate a game refuge at Columbia County Indian Agency House. These are not department owned lands and there is no purpose for this refuge to be established by the department.
18. Eliminate date-regulation authority on Noquebay Lake in Marinette County so that the department does not need to inspect the rice for ripeness or publicize when harvest is allowed. Current rules establish a number of date-regulated lakes in northern Wisconsin which have been jointly agreed upon by the Department and the Great Lakes Indian Fish and Wildlife Commission, however, Noquebay Lake is outside of the ceded territory.
19. Repeal regulations for tagging the carcasses of wild animals, birds and fish taken on Indian reservations because 2013 ACT 85 has established statutory requirements for the transportation in Wisconsin of game taken in another state or on Indian land.
20. Repeal most requirements for taking possession of car killed deer, and acknowledges that car-killed turkey and bear can be taken in to possession, for consistency with 2015 ACT 55.

21. Update scientific and common names and permanently add bracketed counties that were inadvertently omitted from the list of restricted counties in the new chapter of rules related to invasive species. The common name of *Amyntas* species is changed from crazy worm to jumping worm to reflect current naming conventions. The scientific name spelling of Woodland forget-me-not is changed from *Myosotis sylvaticum* to the accepted name *Myosotis sylvatica*. Three invasive species (Poison hemlock, Wild chervil, and European marsh thistle) have bracketed counties that are permanently added to the list of restricted counties under their prohibited county lists.

Background:

All of the policies in this rule are consistent with past board policies of regulating fish and game harvest for conservation purposes.

All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest and invasive species for conservation purposes and establishing closed areas for hunting.

Recent trap designs include ones with jaws constructed of polymers and these new trap types have passed humane trap standard evaluations. As polymer trap designs become available, this proposed rule would allow their legal use. The change to a more realistic description of "foothold" instead of "steel jaw" would also better describe how the devices are designed to work, by just holding the animal.

By applying as a group, turkey permit applicants can assure that all members of a hunting party will draw tags that are for the same time period and hunting zone. Currently, a maximum of four hunters are allowed to submit a group application for the spring and fall wild turkey hunting seasons. This proposal would increase the limit on the number of participants in the group to ten hunters. This would reduce the number of complaints received by department staff that the current group application cap does not allow all members of an intended hunting party to apply together as a group.

The use of electronic calls is currently illegal for turkey hunting. There is an exception which allows the use of electronic calls by people who possess permits for hunters with mobility-related disabilities. These rules would expand the exception so that electronic calls could also be used by people who are deaf.

Dove hunters at the Richard Bong State Recreation Area are currently required to hunt at numbered blinds and must remain within 10 feet of the blind while hunting in order to manage the hunting pressure at that location. These rules would establish that hunters need to remain 25 feet from their blind, which the department has observed is more practical. There have been no hunting accidents during this manage hunt. Additionally, minor updates to pheasant hunting permit requirements are made.

Under current rules, it is illegal for the holder of agricultural damage shooting permit tags to charge any type of fee of people who receive the tags. The Department has learned of individuals, other than the permittee, charging fees for guiding services on agriculture damage permits or selling agriculture damage tags to other participants. This proposal would clarify that it is illegal for anyone to charge a fee for hunting in agricultural damage shooting permit situations.

Under 2011 Act 251 ss. 4, 10 to 15 changes were made to the car-killed deer statute to include bear and turkeys. In the future, the department may also change to tags or permits that can be printed from law enforcement vehicle computers but those tags may not be durable enough if they must be attached to the carcass. These changes will make administrative rules consistent with changes made by Act 251 and provide more efficient issuance of tags or permits in the field. This proposal may also save on the cost of printing special durable,

three-ply carcass tags that have to be distributed statewide to all law enforcement agencies and to more efficiently make future modifications to permits.

The National Society for the Colonial Dames of America in the State of Wisconsin owns a small property in Columbia County which is called the Old Indian Agency House. It is designated as a game refuge under department rules and the owners have requested that the property be undesignated. The initial purpose for a number of the refuges established in this Ch. NR 15 is unknown. The only practical benefit to a refuge owner may be that department law enforcement staff could take enforcement action against someone who is hunting on the property. However, where these properties are privately owned, enforcement of trespassing laws by local police may be a more practical way to prevent hunting if the owner does not allow it.

Current rules establish a number of date-regulated lakes in northern Wisconsin which have been jointly agreed upon by the Department and the Great Lakes Indian Fish and Wildlife Commission. On these lakes, state officials inspect the rice crop, post signs at access points, and coordinate public notice of when the rice crop may be harvested. All of these lakes, except Noquebay Lake in Marinette County, are within the ceded territory of Northern Wisconsin. Allowing rice harvest on Noquebay Lake does not require approval or consultation with the Voigt Task Force, or the Ojibwe tribes because this is outside of the ceded territory. This proposal would eliminate date-regulation authority on this body of water so that the department does not need to inspect the rice for ripeness or publicize when harvest is allowed.

The proposed rule edits the invasive species list to make minor name corrections and to correct county listing inconsistencies which were identified late in the department's recent extensive rulemaking process, which became effective May 1, 2015.

This rule repeals a section of code that established regulations for tagging the carcasses of wild animals, birds and fish taken on Indian reservations. This language is no longer needed with the passage of 2013 ACT 85 which established statutory requirements for the transportation in this state of game taken in another state or on Indian land.

Public Participation

A hearing was held on June 29, 2016 at the State Natural Resources Office Building, GEF-2, in Madison. No one attended the hearing.

Legislative Council Rules Clearinghouse Report and Modifications after hearings

The Legislative Council Rules Clearinghouse made suggestions related to form and placement in administrative code and style. The report is attached as part of this green sheet package. The department made all of the suggested changes.

Changes to Existing Policy

All of the policies in this rule are consistent with past board policies of regulating fish and game harvest for conservation purposes and regulating the possession of captive wildlife to assure adequate care and treatment, the safety of people and other animals, and to prevent introduction/escape to the wild.

Previous Board Action

The statement of scope for this rule, SS 066-15, was approved by the Governor on August 3, 2015, published in Register No. 716A2 on August 10, 2015 and approved by the Natural Resources Board on October 28, 2015.

Rule Development:

These rules were developed with assistance from the bureaus of Law Enforcement, Legal Services, Science Services, and Customer Service & Licensing.

Small Business and 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.

Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.24 (3m).

Environmental Analysis:

The rulemaking process for Board Order WM-12-15 constitutes an equivalent analysis action, under the current s. NR 150.20 (2) (b), Wis. Adm. Code and additional environmental analysis is not required.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Ch.'s NR 10 Game and Hunting, NR 12 Wildlife Damage and Nuisance Control, NR 13 Chippewa Treaty Participants, NR 15 Game Refuges, NR 16 Captive Wildlife, and NR 19 Miscellaneous Fur, Fish, Game and Outdoor Recreation.

3. Subject

Wildlife management rules relating to hunting, trapping, closed areas, nuisance wildlife management, removal of car-killed animals, and invasive species.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

These rule changes are proposed to update administrative code language to correct inconsistencies, update outdated language, and provide clarification when appropriate. The proposed changes are primarily remedial in nature. This rule package will amend regulations for hunting, trapping, game refuges, nuisance wildlife management, removal of car-killed animals, and invasive species found in Ch.'s. NR 10, 12, 13, 15, 16, 19 and 40.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

Pursuant to the Governor's Executive Order 50, Section II, this is a level 3 economic impact analysis. A notice for solicitation of comments on this analysis was posted on the department's website for review by businesses, sectors, governmental units, and individuals beginning on June 2 and continuing through June 20. No comments were received.

11. Identify the local governmental units that participated in the development of this EIA.

Pursuant to the Governor's Executive Order 50, Section II, this is a level 3 economic impact analysis. A notice for solicitation of comments on this analysis was posted on the department's website for review by local governmental units, and individuals beginning on June 2 and continuing through June 20. No comments were received.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

These rules, and the legislation which grants the department rule making authority, do not have a 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.

These rules primarily remedial in nature are not expected to significantly affect currently available outdoor opportunities and would have no impacts to the economic activities of hunters, trappers, or outdoor recreation enthusiasts are expected.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

These proposals will generally contribute to providing good opportunities for hunting and trapping and maintenance of the economic activity generated by people who participate in those activities.

14. Long Range Implications of Implementing the Rule

The long range implications of this rule proposal will be the same as the short term impacts. These proposals will generally contribute to providing good opportunities for hunting and trapping and maintenance of the economic activity generated by people who participate in those activities.

15. Compare With Approaches Being Used by Federal Government

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.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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.

17. Contact Name

Scott Loomans, Wildlife Regulations Policy Specialist

18. Contact Phone Number

608-267-2452

This document can be made available in alternate formats to individuals with disabilities upon request.

SECTION 1053k. 29.184 (3m) of the statutes is amended to read:

29.184 (3m) **OPEN SEASON REQUIREMENTS.** If the department establishes an open season that includes a period during which a Class A bear license holder is allowed to hunt bear with the use of a dog, the department shall allow a Class B bear license holder person to engage in the activities specified in sub. (3) (br) 3. during that period.

SECTION 1053L. 29.184 (4) (a) (intro.) of the statutes is amended to read:

29.184 (4) (a) (intro.) Except at facilities and specified property locations where prohibited by s. NR 45.06, Wis. Adm. Code, a person may engage in the training of a dog as authorized under sub. (3) (~~bg~~) or (br) without keeping it on a leash during the period from July 1st through August 31st if all of the following apply:

SECTION 1053m. 29.184 (4) (a) 2. of the statutes is amended to read:

29.184 (4) (a) 2. The person holds a Class A ~~or Class B~~ bear license issued under this section or is ~~exempt from holding such a license~~ authorized under sub. (5) (3) (br) to engage in the training of a dog without holding a license.

SECTION 1053n. 29.184 (5) of the statutes is repealed.

SECTION 1053p. 29.184 (6) (a) of the statutes is amended to read:

29.184 (6) (a) *Application.* A person who seeks a Class A ~~or Class B~~ bear hunting license shall apply to the department.

SECTION 1053q. 29.184 (6) (c) 2. of the statutes is repealed.

SECTION 1053r. 29.347 (2m) (a) of the statutes is amended to read:

29.347 (2m) (a) A carcass tag attached under sub. (2) and a registration tag attached by the department ~~or a ear kill tag attached under s. 29.349 (2)~~ may be removed from a gutted carcass at the time of butchering, but the person who killed or obtained the animal shall retain all tags until the meat is consumed.

SECTION 1053s. 29.347 (2m) (b) of the statutes is amended to read:

29.347 (2m) (b) Subject to sub. (6), any person who retains a tag under par. (a) or who complies with s. 29.349 (2) (bm), if applicable, may give deer or elk meat to another person. The person who receives the gift of deer or elk meat is not required to possess a tag.

SECTION 1053t. 29.347 (3) (b) of the statutes is amended to read:

29.347 (3) (b) No person may possess or control deer or elk antlers in the velvet or a deer or an elk skin in the spotted coat of a lawfully killed deer or elk unless the person to whom the carcass tag for the deer or elk was issued, or the person who ~~had the deer tagged under~~ notified the department that he or she was taking possession of a deer

under s. 29.349 (2) (bm), has requested and received authorization from the department to control or possess the antlers or skin. A request for written authorization from the department shall be made within 7 days after the carcass tag has been attached to the deer or elk or within 7 days after notification of the possession has been given to the department under s. 29.349 (2) (bm), if applicable.

SECTION 1053u. 29.349 (2) (b) (intro.) of the statutes is amended to read:

29.349 (2) (b) (intro.) No person may take possession of the carcass of a bear, deer, or wild turkey killed in the manner specified in par. (a) and remove the carcass from the scene of the accident unless ~~the person has complied with rules promulgated by the department under s. 29.063 (3)~~ and one of the following apply:

SECTION 1053v. 29.349 (2) (bm) of the statutes is created to read:

29.349 (2) (bm) No person may take possession of the carcass of a deer killed in the manner specified in par. (a) and remove the carcass from the scene of the accident unless the person has complied with rules promulgated by the department under s. 29.063 (3) and has, prior to taking possession of the carcass, notified the department in a manner prescribed by the department of the name and address of the person taking possession of the carcass and the location of the carcass.

SECTION 1053y. 29.349 (4) of the statutes is created to read:

29.349 (4) The department shall establish a program for the removal and disposal of deer killed by vehicles on state trunk highways.

SECTION 1053z. 29.354 (1) of the statutes is amended to read:

29.354 (1) **APPROVAL NECESSARY.** No person may possess or have under his or her control any game bird or game animal or the carcass of any game bird or game animal unless the person has a valid hunting license, sports license, conservation patron license, taxidermist permit, or scientific collector permit. This subsection does not apply to a person who takes possession of a bear, deer, or wild turkey under s. 29.349 (2) (a) and who complies with the requirements under s. 29.349 (2) (b) or (bm), as applicable.

SECTION 1055. 29.541 (1) (a) (intro.) of the statutes is amended to read:

29.541 (1) (a) (intro.) Except as authorized under s. 29.934 (2) or ~~254.715~~ 97.305, no innkeeper, manager or steward of any restaurant, club, hotel, boarding house, tavern, logging camp or mining camp may sell, barter, serve or give, or cause to be sold, bartered, served or given, to its guests or boarders any of the following:

SECTION 1055d. 29.563 (2) (a) 7. of the statutes is repealed.

SECTION 1055f. 29.563 (2) (b) 5. of the statutes is repealed.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 16-037

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

- a. In the enumeration of provisions treated by the proposed rule, it is unnecessary to separately refer to the amendment of s. NR 10.001 (8m), as the provision is already referenced as renumbered and amended. Additionally, the enumeration of provisions treated by the proposed rule refers to a “4” following reference to amendment of s. NR 12.10 (3) (d). There does not appear to be a corresponding treatment in the rule text.
- b. In the relating clause of SECTIONS 11 and 21, “(Intro.)” should be changed to “(intro.)”.
- c. In SECTION 19, the treatment clause should include the amendment of s. NR 10.24 (10)
- (b). This treatment should also be included in the enumeration of provisions treated by the proposed rule.
- d. In the relating clause of SECTION 20, “And” should be changed to “and”.
- e. In s. NR 19.12 (1) (d), periods should be added after “1m” and “2”.
- f. In s. NR 19.13 (1) and (Note 1), the notation “, Stats.” should be added after “s. 29.349” and “s. 29.001 (18)”. In addition, the second and third Notes contain substantive requirements that should be included in the text of the rule, rather than in Notes. [s. 1.09 (1), Manual.] In the first Note, it would be helpful to include the text of the statutory definition of “carcass”.

5. Clarity, Grammar, Punctuation and Use of Plain Language

In s. NR 10.285 (intro.), the period should be changed to a colon.

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

The statement of scope for this rule, SS 066-15, was approved by the Governor on August 3, 2015, published in Register No. 716A2 on August 10, 2015 and approved by the Natural Resources Board on October 28, 2015. This permanent rule was approved by the Governor on _____.

The Wisconsin Natural Resources Board proposes an order to repeal Ch. NR 10.001 (3s), (8e), (25k) and (27), 10.01 (3) (e) 2. d., 10.102 (5), 10.24 (3) (g), 12.16 (8) (c), 13.30 (2) (i) 6. and (Note), NR 15.01 (4), 19.09 (4) (f), 40.05 (2) (b) 3. (Note), 13. (Note), and 14. (Note); to renumber and amend NR 10.001 (8m); to amend NR 10.001 (5p), (5v), (18m), 10.02 (Intro.), 10.04 (1), 10.07 (1) (k), 10.13 (3) (c) 1. and 2., 10.24 (7) (a), and (10) (a) and (b), 10.25 (1) (c) 3. and (4) (b), 10.285 (Intro.), 12.10 (3) (d), 19.12 (1) (d), 40.05 (2) (b) 3., 13., 14., 33s. and (e) 2.; to repeal and recreate NR 10.24 (7) (b), 10.29 and 19.13, ; and to create NR 10.001 (6b) and (12m), wildlife management rules making remedial revisions to regulations for hunting, trapping, closed areas, nuisance wildlife management, removal of car-killed deer, and invasive species.

WM-12-15

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: 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 make changes related to trapping regulations and turkey hunting regulations or permit applications. This grant of rule-making authority also allows rulemaking which establishes the disposition of wild animals killed in vehicle accidents with additional direction provided in s. 29.349 related to animals killed by motor vehicles.

Additional statutory authority relating to the issuance of turkey hunting permits is found in s. 29.164 which establishes that the department may regulate and limit the hunting of wild turkeys by issuing licenses.

The wildlife damage abatement and claims program is established in s. 29.889 and rule making is specifically authorized under subsection paragraph (2) (b) which directs the department to establish rules for eligibility under the program.

The department’s authority to regulate the harvest of wild rice is established in s. 29.607 related to wild rice. This statute establishes department powers and requires that the department obtain the advice and consent of the tribal council before promulgating any rules governing the harvest, use and disposition of wild rice growing within the bounds of an Indian reservation.

The establishment of game refuges is authorized in s. 23.09 (2) (b) relating to the department’s ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

The department's authority to classify and regulate invasive species is established s. 23.22 and rule making is specifically authorized under subsection paragraphs (2) (a) and (b), which directs the department to establish rules to identify, classify, and control invasive species.

Statutes Interpreted and Explanation: 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 make changes related to trapping regulations and turkey hunting regulations or permit applications. This grant of rule-making authority also allows rulemaking which establishes the disposition of wild animals killed in vehicle accidents with additional direction provided in s. 29.349 related to animals killed by motor vehicles.

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The establishment of game refuges is authorized in s. 23.09 (2) (b) relating to the department's ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

The department's authority to classify and regulate invasive species is established s. 23.22 and rule making is specifically authorized under subsection paragraphs (2) (a) and (b), which directs the department to establish rules to identify, classify, and control invasive species.

Related Statute or Rule: The department is currently modifying the maximum dimensions of colony traps used for muskrats in Board Order WM-04-13. This rule modifies the same provision in NR 10.001 (3s) to replace the word "drowning" with "submersion". In the treatment clause of this board order the section is referred to by the words "as affected" and the proposed trap dimensions in WM-04-13 are used.

This proposal repeals references to the Class B bear license and most requirements for taking possession of car killed deer, and acknowledges that car-killed turkey and bear can be taken in to possession, for consistency with 2015 ACT 55.

Plain Language Rule Analysis: These rule changes are proposed to update administrative code language to correct inconsistencies, update outdated language, and provide clarification when appropriate. This rule package will amend regulations for hunting, trapping, closed areas, nuisance wildlife management, removal of car-killed deer, and invasive species.

SECTION 1 repeals the definition of "blind" related to goose hunting in the former Horicon intensive management zone for Canada goose hunting. The Horicon intensive management zone has been repealed.

SECTIONS 2, 3, 6, 8 and 15 replace the word “drowning” with “submersion” to better describe how that type of trap set functions.

SECTION 4 establishes a definition of “culvert” because the term is used regularly in the chapter related to regulations for trap placement.

SECTIONS 5 and 14 repeal references to the Class B bear hunting license which was repealed by 2015 ACT 55.

SECTIONS 7 and 9 eliminate the reference to the material that a foothold trap is made out of so that modern traps made of polymer or other materials can be used, instead of just steel. Section 9 also eliminates the definition of “unforked antler” because the term is not used in this chapter.

SECTION 10 repeals a reference to a firearm deer season occurring over the Christmas holiday period that is now extraneous because that season is an optional instead of an annual event.

SECTION 11 clarifies that illegal possession of a protected animal includes possession of the animal’s carcass.

SECTION 12 notes that porcupines are an unprotected species. Porcupines are unprotected under current law and providing that information in this location will reduce the number of questions to staff and make the code more useful.

SECTION 13 clarifies that modern archery gear used normally for hunting will not cause a person to be in violation of the prohibition of marking and releasing wild animals.

SECTIONS 16, 17 and 18 modernize language related to pheasant hunting at the Bong State Recreation Area to reflect elimination of arm bands that hunters were required to wear in the past and the switch to a daily permit that hunters are currently required to possess.

SECTION 19 relaxes regulations for dove hunting in the special use zone at Bong State Recreation Area. Hunters would be required to be within 25 feet, instead of 10, from assigned blind locations. This provision would also allow four people to hunt from a location instead of three.

SECTION 20 allows up to ten people to apply as a group for turkey hunting permits instead of just four under current rules.

SECTION 21 replaces the word “zone” with “unit” which is the preferred terminology for the old deer management unit map that was preserved for continuity of reporting sharp-tailed grouse, fisher, and bear harvest.

SECTION 22 clarifies, in the turkey hunting zone map, that Chambers Island is included with Door County as part of zone 2 instead of zone 5.

SECTION 23 clarifies that all for-fee hunting is illegal related to department issued shooting permits.

SECTION 24 removes an outdated reference to seasons for hunting deer with shotguns only.

SECTION 25 removes a reference to the prohibition of discharging firearms on the day before the traditional nine-day firearm deer hunting season because the prohibition was repealed by previous rulemaking.

SECTION 26 eliminates a game refuge at Columbia County Indian Agency House. These are not department owned lands and there is no purpose for this refuge to be established by the department.

SECTION 27 eliminates date-regulation authority on Noquebay Lake in Marinette County so that the department does not need to inspect the rice for ripeness or publicize when harvest is allowed. Current rules establish a number of date-regulated lakes in northern Wisconsin which have been jointly agreed upon by the Department and the Great Lakes Indian Fish and Wildlife Commission, however, Noquebay Lake is outside of the ceded territory.

SECTION 28 repeals regulations for tagging the carcasses of wild animals, birds and fish taken on Indian reservations because 2013 ACT 85 has established statutory requirements for the transportation in Wisconsin of game taken in another state or on Indian land.

SECTION 29 repeals most requirements for taking possession of car killed deer, and acknowledges that car-killed turkey and bear can be taken in to possession, for consistency with 2015 ACT 55.

SECTIONS 30 to 36 update scientific and common names and permanently add bracketed counties that were inadvertently omitted from the list of restricted counties in the new chapter of rules related to invasive species. The common name of *Amyntas* species is changed from crazy worm to jumping worm to reflect current naming conventions. The scientific name spelling of Woodland forget-me-not is changed from *Myosotis sylvaticum* to the accepted name *Myosotis sylvatica*. Three invasive species (Poison hemlock, Wild chervil, and European marsh thistle) have bracketed counties that are permanently added to the list of restricted counties under their prohibited county lists.

Federal Regulatory Analysis: 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.

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

Summary of Factual Data and Analytical Methodologies: All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest and invasive species for conservation purposes and establishing closed areas for hunting.

Recent trap designs include ones with jaws constructed of polymers and these new trap types have passed humane trap standard evaluations. As polymer trap designs become available, this proposed rule would allow their legal use. The change to a more realistic description of "foothold" instead of "steel jaw" would also better describe how the devices are designed to work, by just holding the animal.

By applying as a group, turkey permit applicants can assure that all members of a hunting party will draw tags that are for the same time period and hunting zone. Currently, a maximum of four hunters are allowed to submit a group application for the spring and fall wild turkey hunting seasons. This proposal would increase the limit on the number of participants in the group to ten hunters. This would reduce the number of complaints received by department staff that the current group application cap does not allow all members of an intended hunting party to apply together as a group.

The use of electronic calls is currently illegal for turkey hunting. There is an exception which allows the use of electronic calls by people who possess permits for hunters with mobility-related disabilities. These rules would expand the exception so that electronic calls could also be used by people who are deaf. Dove hunters at the Richard Bong State Recreation Area are currently required to hunt at numbered blinds and must remain within 10 feet of the blind while hunting in order to manage the hunting pressure at that location. These rules would establish that hunters need to remain 25 feet from their blind, which the department has observed is more practical. There have been no hunting accidents during this managed hunt. Additionally, minor updates to pheasant hunting permit requirements are made.

Under current rules, it is illegal for the holder of agricultural damage shooting permit tags to charge any type of fee of people who receive the tags. The Department has learned of individuals, other than the permittee, charging fees for guiding services on agriculture damage permits or selling agriculture damage tags to other participants. This proposal would clarify that it is illegal for anyone to charge a fee for hunting in agricultural damage shooting permit situations.

Under 2011 Act 251 ss. 4, 10 to 15 changes were made to the car-killed deer statute to include bear and turkeys. In the future, the department may also change to tags or permits that can be printed from law enforcement vehicle computers but those tags may not be durable enough if they must be attached to the carcass. These changes will make administrative rules consistent with changes made by Act 251 and provide more efficient issuance of tags or permits in the field. This proposal may also save on the cost of printing special durable, three-ply carcass tags that have to be distributed statewide to all law enforcement agencies and to more efficiently make future modifications to permits.

The National Society for the Colonial Dames of America in the State of Wisconsin owns a small property in Columbia County which is called the Old Indian Agency House. It is designated as a game refuge under department rules and the owners have requested that the property be undesignated. The initial purpose for a number of the refuges established in this Ch. NR 15 is unknown. The only practical benefit to a refuge owner may be that department law enforcement staff could take enforcement action against someone who is hunting on the property. However, where these properties are privately owned, enforcement of trespassing laws by local police may be a more practical way to prevent hunting if the owner does not allow it.

Current rules establish a number of date-regulated lakes in northern Wisconsin which have been jointly agreed upon by the Department and the Great Lakes Indian Fish and Wildlife Commission. On these lakes, state officials inspect the rice crop, post signs at access points, and coordinate public notice of when the rice crop may be harvested. All of these lakes, except Noquebay Lake in Marinette County, are within the ceded territory of Northern Wisconsin. Allowing rice harvest on Noquebay Lake does not require approval or consultation with the Voigt Task Force, or the Ojibwe tribes because this is outside of the ceded territory. This proposal would eliminate date-regulation authority on this body of water so that the department does not need to inspect the rice for ripeness or publicize when harvest is allowed.

The proposed rule edits the invasive species list to make minor name corrections and to correct county listing inconsistencies which were identified late in the department's recent extensive rulemaking process, which became effective May 1, 2015.

This rule repeals a section of code that established regulations for tagging the carcasses of wild animals, birds and fish taken on Indian reservations. This language is no longer needed with the passage of 2013 ACT 85 which established statutory requirements for the transportation in this state of game taken in another state or on Indian land.

Anticipated Private Sector Costs and Economic Impact of Implementing the Rule: 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.

The proposed rule changes are not expected to significantly influence the spending activities or hunting and trapping activity of hunters, trappers, dog trainers, or other outdoor enthusiasts. Correspondingly, no related economic impacts are anticipated.

Effects on Small Business: 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.

Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.24 (3m).

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Comment Period: The department accepted comments on this rule through June 29, 2016.

SECTION 1. NR 10.001 (3s) is repealed.

SECTION 2. NR 10.001 (5p) is amended to read:

NR 10.001 (5p) "~~Capable of drowning submersing~~" means a set designed to allow the trapped animal to travel to water of sufficient depth to cause ~~drowning irreversible complete submersion~~. ~~Slide wires or poles, locking devices, slip chains, weighted traps and traps staked in deep water are commonly used in drowning sets.~~

SECTION 3. NR 10.001 (5v), as affected by WM-04-13, is amended to read:

NR 10.001 (5v) "Colony trap" means an enclosure device designed to allow the capture of one or more fur-bearing animals in a single setting as a ~~drowning submersion~~ set. Entrance to the device is gained by one or more one-way entrances with overall dimensions of the trap not to exceed 6.5 inches in width, 6.5 inches in height and 36.5 inches in length.

SECTION 4. NR 10.001 (6b) is created to read:

NR 10.001 (6b) "Culvert" means a pipe, tube or conduit no greater than 4 feet in width or diameter that allows the passage of water under a public or private roadway or driveway.

SECTION 5. NR 10.001 (8e) is repealed.

SECTION 6. NR 10.001 (8m) is renumbered and amended to read:

NR 10.001 (8m) (25L) "~~Drowning~~ Submersion set" means any trap set capable of capturing an animal and ~~drowning~~ capable of submersing the captured animal. Slide wires or poles, locking devices, slip chains, weighted traps and traps staked in deep water are commonly used in submersion sets. A body gripping trap is not a submersion set when more than one-half of the set trap is located above water.

SECTION 7. NR 10.001 (12m) is created to read:

NR 10.001 (12m) "Jawed trap" means a trap designed to catch an animal by the foot, but does not include enclosed trigger traps, cable restraints, or body gripping traps.

SECTION 8. NR 10.001 (18m) is amended to read:

NR 10.001 (18m) "~~Non-drowning~~ Non-submersion set" means any trap set that is capable of capturing an animal and not capable of ~~drowning~~ submersing the captured animal.

SECTION 9. NR 10.001 (25k) and (27) are repealed.

SECTION 10. NR 10.01 (3) (e) 2. d. is repealed.

SECTION 11. NR 10.02 (intro.) is amended to read:

NR 10.02 Protected wild animals. The following wild animals are designated protected. No person may take, attempt to take, transport or possess any protected wild animal or its carcass at any time unless expressly authorized by the department.

SECTION 12. NR 10.04 (1) is amended to read:

NR 10.04 (1) Opossum, porcupine, skunk, and weasel.

SECTION 13. NR 10.07 (1) (k) is amended to read:

NR 10.07 (1) (k) *Marking.* Capture and tag, collar or mark and release any game taken from the wild unless issued a permit by the department pursuant to s. NR 19.11, or as authorized under a federal migratory bird banding permit, or a license issued under s. 169.25, Stats. The normal uses of archery equipment for hunting such as lighted, reflective, or glowing nocks are not a violation of this paragraph.

SECTION 14. NR 10.102 (5) is repealed.

SECTION 15. NR 10.13 (3) (c) 1. and 2. are amended to read:

NR 10.13 (3) (c) 1. ~~Non-drowning~~ Non-submersion sets shall be tended at least once each day and any animal captured shall be removed from the set.

2. ~~Drowning~~ Submersion sets shall be tended within a 4-day period following the last tending of the set. Any animal captured shall be removed from the set. Water levels shall be monitored to ensure effective ~~drowning~~ submersion sets.

SECTION 16. NR 10.24 (3) (g) is repealed.

SECTION 17. NR 10.24 (7) (a) is amended to read:

NR 10.24 (7) (a) *Tagging Permit validation.* When a pheasant is killed and before it is carried by hand or transported in any manner, the hunter shall ~~completely attach to the bird's leg a carcass tag issued by the department~~ validate their daily pheasant hunting permit by slitting, tearing, or punching holes according to instructions on the permit. Failure to properly validate the permit renders any pheasant in the person's possession illegal.

SECTION 18. NR 10.24 (7) (b) is repealed and recreated to read:

(b) *Permit information.* No person may hunt pheasants unless they are in possession of a permit which bears the customer information number of the holder and the date of permit issuance.

SECTION 19. NR 10.24 (10) (a) and (b) are amended to read:

(10) (a) *Special use zone hunting post requirement.* Hunting shall be restricted to locations assigned by the department in a 300 acre area in the southeast part of the special use zone. In assigned locations, the hunter may assemble a blind using existing natural vegetation at the assigned site or use a portable blind. Individuals are required to hunt within ~~40~~ 25 feet of the assigned location. All portable blinds shall be removed at the end of the day.

(b) *Blind limitation.* No more than ~~3~~ 4 people may hunt from any location assigned by the department.

SECTION 20. NR 10.25 (1) (c) 3. and (4) (b) are amended to read:

NR 10.25 (1) (c) 3. If a maximum of ~~4~~ 10 persons wish to hunt together, each shall complete an application form for individual licenses. The group application shall be treated as one application for purposes of random selection or consideration for a license. Landowner preference may be requested by group applicants provided all individuals are eligible under par. (b).

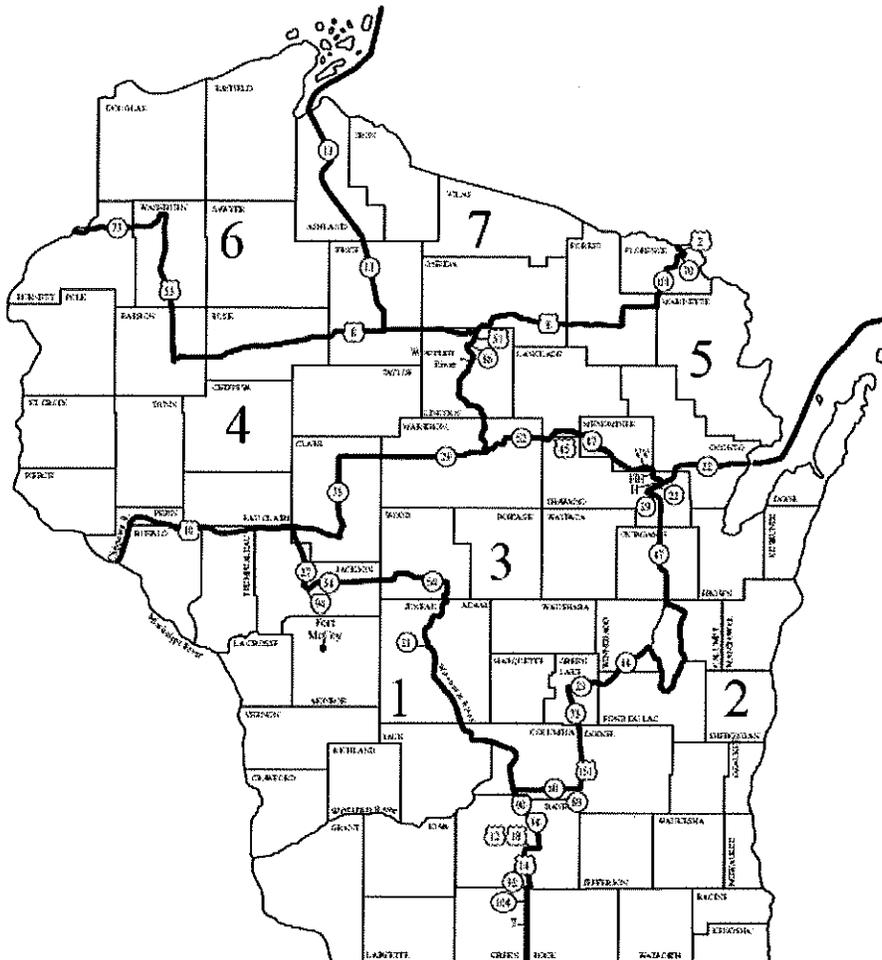
(4) (b) By the use or aid of recorded or electrically amplified bird calls or sounds or imitations thereof, or while in possession of any type of device that produces recorded or electronic amplifications of bird calls or sounds. This paragraph does not apply to hunters possessing a Class A or B disabled hunting permit which authorizes hunting from a stationary vehicle and which is issued for more than one year. This paragraph does not apply to hunters who are unable to proficiently use a turkey call because they are deaf or severely hard of hearing due to some pathological or functional cause as verified by a medical professional.

SECTION 21. NR 10.285 (intro.) is amended to read:

NR 10.285 Game management ~~zones~~ units:

SECTION 22. NR 10.29 is repealed and recreated to read:

NR 10.29 Wild turkey hunting zones.



SECTION 23. NR 12.10 (3) (d) is amended to read:

NR 12.10 (3) (d) *No fees.* The permittee, participant, or any other individual may not charge any form of fee to a participant. All permit materials, tags, and distribution of materials and tags are the responsibility of the permittee. Upon verification of fees being charged the department may revoke the removal permit and, if applicable, enforce penalties under s. NR 12.35 (4).

SECTION 24. NR 12.16 (8) (c) is repealed.

SECTION 25. NR 13.30 (2) (i) 6. and (Note) are repealed.

SECTION 26. NR 15.01 (4) is repealed.

SECTION 27. NR 19.09 (4) (f) is repealed.

SECTION 28. NR 19.12(1) (d) is amended to read:

~~NR 19.12(1) (d) If a Wisconsin tribe has a tagging and registration system similar to the department's and an approved memorandum of understanding with the department pertaining to the system, complies with the licensing and tagging requirements of s. 29.047 (1) (d) 1m. and 2., Stats., the tagging requirements under this section may be waived by the department. Tribal tags shall be validated and affixed to the carcass.~~

SECTION 29. NR 19.13 is repealed and recreated to read:

NR 19.13 Animals killed by motor vehicles.

(1) No person may possess the carcass of a wild animal killed by a motor vehicle except as authorized by the department or as authorized by s. 29.349 Stats.

(2) No person authorized to take possession of a carcass under sub. (1) may:

(a) Fail to immediately remove the entire carcass from the scene, or

(b) Selectively remove parts of the carcass from the scene.

(3) No person may deposit or dispose of the carcass of a wild animal killed by a motor vehicle on any land or property owned, under easement to, or lease by federal, state, county, or municipal government, including highway right-of-ways, except where such deposit or disposal is explicitly authorized using established solid waste disposal receptacles and facilities.

Note: The term "carcass" is defined in s. 29.001 (18) Stats. as the dead body of any wild animal, including any part of the wild animal or the eggs of the wild animal.

Note: This section prevents field dressing of animals killed by motor vehicles, within the highway right-of-way.

Note: This sub. does not prevent the movement of a carcass to the shoulder or ditch to maintain highway safety.

SECTION 30. NR 40.05 (2) (b) 3. is amended to read:

NR 40.05 (2) (b) 3. *Anthriscus sylvestris* (Wild chervil) in Adams, Barron, Chippewa, Crawford, Columbia, Dane, Dodge, Dunn, Fond du Lac, ~~{Grant,}~~ Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Polk, Racine, Richland, Rock, Sauk, Sheboygan, Taylor, Vernon, Walworth, Waukesha, and Washington counties

SECTION 31. NR 40.05 (2) (b) 3. (Note) is repealed.

SECTION 32. NR 40.05 (2) (b) 13. is amended to read:

NR 40.05 (2) (b) 13. *Cirsium palustre* (European marsh thistle) in Ashland, Bayfield, Chippewa, ~~{Clark,}~~ Clark, Door, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Rusk, Sawyer, Shawano, Taylor and Vilas counties

SECTION 33. NR 40.05 (2) (b) 13. (Note) is repealed.

SECTION 34. NR 40.05 (2) (b) 14. is amended to read:

NR 40.05 (2) (b) 14. *Conium maculatum* (Poison hemlock) in [~~Buffalo,~~] Buffalo, Crawford, Dane, Grant, Green, Iowa, Jefferson, Kenosha, [~~La Crosse,~~] La Crosse, Lafayette, Milwaukee, [~~Monroe,~~] Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, [~~Trempealeau,~~] [~~Vernon,~~] Trempealeau, Vernon, Walworth, and Waukesha counties

SECTION 35. NR 40.05 (2) (b) 14. (Note) is repealed.

SECTION 36. NR 40.05 (2) (b) 33s. and (e) 2. are amended to read:

NR 40.05 (2) (b) 33s. *Myosotis sylvaticum sylvatica* (Woodland forget-me-not)

(e) 2. *Amyntas* or *Amyntus* species (~~Crazy~~ Jumping worm)

SECTION 37. EFFECTIVE DATE. This rule shall take 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 38. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)