

SUBJECT: Request adoption of Board Order WM-02-10, the 2010 Wildlife Management housekeeping rules package

FOR: AUGUST, 2010 BOARD MEETING

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

SUMMARY:

Annually the department updates administrative code language to correct inconsistencies, update outdated language and provide clarification where appropriate. This year, the department recommends adopting the following changes:

- Update procedures for obtaining actual copies of hunting and fishing stamps.
- Update agency contact information and requirements for administration of the Wildlife Violator Compact Program.
- Clarify group hunting requirements related to the new mentored hunting law.
- Eliminate extraneous deer hunting season language and add a cross reference following a rule sunset.
- Eliminate the description of where hunting is allowed at Big Bay state park for consistency with other parks.
- Update a cross reference related to the hours when hunting is allowed.
- Clarify that, in addition to .410 shotguns, it is also illegal hunt deer or elk with .410 handguns.
- Update cross references related to deer registration deer carcass tags in the CWD zone.
- Clarify that enforcement action can be taken against a person who fails to report bobcat harvest as required.
- Repeal a redundant, unnecessary prohibition on hunting from a roadway specifically for wild turkeys.
- Clarify that assistants to disabled hunters need a license to use a firearm when aiding in retrieval of deer or turkey.
- Clarify which tag disabled hunters participating in special hunts may use to tag a deer of either sex.
- Clarifies that a federal permit for the removal of certain nuisance animals can serve as the state permit.
- Clarifies that deer may be shot under the authority of nuisance permits in CWD Zone on the day before regular season.
- Clarify that hunters under the authority of damage and nuisance permits can retain more than one deer.
- Clarifies that pen standards also apply to captive coyote, fox and rabbit when being transported & for health care.

RECOMMENDATION: Request adoption of Board Order WM-02-10, the 2010 Wildlife Management housekeeping rules package

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

Tom Hauge
Bureau Director, Tom Hauge, Wildlife Management

Laurie Osterndorf
Administrator, Laurie Osterndorf, Lands Division

Matt Frank
Secretary, Matt Frank

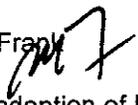
6/30/10
Date

7/13/10
Date

7-19-10
Date

DATE: July 19, 2010

TO: Natural Resources Board Members

FROM: Matthew Franz 

SUBJECT: Request adoption of Board Order WM-02-10, modifications to chs. NR 8, 10 and 12, the 2010 Wildlife Management housekeeping rule package

I am requesting adoption of WM-02-10, a housekeeping rule package pertaining to chapters NR 8, 10, 12 and 17, Wis. Adm. Code.

These technical rule changes are minor and non-controversial in nature. 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. The policy issues affected by this rule are ones which have already been addressed by previous rulemaking.

Rule Summary:

This year, the department is proposing the following changes related to license and permit procedures, game and hunting, wildlife damage and nuisance control and dog trials and training:

Sections 1 and 2 allow customers to request free hard copies of turkey, pheasant, trout, waterfowl, or salmon stamps through the phone, a designated county clerk's office, or any department office that provides counter service.

Sections 3 to 7 update agency contact information and requirements for administration of the Wildlife Violator Compact Program.

Section 8 clarifies that a person who may only hunt with a mentor, and the mentor with whom they are hunting, can group hunt for deer even though they are only allowed to possess or control one firearm jointly. The season must be open for both hunters, they must be hunting within arms reach of one another, and both must possess the proper licenses and permits. This is consistent with s. 29.324, Stats., related to group hunting and simplifies the explanation of how this law applies during a mentored hunt.

Sections 9, 11 and 12 eliminate extraneous deer hunting season language and add a cross reference to update language following the 2006 sunset of a two-year experiment with seasons that did not include October antlerless only deer hunts.

Sections 10 and 13 eliminate the description of where hunting is allowed at Big Bay state park because it is unnecessary and the only state park for which such language is established in code.

Section 14 updates a cross reference related to the hours when hunting is allowed.

Section 15 and 19 clarify that in addition to .410 shotguns, it is also illegal hunt deer, bear or elk with handguns which fire .410 shotgun slugs.

Sections 16 and 17 update cross references related to deer registration carcass tags in the CWD zone.

Section 18 clarifies that enforcement action can be taken against a person who fails to report bobcat harvest as required.

Section 20 repeals a redundant, unnecessary prohibition on hunting from a roadway specifically for wild turkeys.

Sections 21 and 23 clarify that when the assistant to a disabled hunter uses a firearm to aid in retrieval of a deer or turkey that has been shot by the disabled hunter, the assistant needs to possess a deer hunting license or any license that authorizes hunting when retrieving a turkey.

Section 22 clarifies that disabled hunters participating in special hunts may tag a deer of either sex with their gun buck carcass tag and additional antlerless deer if they possess valid tags for that unit.

Sections 24 through 26 move a provision to a more proper location in order to simplify reading language about the removal of nuisance animals.

Section 27 clarifies that a federal permit for the removal of certain nuisance animals can serve as the state permit in order to reduce paperwork. The state could still review permits.

Section 28 clarifies that deer may be shot under the authority of nuisance permits and the day before the opening of nine day gun season in the CWD Management Zone where other firearm hunting is also allowed on that day. Outside the CWD Management Zone, hunting with firearms for species other than waterfowl would continue to be prohibited.

Section 29 clarifies that hunters under the authority of damage and nuisance program permits can retain more than one deer when authorized by the department.

Section 30 clarifies that pen standards for captive coyote, fox and rabbit, possessed with a hound dog training license under Ch. NR 17, apply when being transported or for the purpose of health care or treatment and special handling needs. These standards already apply for animals possessed under the authority of Ch. NR 16 related to captive wildlife and to bear, bobcat and raccoon possessed under the authority of Ch. NR 17, dog trials and training.

Public Hearings and Written Comments

The department held a hearing in Madison on June 7, 2010 and there were no appearances.

The department received one written comment from Greg Wurz, Lake Mills. Mr. Wurz commented that the harvest of deer under nuisance permits should not be allowed on the day before the firearm deer season in the CWD Management zone.

Harvesting deer in this zone is currently allowed under s. NR 12.06 related to CWD management zone deer removal permits. Proposed rule language is intended to reduce confusion by restating that harvest is allowed in the CWD zone in the more general s. NR 12.10 related to authorization to remove wild animals causing damage or nuisance. A person who only reads s. NR 12.10 would not be aware that harvest is allowed on that day in the CWD Management zone. Because an actual change in the practices currently allowed practices under s. NR12.06 was not proposed in the draft rule, was not a topic of discussion at hearings, and may be of concern to hunters and landowners, and was not a topic of discussion, the requested change is beyond the scope of a housekeeping rule.

Mr. Wurz expressed other concerns related to hunting antlerless deer in October and the size of the CWD management zone. Modification of hunting seasons or management zones were not proposed in the draft rule, was not a topic of discussion at hearings, and are beyond the scope of a housekeeping rule.

Background:

Update procedures for obtaining actual copies of hunting and fishing stamps.

Turkey, waterfowl, pheasant, trout and great lakes stamp authority can be purchased at any ALIS vendor but the actual artwork must be picked up at a DNR Service Center under current rules. This proposal will allow county clerks to provide this service, authorizes telephone and internet service, and updates terminology to reflect the new organizational structure of the Customer Service & Licensing Bureau.

Update agency contact information and requirements for administration of the Wildlife Violator Compact Program.

These updates to code language have been identified following the first two years of implementation of the Wildlife Violator Compact.

Clarify group hunting requirements related to the new mentored hunting law.

Group hunting for deer requires that each member of a group possess a firearm. This clarifies that a mentor and the mentored hunter are both considered to be in possession of a firearm even though there is only one gun. Because the mentor must be able to possess the firearm when needed for instruction or safety and the mentor can legally harvest a deer, this is how the department currently interprets the law. If the law were not interpreted this way, the result would be a confusing situation where a mentored hunter could harvest a deer for a third member of a hunting party who is within sight or voice contact but not for the mentor who is within arms reach. *Eliminate extraneous deer hunting season language and add a cross reference to update language following the 2006 sunset of a two-year experiment with seasons that did not include October antlerless only deer hunts.* That language is no longer needed with the sunset of the two-year experiment with seasons that did not include October antlerless only deer hunts.

Eliminate the description of where hunting is allowed at Big Bay state park for consistency with other parks.

Except for Big Bay, the areas where hunting is allowed in state parks is determined by posting signs at the property. This unusual language was identified when drafting a 2010 spring hearing proposal to allow hunting during the muzzleloader only season at the park. Eliminating this inconsistency will provide greater flexibility to local park staff if they determine that changes are needed.

Update a cross reference related to the hours when hunting is allowed.

This updates a cross-reference to include provisions created in recent years.

Clarify that, in addition to .410 shotguns, it is also illegal to hunt deer, bear or elk with .410 handguns.

Hunting with .410 shotguns is currently prohibited and the department views this as also prohibiting handguns firing .410 shotgun shells. This clarifies that the prohibition includes handguns.

Update cross references related to deer registration and deer carcass tags in the CWD zone.

Clarify that enforcement action can be taken against a person who fails to report bobcat harvest as required.

It has been suggested that current language reads like a grant of authority and should be revised as proposed to clarify that failing to report bobcat harvest constitutes a violation.

Repeal a redundant, unnecessary prohibition on hunting from a roadway specifically for wild turkeys.

Other than small game with shotguns from unpaved roads, hunting from roadways is statutorily prohibited. Turkeys are not small game under NR 10 so this specific provision is not needed to clarify that statute. Specific prohibitions are not established for deer, bear, or other species to which the statute applies.

Clarify that assistants to disabled hunters need a license to use a firearm when aiding in retrieval of deer or turkey.

This clarification assures that, if an assistant uses a firearm to help retrieve a deer or turkey, the assistant has completed hunter safety.

Clarify which tag disabled hunters participating in special hunts may use to tag a deer of either sex.

Statute establishes that disabled hunting permit holders may harvest deer of either sex. This provision establishes which tags may be used. The gun buck carcass tag will be valid for a deer of either sex to be consistent with state law even in units where there is no quota for antlerless deer and otherwise are no valid antlerless deer tags.

Move a provision regarding removal of nuisance animals to a more proper location.

The requirement that nuisance game and furbearing animals be disposed of as directed by the department should apply to these entire sections instead of just to depredating birds under current rules.

Clarify that a federal permit for the removal of certain nuisance animals can serve as the state permit.

This will reduce administrative efforts. This provision does not delegate state authority because department review and approval of the federal permit is still required.

Clarify when deer may be shot under the authority of nuisance permits.

Nuisance deer generally may not be shot on the day before the nine-day firearm season, a day when hunting is not allowed in most of the state. In the CWD Management Zone, however, hunting during all normal seasons is allowed on that day and has been allowed for deer under the authority of nuisance permits. This provision clarifies current practice which is to allow nuisance deer removal in the CWD Management Zone on the day before the traditional deer hunting season.

Clarify that hunters under the authority of damage and nuisance permits can retain more than one deer.

Current rules limit nuisance and damage permit hunters to keeping one deer although they may shoot more. Additional deer may be "disposed of as directed by the department". This provision is used to allow the retention of more than one deer because there are often not other people who have asked for deer. This simply clarifies that more than one deer may be retained by hunters using these permits.

Clarify that pen standards also apply to captive coyote, fox and rabbit when being transported & for health care.

Humane care and handling requirements are established in the captive wildlife chapter of administrative rules for captive wild animals that are being transported or held for health care and treatment. This provision clarifies that the same standards apply to coyote, fox, and rabbit which are possessed under the authority of a hound dog training enclosure license when they are being transported or held for health care and treatment.

Legislative Council Rules and Clearinghouse Report

All comments the department received from Legislative Council Clearinghouse have been incorporated. The report is attached as part of the rules package.

Rule Development:

These rules were developed with assistance from the bureaus of Law Enforcement, Legal Services, Customer Service & Licensing, Facilities and Lands, Endangered Resources and Parks & Recreation.

Small Business and Initial Regulatory Flexibility Analysis:

These revisions to chs. NR 10 and 19, Wis. Adm. Code, pertain to hunting, trapping and wildlife rehabilitation. These rules are applicable to individual sportspersons and wild animal rehabilitators and impose no compliance or reporting requirements for small businesses, 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.

Environmental Analysis:

Bureau of Integrated Science Services has determined that these rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

Fiscal Estimate — 2009 Session

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-02-10

Subject
 Housekeeping rule package modifying chapters NR 8, 10, 12 and 17 relating to license and permit procedures, game and hunting, wildlife damage and nuisance control and dog trials and training.

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.
 Yes No
 Decrease Costs

Local: No Local Government Costs
 Indeterminate

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

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. The department anticipates no fiscal effect from these proposed rule changes. Specifically, these rules will:

- Update procedures for obtaining actual copies of hunting and fishing stamps.
- Update agency contact information and requirements for administration of the Wildlife Violator Compact Program.
- Clarify group hunting requirements related to the new mentored hunting law.
- Eliminate extraneous deer hunting season language and adds a cross reference to update language following the 2006 sunset of a two-year experiment with no October antlerless only deer hunts.
- Eliminate the description of where hunting is allowed at Big Bay state park for consistency with other parks.
- Update a cross reference related to the hours when hunting is allowed.
- Clarify that, in addition to .410 shotguns, it is also illegal hunt deer or elk with .410 handguns.
- Update cross references related to deer registration deer carcass tags in the CWD zone.
- Clarify that enforcement action can be taken against a person who fails to report bobcat harvest as required.
- Repeal a redundant, unnecessary prohibition on hunting from a roadway specifically for wild turkeys.
- Clarify that assistants to disabled hunters need a license to use a firearm when aiding in retrieval of deer or turkey.
- Clarify which tag disabled hunters participating in special hunts may use to tag a deer of either sex.
- Move a provision regarding removal of nuisance animals to a more proper location.
- Clarifies that a federal permit for the removal of certain nuisance animals can serve as the state permit.
- Clarifies that deer may be shot under the authority of nuisance permits in CWD Zone on the day before regular season.
- Clarify that hunters under the authority of damage and nuisance permits can retain more than one deer.
- Clarifies that existing pen standards also apply to captive coyote, fox and rabbit when being transported or for health care or treatment.

Long-Range Fiscal Implications

No long range fiscal implications are anticipated.

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 03-24-10

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-02-10

Subject

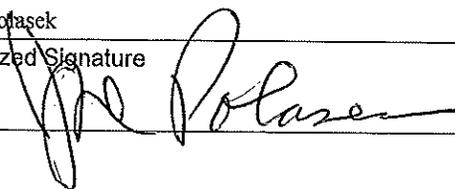
Housekeeping rule package modifying chapters NR 8, 10, 12 and 17 relating to license and permit procedures, game and hunting, wildlife damage and nuisance control and dog trials and training.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None.

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes	\$	\$ -	
(FTE Position Changes)	(FTE)	(
State Operations — Other Costs		-	
Local Assistance		-	
Aids to Individuals or Organizations		-	
Total State Costs by Category	\$	0	\$ -
			0
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR	\$	\$ -	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
State Revenues	<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -	
GPR Earned		-	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
Total State Revenues	\$	0	\$ -
			0

Net Annualized Fiscal Impact

	<u>State</u>		<u>Local</u>	
Net Change in Costs	\$	0	\$	0
Net Change in Revenues	\$	0	\$	0

Prepared By:	Telephone No.	Agency
Joe Potasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	03-24-10



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 10-051

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 September 2008.]

2. Form, Style and Placement in Administrative Code

- a. In the treatment clause of SECTION 1 of the rule-making order, "(a)" should be changed to "(b)."
- b. SECTIONS 3, 4, and 5 of the rule-making order, as well as SECTIONS 22 and 23, are not in proper sequence. The sections of the rule-making order should be arranged in the numerical order of the decimal-numbered provisions as they appear in the rules at the time of drafting. [See s. 1.04 (1) of the Manual.]
- c. In s. NR 10.01 (3) (ed) 1. a., the correct additional cross-reference is "subd. 1. e."
- d. In the treatment clause of SECTION 24 of the rule-making order, the final "a" in the identification of the section affected should be replaced by the notation "(intro.)." In the text of that section, only the text that is affected should be shown.
- e. The treatment clause in SECTION 25 of the rule-making order should be rewritten as follows: "NR 12.10 (1) (b) 1. (intro) and b. are amended to read:". The text of the unaffected subunits should not be shown.
- f. In ss. NR 12.10 (1) (b) 7. and 12.16 (4), the phrases "fish and wildlife service," "federal depredation permit," and "management zone" all should be shown in lowercase.
- g. In s. NR 12.16 (6) (title), the underscored language should be shown following the stricken-through language.

h. In the treatment clause in SECTION 29 of the rule-making order, "(a)" should be inserted after "(3)."

i. In s. NR 17.02 (3) (a), each occurrence of the notation "s." that precedes "NR 16.30 and 16.38" should be replaced by the notation "ss."

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

It appears that the purpose of the change made to s. NR 8.54 (1) (a) 3. is to clarify that a notice does not have to be sent to a violator who is not a Wisconsin resident. This could be done in a more straightforward way by simply stating, in the rule, that if a violator is a Wisconsin resident, a notice containing the specified information must be sent.

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 8.52(1)(d)1.c., 10.01(3)(ef), 10.25(4)(f); to amend NR 8.04(2)(a)1., 8.52(1)(a)1.c. (Note), 8.52(3)(Note), 8.53(1)(Note), 8.54(1)(a)3., 10.01(3)(e)1.e., 10.01(3)(e)2., 10.01(3)(ed)1.a., 10.01(3)(em)4., 10.06(2)(b), 10.09(1)(c)2., 10.104(11)(b)3.b. and c., 10.105(2), 10.11(1)(f), 10.145(8), 10.40(3)(g), 10.40(4)(g), 10.40(3)(f), 12.10(1)(a)1.a, 12.10(1)(b)1.b., 12.16(4), 12.16(6), 17.02(3); to repeal and recreate NR 8.04(2)(a)2.; and to create NR 10.001(28), 12.10(1)(b)2. and 12.10(1)(b)7, relating to license and permit procedures, game and hunting, wildlife damage and nuisance control and dog trials and training.

WM-02-10

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.011, 29.014, 29.024, 29.03, 29.053(3), 29.192, 29.193, 29.885, 169.21, 169.39 and 227.11, Stats. These sections grant rule making authority to the department to establish license and permit procedures, establish open and closed seasons for hunting and to establish other regulations for hunting, trapping, dog training, and the removal of nuisance animals. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: In promulgating this rule, ss. 29.011, 29.014, 29.024, 29.03, 29.053(3), 29.192, 29.193, 29.324, 29.592, 29.885, 169.21, 169.39 and 227.11, Stats. have been interpreted as providing the department with the authority to make these housekeeping clarifications.

Related Statute or Rule: There are no state rules or statutes currently under promulgation that directly relate to the provisions that are proposed in this administrative order.

Plain Language Rule Analysis: The Bureau of Wildlife Management recommends promulgating administrative rules that modify sections of chs. NR 8, 10, 12 and 17. These rule changes related to hunting, trapping and wildlife rehabilitation are minor and unlikely to be controversial. 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. Policy issues affected by this rule are ones which have already been addressed by previous rulemaking.

Sections 1 and 2 allow customers to request free hard copies of turkey, pheasant, trout, or salmon stamps through the phone, a designated county clerk's office, or any department office that provides counter service.

Sections 3 to 7 update agency contact information and requirements for administration of the Wildlife Violator Compact Program.

Section 8 clarifies that a person who may only hunt with a mentor, and the mentor with whom they are hunting, can group hunt for deer even though they are only allowed to possess or control one firearm jointly. The season must be open for both hunters, they must be hunting within arms reach of one another, and both must possess the proper licenses and permits. This is consistent with s. 29.324, Stats., related to group hunting and simplifies the explanation of how this law applies during a mentored hunt.

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Section 28 clarifies that deer may be shot under the authority of nuisance permits on the day before the opening of nine day gun season in the CWD Management Zone where other firearm hunting is also allowed on that day. Outside the CWD Management Zone, hunting with firearms for species other than waterfowl would continue to be prohibited.

Section 29 clarifies that hunters under the authority of damage and nuisance program permits can retain more than one deer when authorized by the department.

Section 30 clarifies that pen standards for captive coyote, fox and rabbit, possessed with a hound dog training license under Ch. NR 17, apply when being transported or for the purpose of health care or treatment and special handling needs. These standards already apply for animals possessed under the authority of Ch. NR 16 related to captive wildlife and to bear, bobcat and raccoon possessed under the authority of Ch. NR 17, dog trials and training.

Federal Regulatory Analysis: These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies. Additionally, none of the proposed rules exceed the authorities granted to states in 50 CFR 10.

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: This rule order is necessary to correct inconsistencies created through the promulgation of other rules and statutes, update code language, correct previous drafting errors, and to clarify existing administrative code language. The rule changes included in this order do not deviate from current department policy on the management of wildlife and the regulation of hunting and trapping.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Business: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule.

Agency Contact Person: Scott Loomans, 101 South Webster St., PO BOX 7921, Madison, WI 53707-7921. (608) 267-2452, scott.loomans@wisconsin.gov

Deadline for Written Comments: The deadline for written comments was June 8, 2010.

Section 1. NR 8.04(2)(b)1. is amended to read:

NR 8.04(2)(b)1. Presenting the approval in person at a department ~~service center.~~ office where counter services are provided or at a designated county clerk's office.

Section 2. NR 8.04(2)(b)2. is repealed and recreated to read:

NR 8.04(2)(b)2. Submitting a request to the department through the mail, electronically or by phone.

Section 3. NR 8.52(1)(a)1.c. (Note) is amended to read:

Note: Notices may be mailed to the: Department of Natural Resources, Wildlife Violator Compact Administrator, ~~401 S. Webster St. P.O. Box 7921, Madison, WI 53707-7921,~~ or by FAX at ~~(608) 266-3696~~ (608) 264-6130. An e-mail address for the Compact Administrator may be obtained by calling the department's Bureau of Law Enforcement at ~~(608) 266-2144~~ call center at 1-888-936-7463.

Section 4. NR 8.52(1)(a)3.(Note) is amended to read:

Note: Notifications may be mailed to the: Department of Natural Resources, Wildlife Violator Compact Administrator, ~~401 S. Webster St. P.O. Box 7921, Madison, WI 53707-7921,~~ or by FAX at ~~(608) 266-3696~~ (608) 264-6130. An e-mail address for the Compact Administrator may be obtained by calling the department's Bureau of Law Enforcement at ~~(608) 266-2144~~ call center at 1-888-936-7463.

Section 5. NR 8.52(1)(d)1.c. is repealed.

Section 6. NR 8.53(1)(Note) is amended to read:

Note: Notices may be mailed to the: Department of Natural Resources, Wildlife Violator Compact Administrator, ~~401 S. Webster St. P.O. Box 7921, Madison, WI 53707-7921,~~ or by FAX at ~~(608) 266-3696~~ (608) 264-6130. An e-mail address for the Compact Administrator may be obtained by calling the department's Bureau of Law Enforcement at ~~(608) 266-2144~~ call center at 1-888-936-7463.

Section 7. NR 8.54(1)(a)3. is amended to read:

NR 8.54(1)(a)3. ~~Mail~~ If the violator is a Wisconsin Resident, mail a notice to the violator to inform the violator which ch. 29, Stats., privileges and approvals have been revoked in this state as a result of the violator's revocation in the participating state.

Section 8. NR 10.001(28) is created to read:

NR 10.001(28) "Using firearms" for the purpose of s. 29.324(1)(b), Stats. means being in possession or control of a separate, individual firearm except that a mentor and the person for whom they are serving as a mentor as required under s. 29.592(3), Stats., who jointly possess only one firearm, shall each be considered to be using a firearm.

Section 9. NR 10.01(3)(e)1.e. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(3)(e)1.e.		
Except for areas identified in subds. 2. and 3., this season may be implemented in deer management units that meet the criteria established in par. (ed) 2., if the harvest resulting from the permit issuance procedures established in par. (ed) 1. a. in a deer management region does not meet the performance measures established in par. (ef).	Firearm <u>Gun deer</u> season beginning on the Thursday nearest October 15 and continuing for 4 consecutive days. The firearm type in a deer management unit is the same as <u>Allowable types of guns are those</u> authorized during the seasons listed in subdivision paragraphs a. and b., and subd.5.	One antlerless deer per antlerless deer permit issued under s. NR 10.104.

Section 10. NR 10.01(3)(e)2.b. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(3)(e)2.b.		
The following state parks and trails: the portion of Big Bay state park located on Madeline Island west of a north-south line beginning at the park entrance on Haines road, Governor Thompson, Elroy-Sparta, Hartman Creek, Interstate, the Plum Island portion of Grand Traverse Islands, Mill Bluff, Newport, Rock Island, Straight Lake, Wyalusing (73A) and Tuscobia-Park Falls.	Firearm season beginning on the Saturday immediately preceding the Thanksgiving holiday and continuing for 9 consecutive days. The firearm type is the same as authorized for the surrounding deer management unit.	One buck deer and additional antlerless deer as authorized by antlerless deer permits issued under s. NR 10.104.

Section 11. NR 10.01(3)(ed)1.a. is amended to read:

NR 10.01(3)(ed)1.a. The department may, upon making the findings in subd. 2. modify the deer permit issuance procedures as described in this paragraph and implement the October hunt described in subd. 1.e. for any deer management unit to reduce the deer population nearer to the overwinter population goals established in s. NR 10.104. Under this paragraph special permits for antlerless deer under s. 29.177, Stats., may be issued free of charge at the rate of one permit per license authorizing deer hunting or 2 permits per conservation patron license. The permits may be used to hunt and tag deer during any of that year's deer seasons for the units specified under subd. 2. Additional special permits for antlerless deer shall be issued at no charge, except for a handling fee authorized under s. 29.556, Stats., and s. NR 19.02.

Section 12. NR 10.01(3)(ef) is repealed.

Section 13. NR 10.01(3)(em)4.b. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(3)(em)4.b.		
The portion of Big Bay state park located on Madeline Island west of a north-south line beginning at the park entrance on Haines road, Mill Bluff state park and Reck Island state park.	Beginning on Oct. 15 and continuing for the remainder of the early archery season and the entire late archery season described in subd. 1.	One buck and one antlerless deer as authorized by the appropriate carcass tag and additional antlerless deer as authorized by antlerless permits issued under s. NR 10.104.

Section 14. NR 10.06(2)(b) is amended to read:

NR 10.06(2)(b) General prohibition. Except as provided in subs. (6), ~~(7)~~ and ~~(8)~~ to (9), no person may hunt or shoot any game species ~~on~~ for which an open season is prescribed on any day during the open season before the a.m. times or after the p.m. times established in sub. (5).

Section 15. NR 10.09(1)(c)2., as affected by CR- 09-024, is amended to read:

NR 10.09(1)(c)2. 'Deer or bear hunting.' Hunt any deer or bear with any air rifle, rim-fire rifle, any center-fire rifle less than .22 caliber, any .410 bore or less shotgun or handgun loaded with .410 shotgun shell ammunition or with ammunition loaded with nonexpanding type bullets or ammunition loaded with shot other than a single slug or projectile.

Section 16. NR 10.104(11)(b)3.b. and c. are amended to read:

NR 10.104(11)(b)3.b. Archery or firearm hunts in units where earn-a-buck regulations established in s. NR 10.01 (3)(et) ~~3,~~ 2, are in effect if the hunter possesses an antlerless deer registration

verification earned in a unit designated under s. NR 10.01(3) ~~(ez)1.d.~~ (ed)1.b. or in a CWD management zone identified in s. NR 10.28(3), or

c. Archery or firearm hunts in units where earn-a-buck regulations established in s. NR 10.01(3) ~~(et) 3. 2.~~ are in effect if an antlerless deer has been legally harvested and tagged prior to the harvest of the buck deer, and the antlerless deer accompanies the buck deer until each is registered.

Section 17. NR 10.105(2) is amended to read:

NR 10.105(2) In deer management units with deer seasons modified under s. NR 10.01 (3) (ed) 1. b. or (et) ~~3. 2.~~, no person may transport a buck deer from the time it is killed to the time it is registered under s. NR 10.106 unless accompanied by the antlerless deer or antlerless deer registration verification which authorized the taking of the buck deer. An antlerless deer may be used only by the hunter who tagged it to secure authorization for that hunter to tag one buck deer in the unit or units modified under s. NR 10.01 (3) (ed) 1. b. or (et) ~~3. 2.~~ Deer may only be transported outside of the unit of kill or adjoining unit after they have been registered.

Section 18. NR 10.11(1)(f) is amended to read:

NR 10.11(1)(f) Handguns. With a handgun that is loaded with a .410 shotgun shell loaded with a single slug or projectile, a centerfire cartridge .22 caliber or smaller or has a minimum barrel length that is less than 5 1/2 inches measured from the muzzle to the firing pin with the action closed.

Section 19. NR 10.145(8) is amended to read:

NR 10.145(8) REPORTS. (a) Harvest reports. The department may require each successful bobcat permit applicant to submit a harvest report in a manner prescribed by the department within 24 hours of harvesting a bobcat. If the department requires a person who has been issued a bobcat harvest permit to report the harvest under this section, the person shall make the report in the manner required by the department within 24 hours of the time the person kills the bobcat.

Section 20. NR 10.25(4)(f) is repealed.

Section 21. NR 10.40(3)(g) is amended to read:

NR 10.40(3)(g) Authorizations to assistant. The designated assistant of the special gun deer hunt participant may use a firearm while retrieving a deer shot by a participant provided the assistant possesses a current valid deer hunting license.

Section 22. NR 10.40(3)(f) is amended to read:

NR 10.40(3) (f) *Rule compliance.* Unless otherwise provided by the department, all disabled hunters and accompanying persons shall comply with all hunting rules and laws applicable to the regular gun deer season specified under s. NR 10.01 (3) (e). The bag limit is one deer of either-sex per valid gun buck deer carcass tag and additional antlerless deer per current valid antlerless deer permit issued under s. NR 10.104, and per special permit issued under s. NR 10.01 (3) (ed) or (et). Other hunters, hunting on the lands described on the application during the special gun deer hunt, shall comply with the blaze orange clothing requirements in s. 29.301 (2), Stats., except waterfowl hunters.

Section 23. NR 10.40(4)(g) is amended to read:

NR 10.40(4)(g) Authorizations to assistants. The designated assistant of the special spring turkey hunt participant shall possess a valid hunting license for hunting of any species and may use a the participant's firearm in compliance with s. NR 10.09 (1) while retrieving a turkey shot by a participant.

Section 24. NR 12.10(1)(a)1.(intro.) is amended to read:

12.10 (1)(a)1. Destroy any wild animal, provided that all game and furbearing animals are disposed of as directed by the department, which is classified as:

Section 25. NR 12.10(1)(b)1.b. is amended to read:

NR 12.10(1)(b)1.b. Any bird causing depredation under s. NR 12.05; ~~or provided that all game and furbearing animals are disposed of as directed by the department;~~

Section 26. NR 12.10(1)(b)2. is created to read:

NR 12.10(1)(b)2. The department may prescribe the manner of disposal for animals destroyed under this paragraph.

Section 27. NR 12.10(1)(b)7 is created to read:

NR 12.10(1)(b)7. Destroy birds defined under s. 29.001(33) and (39) and permitted for removal by the U.S. fish and wildlife service under a federal depredation permit, provided the permit has been reviewed and approved by the department and removal activities are in compliance with the restrictions, requirements and conditions as described by the U.S. fish and wildlife service in 50 CFR 21.49 and this section.

Section 28. NR 12.16(4) is amended to read:

NR 12.16 (4) EFFECTIVE DATES. Authorization to kill deer commences the date of permit receipt by the permittee and continues through the open season for the appropriate zone described in s. NR 10.01 (3) (e) and (em), except that no deer may be killed during the 24 hour period prior to the open season for hunting deer with gun November firearm deer season in the area of the state outside of the CWD management zone in s. NR 10.28(3).

Section 29. NR 12.16(6) is amended to read:

NR 12.16(6) ~~CARCASS SALE AND PRICE CARE AND DISPOSITION.~~ The department shall offer the permittee and each participant the opportunity to retain at least one deer killed under the deer shooting permit. All deer not retained under this subsection shall be disposed of as directed by the department.

Section 30. NR 17.02(3)(a) is amended to read:

NR 17.02(3)(a) Captive coyote, fox and rabbit. Captive coyote, fox and rabbit obtained in accordance with s. NR 17.047 and possessed for dog training purposes may only be kept within a hound dog training enclosure that is permitted and that meets the requirements established under s. NR 17.045, except that these species may be confined or controlled on a temporary basis in accordance with ss. NR 16.30 and 16.38 for the purpose of health care or treatment, transportation from one enclosure to another or special handling needs when not being used for training dogs. For special handling needs and transportation, coyote, fox and rabbit shall be housed in accordance with ss. NR 16.30 and 16.38.

Section 31. Effective dates. 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 32. Board adoption. This rule order 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 _____
Matthew J. Frank, Secretary

(SEAL)