

SUBJECT: Request approval of the statement of scope for emergency Board Order WM-05-12 (E) related to re-establishing an antlerless-only, October firearm deer season in the CWD Management Zone.

FOR: MARCH, 2012 BOARD MEETING

TO BE PRESENTED BY / TITLE: Tom Hauge, Wildlife Management Bureau Director

SUMMARY:

This emergency rule proposal would re-establish the annual October, antlerless-only, four day firearm deer season that has been held in the chronic wasting disease management zone.

The four day season would begin on Thursday, October 11.

Under 2011 ACT 50, if the department determines that this hunting season is necessary to control the spread of chronic wasting disease, it must enact rules each year. This season may be held only in areas where a chronic wasting disease management zone has been established, only antlerless deer may be harvested, and it must close on or before October 15.

Since 2002, the department has held an October firearm deer season for herd management and disease control purposes and to provide hunting opportunity in the chronic wasting disease management zone. Deer population reduction is the available disease control method most likely to be effective in controlling CWD in free-ranging deer. Recreational hunting is the primary way to assist with deer herd reduction. Over the past 50 years, regulated hunting has been shown to be an ecologically sound, socially beneficial, and fiscally responsible method of managing deer populations. An October season maintains a consistent hunting-season structure which improves hunter understanding of regulations and makes it easier for the department to evaluate management efforts. If the prevalence and distribution of CWD increases dramatically, the disease could severely affect the social and economic stability of the communities that depend on hunting.

RECOMMENDATION: Board approval of the statement of scope for emergency Board Order WM-05-12 (E) related to re-establishing an antlerless-only firearm deer season in the CWD zone.

LIST OF ATTACHED MATERIALS:

- | | | | |
|--|---|---|----------|
| No <input checked="" type="checkbox"/> | Fiscal Estimate Required | Yes <input 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

2/27/12
Date

Kurt Thiede
Administrator, Kurt Thiede

3/1/12
Date

Cathy Stepp
Secretary, Cathy Stepp

3/6/12
Date

cc: NRB Liaison
DNR Rules Coordinator

Tom Hauge, WM/6
Kevin Wallenfang, WM/6

Scott Loomans, WM/6

DATE: February 20, 2012
 TO: Natural Resources Board Members
 FROM: Cathy Stepp
 SUBJECT: Scope statement for emergency rules establishing a four day, October, antlerless-only firearm deer season in the Chronic Wasting Disease (CWD) Management Zone.

Subject of Proposed Rule:

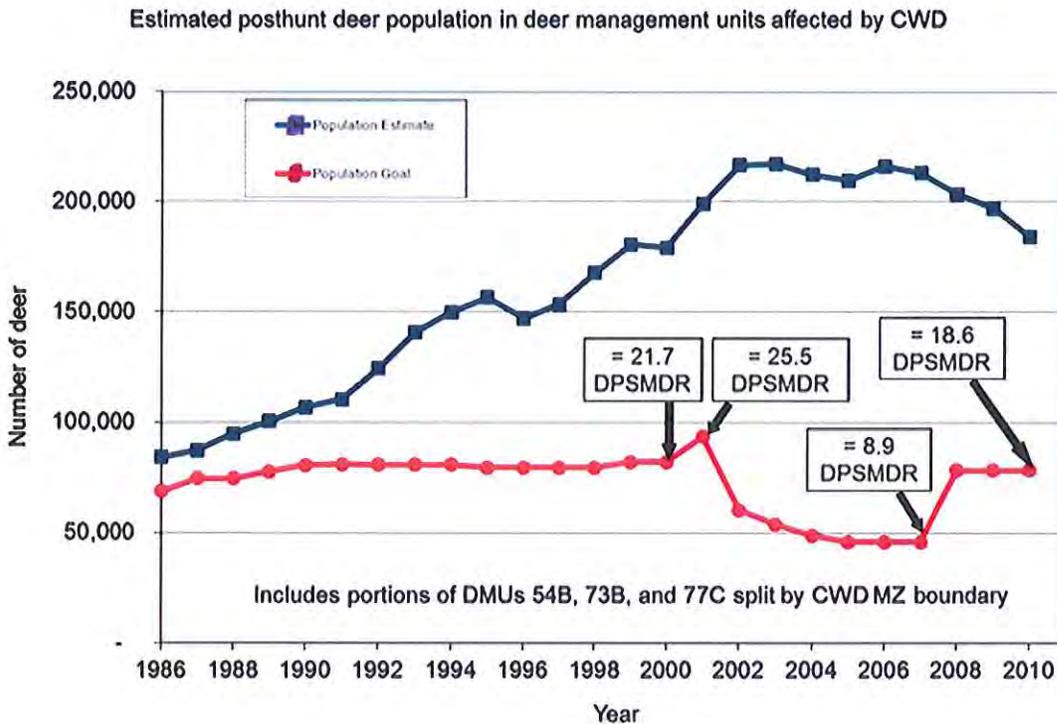
This proposal would re-establish the annual October, antlerless-only, four day firearm deer season that has been held in the chronic wasting disease management zone.

Policy Analysis:

Under 2011 ACT 50, the procedure by which the department can establish an October four day, antlerless-only, firearm deer season was changed so that it must be done by enacting emergency rules each year. Previously this season was annually established by Secretary's Order. Also, under Act 50, this season may only be held within the CWD management zone and cannot be held later than October 14th each year. For 2012, the season would begin on Thursday, October 11 and end on Sunday, October 14..

Since 2002, the department has held an October firearm deer season to provide extra hunting opportunity for herd management and disease control purposes in the chronic wasting disease management zone. Modern era regulated deer hunting has been shown to be an ecologically sound, socially beneficial, and fiscally responsible method of managing deer populations. Hunter harvest in the CWD Management Zone during 2002-10 has limited deer population growth in this region (Figure 1).

Figure 1. Deer population trends within the CWD Management Zone



The department recommends making a finding of emergency and establishing this open season because it is needed to minimize the spread and prevalence of chronic wasting disease:

1. Deer population management via regulated hunting is the only readily available, landscape level, cost-effective disease control method that can currently be enacted.
2. The University of Wisconsin – Madison (Van Deelen et al, 2010) examined the impact of October seasons during 1996-2008 and concluded that these seasons increased the effectiveness of population management by creating an “additive” impact to overall harvest. The continuation of the October 4-day antlerless-only hunt helps to slow that growth.
3. The prevalence of CWD in the herd has increased and is presumed to increase faster, and spread, at higher deer population densities. Since 2002, CWD prevalence within our western monitoring area has shown an overall increasing trend in all sex and age classes. During the past ten years the trend in prevalence in adult males has risen from about 8 percent to over 18 percent and in adult females from about 3 percent to approximately 7 percent. During that same time, the prevalence trend in yearling males has increased from about 2 percent to about 6 percent and in yearling females from less than 2 percent to about 4 percent.
4. The legislature directed through 2011 ACT 50 that rules establishing this season may only be in effect for 270 days. The only established process for promulgating rules annually is through the emergency rules procedure in Ch. 227.24, Stats.
5. The October season has been a consistent fall hunting opportunity since 2002. A 2010 survey of gun deer hunters indicate about 15% of all gun deer license holders participated in the 4-day hunt that year. If 50,000 gun deer hunters hunt in the CWD management zone, an estimated 7,500 would participate in the October 4-day gun deer season. This rule also serves to protect their public welfare by preserving a valued recreational opportunity.

Statutory Authority:

In promulgating this rule, s. 29.014, 29.016(2)(b), 29.063 and 227.24, Stats., have been interpreted as providing the department with the authority to make modifications to deer hunting seasons.

Estimate of Staff Time Needed for Development:

Approximately 73 hours will be needed by the department prior to and following adoption by the board.

Groups Likely Affected by the Proposed Rule:

Interested groups and individuals are those who are concerned about deer management including hunters and people whose interests involve agriculture, environment, forestry, wildlife viewing, and non-hunting related outdoor recreation that occurs during deer hunting seasons.

Agency Contacts:

Scott Loomans, Wildlife Regulation Policy Specialist, 101 S. Webster Street, PO Box 7921, Madison WI 53707-7921, (608) 267-2452.

Kevin Wallenfang, Big Game Specialist, 101 S. Webster Street, PO Box 7921, Madison WI 53707-7921, (608) 261-7589.

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-05-12(E)

Relating to: Reestablishing a four day, October, antlerless-only firearm deer season in the CWD Management Zone

1. Description of the objective of the rule:

This emergency rule proposal would re-establish the annual October, antlerless-only, four day firearm deer season that has been held in the chronic wasting disease management zone.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

Under 2011 ACT 50, if the department elects to continue holding the four day, antlerless-only, firearm deer season prior to the traditional nine day firearm season, it must do so by enacting emergency rules each year. This season may only be held in areas where a chronic wasting disease management zone has been established. The season would begin on Thursday, October 11.

Since 2002, the department has held an October firearm deer season to provide hunting opportunity and for herd management and disease control purposes in the chronic wasting disease management zone. Deer population reduction is the available disease control method most likely to be effective in controlling CWD in free-ranging deer. Over the past 50 years, regulated hunting has been shown to be an ecologically sound, socially beneficial, and fiscally responsible method of managing deer populations. Hunter harvest in the CWD Management Zone during the past eight years appears to have reduced the deer population in this region, although it has not been sufficient to cause substantial, widespread population decline. An October season helps maintain a consistent hunting-season structure that improves hunter understanding of regulations and enhances both compliance and enforcement of those regulations. A consistent season framework also makes it easier to evaluate management efforts.

3. Statutory authority for the rule (including the statutory citation and language):

In promulgating this rule, s. 29.014, 29.016(2)(b), 29.063 and 227.24, Stats., have been interpreted as providing the department with the authority to make modifications to deer hunting seasons.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

Approximately 73 hours will be needed by the department prior to and following adoption by the board.

5. Description of all entities that may be impacted by the rule:

Interested groups and individuals are those who are concerned about deer management including hunters and people whose interests involve agriculture, environment, forestry, wildlife viewing, and non-hunting related outdoor recreation that occurs during deer hunting seasons.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

7. Anticipated economic impact of the rule.

No economic impacts are anticipated. The hunting season framework proposed in this rule is identical to the season framework that was in place during the previous season.

Contact Person: Scott Loomans, Wildlife Regulation Policy Specialist, 101 S. Webster Street, PO Box 7921, Madison WI 53707-7921, (608) 267-2452 or Kevin Wallenfang, Big Game Specialist, 101 S. Webster Street, PO Box 7921, Madison WI 53707-7921, (608) 261-7589.



Department Head Signature

3/6/12

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

February 15, 2012

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Statement of Scope for Emergency Rule WM-05-12

Dear Secretary Stepp,

I hereby approve the revised statement of scope submitted on February 9, 2012, pursuant to Wisconsin Statutes § 227.135. You may send the scope statement to LRB for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

A handwritten signature in black ink, appearing to be "Scott Walker".

Scott Walker
Governor

State of Wisconsin



2011 Senate Bill 75

Date of enactment: November 4, 2011
Date of publication*: November 18, 2011

2011 WISCONSIN ACT 50

AN ACT to create 29.016 of the statutes; relating to: prohibiting the Department of Natural Resources from establishing certain restrictions on hunting antlered deer and regulating the establishment of fall open seasons for hunting deer with firearms.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 29.016 of the statutes is created to read:

29.016 Department authority; deer hunting seasons and license restrictions. (1) The department may not do any of the following:

(a) Require a person who holds a license that authorizes the hunting of deer to take an antlerless deer before the person may take the person's first antlered deer under that license.

(b) Except as provided in sub. (2), establish a fall open season for hunting deer with firearms that begins before the Saturday immediately preceding the 4th Thursday in November.

(2) Subsection (1) (b) does not prohibit the department from promulgating a rule that establishes a fall open season for hunting deer with firearms that begins before

the Saturday immediately preceding the 4th Thursday in November if any of the following applies:

(a) The department limits the open season to hunting deer by any of the following persons:

1. Persons who are under 16 years of age.
2. Persons who hold a Class A, Class B, or Class C permit under s. 29.193 (2).
3. Persons who are learning to hunt.

(b) The department establishes the fall open season because a fall open season is necessary to control the spread of chronic wasting disease or other disease in deer and if all of the following apply:

1. The rule authorizes the hunting of only antlerless deer.
2. The rule provides for a closing date for the fall open season that is on or before October 15.
3. The rule provides that the rule does not apply beginning 270 days after the effective date of the rule.

* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].