BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PUBLIC HEARINGS

WM-05-14(E) and WM-08-14(E)

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041 and 227.24 (4), Stats., interpreting ss. 29.014, 29.041 and 29.192, Stats., the Department of Natural Resources will hold public meetings on revisions to ch's. NR 10, 11, 15, and 45 Wis. Adm. Code. These emergency orders have been adopted by the Natural Resources Board, are currently in effect, and the public hearing is being held to fulfill statutory requirements. Natural Resources Board Order WM-05-14(E) is related to establishing a season for hunting deer with crossbows-only. Natural Resources Board Order WM-08-14(E) is related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees.

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on October 29, 2014 beginning at 2:00 p.m. in room 608 of the Natural Resources State Office Building (GEF-2), 101 South Webster St., Madison, 53707.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with rulemaking. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

BOARD ORDER WM-05-14(E) RELATED TO ESTABLISHING A SEASON FOR HUNTING DEER WITH CROSSBOWS-ONLY

Plain Language Rule Analysis of Board Order WM-05-14(E) related to establishing a season for hunting deer with crossbows-only: These rules are necessary to implement 2013 ACT 61 which directs the department to establish deer hunting seasons where the use of crossbows is allowed and other crossbow related regulations. Specifically, these rules would:

SECTION 1 eliminates the definition of an "archery hunt" because it is no longer consistent with current law or a necessary provision in this chapter.

SECTION 2 describes the allowable uses of deer carcass tags by archery hunters in a location where deer hunting bag limits are established so that a person reading administrative code will be aware of them. The actual requirements are established by the ACT.

SECTION 3 establishes the season for hunting deer with a crossbow-only as required by the ACT. This section also describes the allowable uses of deer carcass tags by crossbow hunters in a location where deer hunting bag limits are established so that a person reading administrative code will be aware of them. The actual requirements are established by the ACT.

SECTIONS 4 and 5 establish that hunting hours for firearm and archery hunters also apply to hunters using crossbows.

SECTIONS 6 to 8, 11 to 13, 16, 19, 26 and 30 add the word "crossbow" to provisions where appropriate because firearms, bows, or handguns are currently listed. These sections also add a description or cross-reference to a crossbow license or season as appropriate in locations where archer or firearm licenses or seasons are already listed or cross-referenced.

SECTION 9 repeals the prohibition of the use of crossbows for most hunting purposes.

SECTION 10 updates language to include crossbows and bolts in a section where bows and arrows are currently listed. This section also explains the minimum poundage requirement for crossbows so that information is located in one place. However, the minimum poundage requirement is also established in statute.

SECTIONS 14 and 15 explain that a person who has already been issued a crossbow license will not receive archery deer carcass tags when they purchase an archer license and that the converse is also true. However, a person may use archery and crossbow deer carcass tags interchangeably if they possess both license types.

SECTIONS 17 adds "crossbow" to provisions which already restrict possession of bows and firearms at the Horicon National Wildlife Refuge and notes that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun.

SECTION 18 establishes a season for hunting deer with crossbows that is consistent with the current archer season at Horicon National Wildlife Refuge.

SECTION 20 adds "crossbow" to provisions which already restrict possession of bows and firearms at the Necedah National Wildlife Refuge and notes that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun.

SECTIONS 21 and 22 update terminology and cross-references and establish a season for hunting deer with crossbows that is consistent with the current archery season at Necedah National Wildlife Refuge.

SECTION 23 to 25 add "crossbow" to provisions which already restrict possession of bows and firearms at the Sandhill Wildlife Demonstration Area, Grand River Experimental Hunting Area, and Bong State Recreation Area. For all three properties, these SECTIONS also note that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun. For the Bong recreation area, a remedial revision is made to reflect previous rule making which established that rifles are now allowed statewide, particularly for deer hunting.

SECTIONS 27 and 28 establish crossbow hunting seasons which are consistent with archery deer hunting seasons at a number of waterfowl hunting closed areas where some archery deer hunting is currently allowed.

SECTION 29 establishes that crossbow deer hunting is not allowed at times when archery deer hunting is not allowed under current rules at the Buckhorn wildlife area.

SECTIONS 31 to 34 add "crossbow" to provisions which already restrict possession of bows and firearms at 37 game refuges and notes that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun.

SECTIONS 35 to 38 update language to include crossbows in various provisions where it is currently only required that bows and arrows be unstrung or enclosed in a carrying case on certain department managed lands.

Summary of, and Comparison with, Existing or Proposed Federal Regulations for Board Order WM-05-14(E) related to establishing a season for hunting deer with crossbows-only: 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 for Board Order WM-05-14(E) related to establishing a season for hunting deer with crossbows-only: In Illinois, Iowa and Minnesota, a doctor must certify that a person is unable to hunt by archery methods because of a physical disability before the use of a crossbow is authorized for deer during the archery deer seasons. An exception in Illinois is that anyone may use a crossbow for deer hunting during the later portion of the archery deer season beginning on the second Monday following the Thanksgiving holiday.

In Michigan, anyone who is 10 years old or older may use a crossbow throughout the archery deer season in the Lower Peninsula and during the early archery deer season in the Upper Peninsula.

Summary of Factual Data and Analytical Methodologies for Board Order WM-05-14(E) related to establishing a season for hunting deer with crossbows-only: The department is directed by 2013 ACT 61 to promulgate emergency rules establishing deer hunting seasons in 2014 and 2015 where the use of crossbows is allowed. Under the Act, the crossbow season must be identical to the archery season. Other substantiative provisons of this rule, such as the allowable uses of carcass tags, are also written as directs by the ACT. For this emergency rule, the department has limited discretion in drafting.

When permanent rules which are also required by the ACT are promulgated, the department will have much greater statutory authority and more decision making ability.

This board order does make numerous remedial revisions to reflect the new status of crossbows as generally allowed for hunting. Additional remedial revisions reflect that statutes now allow the possession of loaded, uncased handguns by people who are licensed to possess a concealed handgun, including in department closed areas and game refuges where possession of other weapons is restricted.

Throughout the rule, references to "archery" and "crossbow" are intended to reflect statutory language which creates an "archer hunting" license and a "crossbow hunting" license.

Anticipated Private Sector Costs for Board Order WM-05-14(E) related to establishing a season for hunting deer with crossbows-only: 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 costs are associated with compliance to these rules.

Effects on Small Business for Board Order WM-05-14(E) related to establishing a season for hunting deer with crossbows-only: No effects on small business are anticipated. State statutes have already established that crossbow hunting is allowed and the conditions for the use of crossbows, including the required licenses and the season dates for 2014 and 2015. These rules will not establish any additional requirements or exceptions that would have an economic impact. 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. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m) Stats.

BOARD ORDER WM-08-14(E) RELATED TO IMPLEMENTATION OF THE DEER MANAGEMENT ASSISTANCE PROGRAM AND COUNTY DEER MANAGEMENT ADVISORY COMMITTEES

Plain Language Rule Analysis of Board Order WM-08-14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees: Specifically, these rules would:

SECTIONS 1 and 2 establish definitions of an "authorized representative" and "primary contact" for purposes of the Deer Management Assistance Program.

SECTIONS 3 and 4 allow the sales of antlerless deer hunting permits to a landowner or primary contact who is enrolled in the Deer Management Assistance Program or their authorized representative. The permits could then be transferred, for no more than face value cost, to hunters who would be able to use the tags on the enrolled property.

SECTION 5 establishes that membership on a County Deer Management Advisory Committee may also include a participant in the Deer Management Assistance Program.

SECTION 6 clarifies that the department will establish guidance for the operation of County Deer Management Advisory Committees and that background checks of volunteer committee members may be conducted.

Federal Regulatory Analysis for Board Order WM-08-14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees: 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.

Comparison with rules in Adjacent States for Board Order WM-08-14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees: Michigan is implementing a Deer Management Assistance Program which is comparable to the program being established in Wisconsin. All of Wisconsin's surrounding states use hunting seasons to provide hunting opportunities and to manage white-tailed deer herds and involve the public establishing management goals hunting opportunities. Wisconsin's efforts at public involvement are likely more extensive than those in our surrounding states. However, deer are a common wildlife species and provide significant hunting opportunities in all of our surrounding states.

Summary of Factual Data and Analytical Methodologies for Board Order WM-08-14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees: This emergency rule order will facilitate the issuance of antlerless deer permits through the Deer Management Assistance Program. Additionally, this order allows additional representation on County Deer Management Advisory Committees, committees which are established for the purpose of seeking comment from members of the public on the status of the deer herd at the county level.

Under current rules and statutes, with limited exceptions, deer hunting permits can only be used by the individual to whom the permit is issued. During the winter and spring of 2014 the department has been working with stakeholders to develop the Deer Management Assistance Program which was a recommendation of the 2012 White-tailed Deer

Trustee's Report. During program development, the department has identified a need for more flexibility in the way that permits are issued and used in order to implement the program efficiently and to best serve customers.

These rules would allow sales of antlerless deer hunting permits to a landowner or primary contact for landowners who are enrolled in the Deer Management Assistance Program or their authorized representative. In the case of a cooperative, which is a number of properties enrolled and managed as a group, permits would be issued to the primary contact for the group. The permits could then be transferred, for no more than face value cost, to hunters who would be able to use the tags on the enrolled property. These rules would not change existing requirements that the tags can only be used during the normal deer hunting seasons and in ways that are consistent with all other deer hunting regulations.

The Deer Management Assistance Program is designed to provide habitat and herd management assistance to landowners interested in managing their property for wildlife. The program is identified and defined under Wis. Stat. § 29.020 and Wis. Admin. Code NR § 10.70. Objectives of the program are to; promote sound land stewardship practices, provide outreach and educational information to landowners about wildlife habitat management practices, provide a means for site-specific deer management, and to improve relationships.

The program objective to provide site-specific deer management alternatives will benefit property managers in obvious ways by allowing them to work with the department to establish very specific harvest levels based on localized information.

Site specific deer management will benefit all hunters and people impacted by deer at the much larger management unit level as well. An example is that, in some situations, deer numbers that prevent forest regeneration or result in agricultural damage could be managed at a local, property specific level. This would eliminate a need to compromise with unit-wide antlerless deer permit levels that address pockets of over-abundance only minimally and which might also be perceived as allowing too much harvest of antlerless deer in other areas of the unit or county.

Maintaining the landowner's control over the use of permits by allowing the landowner, primary contact, or their authorized representative to distribute them may be an important feature to make participation attractive to property managers or owners. Allowing permit transfers creates efficiency for the department because we would not need to establish rules or automated license system processes to assure that permits are distributed in a manner preferred by the landowner. Only one contact with the department is all that would be needed to purchase all antlerless permits for a property. It is possible that a landowner would not be a hunter - but someone who would be interested in purchasing and distributing the permits to family, friends, and others. Simplicity, value, and good success rates in the use of these antlerless deer permits will make an important contribution to the objective of site-specific deer management.

Emergency rules currently in place establish county deer management advisory committees for the purpose of seeking comment from members of the public on the status of the deer herd at the county level beginning in 2015. Membership on these committees, in the ceded territory as defined by s. NR 13.02 (1), may include a representative of Wisconsin Chippewa bands and, statewide, a representative of; agriculture, forestry, tourism, transportation, local government, and a local organization representing hunting interests. These rules establish that committee membership may also include a participant in the Deer Management Assistance Program. The membership of a Deer Management Assistance Program participant may be important to provide information from the perspective of properties where habitat and deer herd conditions have been evaluated in detail.

This emergency rule will also clarify that the department is responsible for establishing the rules of operation for the county deer management advisory committees. Finally, the rule authorizes the department to conduct criminal backgrounds checks for people who apply to be committee members. It may be important that members are viewed as being in good standing to work with other members of the public to manage resources which are statutorily held in the public trust.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis for Board Order WM-08-14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees: Because the hunting season frameworks and regulations proposed in this rule will be comparable to those in place under current rules, no economic impacts are anticipated. These rules are applicable to individual hunters and people who are interested in white-tailed deer management and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Anticipated Private Sector Costs for Board Order WM-08-14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees: 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 costs are associated with compliance to these rules.

Effects on Small Business for Board Order WM-08-14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees: These rules are applicable to individual sportspersons or others who are interested in deer management at a very local level. They impose no compliance or reporting requirements for small businesses, and no design or operational 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 227.114(6) or 227.14(2g).

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: http://adminrules.wisconsin.gov or by searching the keywords "administrative rules" on the department's website. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to scott.loomans@wisconsin.gov and must be submitted by October 29, 2014. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

Dated at Madison, Wisconsin September 30, 2014

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Cathy Stepp
Cathy Stepp, Secretary