

Clearinghouse Rule 07-035

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 16.45(2)(b)2.; to amend NR 10.01(3)(c)2., (ed)1.b. and (4)(dm)1., 10.106(2)(e), 10.275(1)(b)1., (2)(b)1. and 2., 12.10(3)(intro.), 16.45(2)(a)1., (b)1. and 2., (5)(a)(intro) and (b), (c)4. and (6)(h); and to create NR 10.001(8e), relating to hunting, nuisance wild animal removal and captive wildlife.

WM-16-07

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation: Statutes that authorize the promulgation of this rule order include sections 29.104 and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and that all rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: In promulgating this rule, section 29.014, Stats., has been interpreted as providing the department with the authority to make these housekeeping clarifications.

Related Statute or Rule: None.

Plain Language Rule Analysis: These hunting and trapping-related rule changes are minor and non-controversial in nature. The intent of these rule changes is to provide clarification to existing rules, simplify regulations, and update administrative code language and references. Specifically, these rules will; correct management unit boundaries, relax bear carcass registration requirements, clarify nuisance animal removal requirements, clarify what is meant by the term "disabled hunter" for the purposes of assisting a bear hunter, correct cross-references and drafting errors, and update cross references and terminology so that NR 16 is current and compatible with ATCP 10.

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.

State Regulatory Analysis: These housekeeping rule changes do not represent policy or significant rule changes that may differ from surrounding states. All surrounding states have regulations and rules in place for the management of upland, migratory and furbearing species, however, these proposed rule changes to the Wisconsin Administrative code are not relevant to or comparable to any known similar housekeeping initiatives in surrounding states.

Summary of Factual Data and Analytical Methodologies: This rule order is based solely on the need to correct inconsistencies created through the promulgation of other rules and statutes and to serve as a vehicle to provide clarification to existing code.

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.

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Deadline for Written Comments: The deadline for written comments is May 17, 2007. Comments may also be electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>

Section 1. NR 10.001(8e) is created to read:

NR 10.001(8e) "Disabled person" for the purposes of s. 29.184(5)(b), Stats., means a person who holds a current Class A, B or C permit as defined under this section.

Section 2. NR 10.01(3)(c) 2. is amended to read:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|--|---|---------------------------|
| NR 10.01(3)(c)2. Cottontail | | |
| a. All that part of Wisconsin lying north of U. S. highway 10 from Prescott to Waupaca and state highway 54 from Waupaca to Algoma | Beginning on the Saturday nearest September 15 and continuing through <u>the last day in February 28.</u> | Daily bag 3; possession 6 |
| b. Governor Dodge, Mill Bluff and Mirror Lake state parks. | Nov. 1 - Dec. 15. | Daily bag 3; possession 6 |
| c. In addition, there shall be an open season for hunting cottontails, except with the use of firearms, in Milwaukee county | All year | None |
| d. In all other parts of the state | Beginning on the Saturday nearest October 17 at 12:00 noon and continuing through <u>the last day in February 28.</u> | Daily bag 3; possession 6 |

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

NR 10.01(3)(ed)1.b. If after 2 consecutive years, as described in subd. 1. a. or par. (ez) 1. a. and am., the department determines a third season, as described under subd. 1. a., is unlikely to reduce the deer population to within 20% of the overwinter population goal established in s. NR 10.104 for the same deer management unit or units in the subsequent year, hunters shall harvest or tag an antlerless deer in that unit or units with either a bow or a gun during any deer season or with an agricultural shooting permit, before they may tag a buck with either weapon in that unit or units. One antlerless deer is required to authorize harvest of one buck in that unit or units, or in state parks with gun deer seasons that are within or adjoining these units, for each archery and gun deer license. Deer harvested as described in this paragraph shall be transported in accordance with s. NR 10.105 ~~(3)~~ (2).

Section 4. NR 10.01(4)(dm)1. is amended to read:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|---|--|---|
| NR 10.01(4)(dm)1. Management zone A-- Deer management units 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 22, 78 | Beginning on the Saturday nearest October 17 and continuing through December 31. | The possession limit corresponds to the number of pelt tags issued. |

and 79 as described in s. NR 10.28

Section 5. NR 10.106(2)(e) is amended to read:

NR 10.106(2)(e) *Bear license (bow and gun)*. Bear shall be registered within the county in which the bear was killed or adjoining county and within the black bear management zone or at registration stations that are adjacent to highways forming the boundary of the zone in which it was killed no later than 5:00 p.m. of the day after it was killed.

Section 6. NR 10.275(1)(b)1. is amended to read:

NR 10.275(1)(b) *Migratory game birds* 1. Migratory game bird hunting for the species specified in s. NR 10.01 (1) is allowed in Governor Dodge, and Mill Bluff state parks from November 1 through December 15 or until the seasons established in s. NR 10.01 (1) conclude, whichever occurs first.

Section 7. NR 10.275(2)(b) 1. and 2. are amended to read:

NR 10.275(2)(b) *Hunting hours*. 1. The hunting hours for pursuing small game at Governor Dodge, Mill Bluff, and Mirror Lake ~~and Newport~~ state parks shall be the same as the hours established in s. NR 10.06 (5) except that hunting hours will close at 12:00 noon daily.

2. The hunting hours for pursuing migratory game birds at Governor Dodge, and Mill Bluff ~~and Newport~~ state parks shall be the same as the hours established in s. NR 10.06 (5) except that hunting hours shall close at 12:00 noon daily.

Section 8. NR 12.10(3)(intro.) is amended to read:

NR 12.10(3) RULE COMPLIANCE AND PARTICIPATION BY OTHERS. (intro.) The landowner, lessee, occupant or other persons assisting in the removal of wild animals causing damage or nuisance shall comply with all hunting and trapping rules specified under ch. NR 10 or ch. 29, Stats., except the open and closed seasons established in ch. NR 10 or unless otherwise provided under this chapter, ch. 29, Stats. , or by permit. Permittees and participants who fail to comply shall be subject to the penalty applicable to the appropriate ch. NR 10 or ch. 29, Stats. , violation. Persons other than the landowner, lessee or occupant, may assist in the removal of wild animals causing damage or nuisance in accordance with this subsection.

Section 9. NR 16.45(2)(a)1. is amended to read:

NR 16.45(2)(a)1. The deer farm is enrolled in the chronic wasting disease herd ~~monitoring~~ status program established by s. ATCP ~~40.67~~ 10.53.

Section 10. NR 16.45(2)(b)1. is amended to read:

NR 16.45(2)(b)1. The deer farm is enrolled in the chronic wasting disease herd ~~monitoring~~ status program established by s. ATCP ~~40.67~~ 10.53.

Section 11. NR 16.45(2)(b)2. is repealed.

Section 12. NR 16.45(5)(a)(intro) and (b) are amended to read:

NR 16.45(5) FENCING COMPLIANCE EXTENSION. (a) *Time period to bring deer farms with perimeter fences less than 80 acres in size fences into compliance with sub. (2)*. Farm-raised deer farms with white-tailed deer with perimeter fences less than 80 acres in size shall have until January 1, 2004 to enter the chronic wasting disease herd ~~monitoring~~ status program established by s. ATCP ~~40.67~~ 10.53 or

to file a fencing plan with the department on forms supplied by the department and until June 30, 2004 to comply with the fencing plan.

Note: Forms may be obtained from the Department's Bureau of Customer Service and Licensing, P. O. Box 7924, Madison, WI 53707, Phone (608) 266-2621, Fax (608) 264-6130.

(b) *Time period to bring deer farms with perimeter fences 80 acres or greater in size fences into compliance with sub. (2).* Farm-raised deer farms with white-tailed deer with perimeter fences 80 acres or greater in size shall have until January 1, 2004 to enter the chronic wasting disease ~~monitoring herd status~~ monitoring herd status program established by s. ATCP ~~40.67 10.53~~, ~~herd surveillance program established by ch. ATCP 10~~, deer harvest plan established in sub. (2) (b) 3. or file a fencing plan with the department on forms supplied by the department and until December 31, 2004 to comply with the fencing plan.

Note: Forms may be obtained from the Department's Bureau of Customer Service and Licensing, P.O. Box 7924, Madison, WI 53707, Phone (608) 266-2621, Fax (608) 264-6130.

Section 13. NR 16.45(5)(c)4. is amended to read:

NR 16.45(5)(c)4. Number of fenced acres containing white-tailed deer not in the chronic wasting disease herd ~~monitoring status~~ monitoring status program as established by s. ATCP ~~40.67 10.53~~, ~~surveillance program as established by ch. ATCP 10~~ or a deer harvest plan established in sub. (2) (b) 3.

Section 14. NR 16.45(6)(h) is amended to read:

NR 16.45(6)(h) Status of enrollment in chronic wasting disease herd ~~monitoring status~~ monitoring status program as established by s. ATCP ~~40.67 10.53~~, ~~surveillance program as established by ch. ATCP 10~~ or a deer harvest plan established in sub. (2) (b) 3.

Section 15. Effective dates. These rules shall take effect on February 1, 2008.

Section 16. 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 _____
Scott Hassett, Secretary

(SEAL)