

Clearinghouse Rule 10-051

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARINGS
WM-02-10

NOTICE IS HEREBY GIVEN that pursuant to 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 interpreting 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., the Department of Natural Resources will hold public hearings on revisions to chs. NR 8, 10, 12 and 17, Wis. Adm. Code relating to license and permit procedures, game and hunting, wildlife damage and nuisance control and dog trials and training.

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on Monday, June 7, 2010 at 2:00 p.m. at the following location: Room 613, Natural Resources State Office Building (GEF-2), 101 South Webster St., Madison.

NOTICE IS HEREBY FURTHER GIVEN that the proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. 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. Comments may be submitted until June 8, 2010. 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.

Plain Language Rule Analysis: 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. The proposed rules will:

1. 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.
2. Update agency contact information and requirements for administration of the Wildlife Violator Compact Program.
3. Clarify 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.
4. 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.
5. 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.
6. Update a cross reference related to the hours when hunting is allowed.

7. Clarify that in addition to .410 shotguns, it is also illegal to hunt deer, bear or elk with handguns which fire .410 shotgun slugs.
8. Update cross references related to deer registration and deer carcass tags in the CWD zone.
9. Clarify that enforcement action can be taken against a person who fails to report bobcat harvest as required.
10. Repeal a redundant, unnecessary prohibition on hunting from a roadway specifically for wild turkeys.
11. 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.
12. Clarify 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.
13. Move a provision to a more proper location in order to simplify code language about the removal of nuisance animals.
14. Clarify 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.
15. Clarify 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.
16. Clarify that hunters under the authority of damage and nuisance program permits can retain more than one deer when authorized by the department.
17. Clarify that pen standards apply to captive coyote, fox and rabbit 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.

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.

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.

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 part 10.

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.

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

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

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 the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

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.

Dated at Madison, Wisconsin _____
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary