

## Clearinghouse Rule 17-077

### DRAFT #1

07/5/2017

### ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD AMENDING and REPEALING AND RECREATING ARTICLES

The statement of scope for this rule, SS 056-17, was approved by the Governor on June 8, 2017, published in Register No. 738A2, on June 12, 2017, and approved by the Natural Resources Board on June 28, 2017. This rule was approved by the governor on \_\_\_\_\_.

The Wisconsin Natural Resources Board proposes an order to amend NR 10.104(2) and NR 10.28(1) relating to revising white-tailed deer 3-year population objectives and deer management unit boundaries.

### WM-08-17

#### Analysis Prepared by the Department of Natural Resources

**1. Statute Interpreted:** In promulgating this rule s. 29.014 and 29.889(12) Stats. have been interpreted as allowing the department the authority to establish deer population objectives to manage deer herds at acceptable population sizes while ensuring public hunting and recreation opportunities. In addition, s. 29.040 Stats. has been interpreted as granting the department the authority to establish County Deer Advisory Councils as part of the Deer Trustee Report of 2012. County Deer Advisory Councils (CDACs) establish deer population objective and deer management unit boundary recommendations.

**2. Statutory Authority:** Statutes that authorize the promulgation of this rule order include sections 29.014, 29.063 and 227.11, Stats.

**3. Explanation of Agency Authority:** Sections 29.014, 29.063 and 227.11 Stats. grant rule-making authority to the department to establish seasons and bag limits for hunting that ensure continued hunting opportunities for citizens of the state and are compatible with the state's chronic wasting disease (CWD) policies. All rules promulgated under this authority are subject to review under ch. 227, Stats.

**4. Related Statutes or Rules:** Deer unit boundaries and population objectives are reviewed every three years according to s. NR 10.104 (3), Wis. Adm. Code and Voigt case stipulations (Chippewa treaty rights). County Deer Advisory Councils are charged with gathering public input and developing deer harvest quotas and antlerless tag recommendations under s. NR 10.104(5)(c).

The department will also promulgate an identical emergency rule, WM-07-17(E), which was authorized under an identical scope statement (SS-057-17). The emergency rule will allow revised population objectives and DMU boundaries to be in effect so that CDACs can develop annual deer season recommendations.

**5. Plain Language Analysis:** Wisconsin is divided into 78 deer management units (DMUs), which currently follow county boundaries in most cases. Seventy-two County Deer Advisory Councils review deer herd metrics and public feedback to develop recommendations for three-year deer population objectives of increasing, maintaining or decreasing the herd in each county's DMU(s). These population objectives and DMUs serve as the foundation for managing the deer herd and determining annual antlerless deer harvest quotas, antlerless tag levels and deer season structures. The department

incorporates each CDAC's recommendations into the review of deer population objectives and DMU boundaries, which occurs every three years.

CDACs participated in the first population objective review in 2014. During the fall of 2017, councils will once again convene to review current population objectives and propose revised 2018 – 2020 population objectives. Additionally, during those meetings councils will participate in the DMU boundary review process and may propose revised DMU boundaries, constrained by county borders, for department consideration.

Population objectives and DMUs approved in the fall of 2017 will serve as the framework for the development of annual deer quotas, tag levels and season structures to move the deer population in the direction of the population objective in each DMU.

**6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:**

Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of 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 the states in 50 CFR 10.

**7. Comparison with Similar Rules in Adjacent States:** All of Wisconsin's neighboring states have established management units for the purpose of managing deer populations. By using units with identifiable boundaries, deer populations can be monitored and kept at various population levels to more effectively control the deer herd, to address regional differences in habitat and population (human and deer) and to reduce conflict with other land uses such as residential, agricultural or forested. In addition, neighboring states utilize population goals, informed by hunter and public input, to keep deer populations at levels that are biologically and socially acceptable.

**8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:** The department has evaluated the need for deer population objective reviews in each deer management unit based on metrics including: 1) Prevalence of chronic wasting disease and other diseases; 2) Intolerable level of agricultural damage and impacts on forest regeneration; 3) Social tolerance of deer herds; 4) Hunter demand for antlerless permits; 5) Hunter buck harvest success rate; 6) Vehicle-car accident rate; and 7) Deer population trends and public perception of population trends. These metrics were summarized in the Deer Trustee Report of 2012 and are provided to the County Deer Advisory Councils to serve as a foundation for their population objective and annual deer season recommendations.

**9. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:** These rules, and the legislation which grants the department rule-making authority, do not have fiscal effects on the private sector or small businesses. No costs to the private sector or small businesses are associated with compliance to these rules.

**10. Effect on Small Business (initial regulatory flexibility analysis):** These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

**11. Agency Contact Person:** Meredith Penthorn, 101 S. Webster St., P.O. Box 7921, Madison, WI 53707, 608-267-2948, [Meredith.Penthorn@wisconsin.gov](mailto:Meredith.Penthorn@wisconsin.gov); Kevin Wallenfang, 101 S. Webster St., P.O. Box 7921, Madison, WI 53707, 608-261-7589, [Kevin.Wallenfang@wisconsin.gov](mailto:Kevin.Wallenfang@wisconsin.gov)

**12. Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearings, by regular mail, fax or email to:

Meredith Penthorn

Department of Natural Resources

P.O. Box 7921

[Meredith.Penthorn@wisconsin.gov](mailto:Meredith.Penthorn@wisconsin.gov)

608-267-2948

608-267-7857 (fax)

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Web site at <http://adminrules.wisconsin.gov>.

Hearing dates and the comment submission deadline are to be determined.

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**SECTION 1. NR 10.104(2) is amended to read:**

**10.104 Deer population management.**

10.104 (2) DEER MANAGEMENT UNITS; WHERE ESTABLISHED. The deer management unit boundaries are the ~~county~~ boundaries as established in ~~ch. 2, Stats., and s. NR 10.28 (1)~~ except for areas that are subdivided as:

10.104 (2) (a) Metropolitan deer management subunits.

10.104 (2) (b) Islands of the Apostle Islands National Lakeshore.

10.104 (2) (c) Madeline Island in Ashland County.

10.104 (2) (d) Being within the exterior boundaries of the Bad River, Lac Courte Oreilles, Lac du Flambeau, Menominee, and Red Cliff reservations.

**SECTION 2. NR 10.28(1) IS REPEALED AND RECREATED.**

**SECTION 3. STATEMENT OF EMERGENCY.** The companion emergency rule WM-07-17 is needed to manage deer populations in Deer Management Units. Normal rule-making procedures will not allow the establishment of these changes in time for County Deer Advisory Councils to utilize the revised 3-year deer population objectives and Deer Management Unit boundaries as a basis for forming annual antlerless quota, permit level and season structure recommendations for

the 2018 season. Failure to modify our rules will result in the failure to provide hunting opportunity, properly manage the deer population and comply with administrative rules.

**SECTION 4. EFFECTIVE DATE.** This rule takes 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 5. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF Wisconsin DNR

DEPARTMENT OF NATURAL RESOURCES

BY \_\_\_\_\_

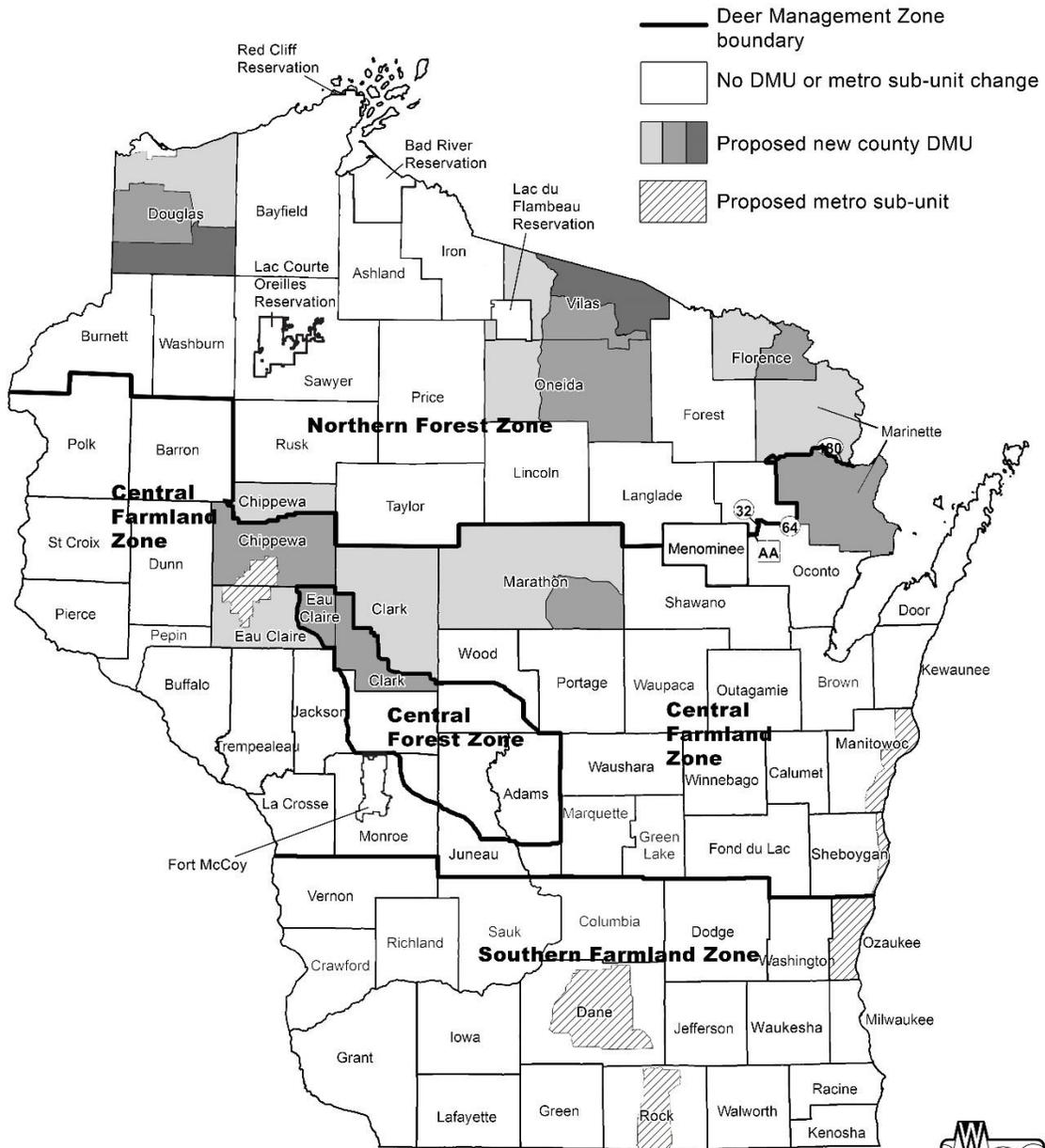
Daniel L. Meyer, Secretary

(SEAL)

Appendix 1

Preliminary CDAC recommendations for deer population objectives and DMU boundaries, 2018 – 2020

## Preliminary CDAC Recommendations for Deer Management Unit Boundaries 2018 - 2020



Rev. 09/11/17



# Preliminary CDAC Recommendations Deer Population Objectives and DMU Boundaries 2018-2020

