

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

The statement of scope for this rule, SS 145-15, was approved by the Governor on December 22, 2015, published in Register No. 721A1 on January 4, 2016 and approved by the Natural Resources Board on January 27, 2016. This emergency rule was approved by the Governor on April 6, 2017.

The Wisconsin Natural Resources Board proposes an order to repeal Ch. NR 10.085 (6) (b) and 10.125 (1) (d); to amend NR 10.08 (7) (d), 10.085 (2) and (5), 10.25 (2) (a) 1., 20.07 (1v), 20.10 (7m); and to create NR 10.085 (5) (Note) related to Customer and Outreach Services rules related to the automated system for delivering recreational license products.

CS-05-17(E)

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: Non-statutory provisions of 2015 Act 89 establish that the department may enact these rules using the process for emergency rules without finding that promulgating a rule is necessary for the preservation of public peace, health, safety, or welfare. The emergency rule may remain in effect until July 1, 2018 or until the permanent rule is promulgated.

The chapter on conservation, in s. 23.47 created in 2015 Act 89, establishes the department may promulgate rules relating to forms of acceptable proof of an approval, electronic retrieval of information, and reprints of approvals and safety certificates.

The chapter on wild animals and plants, in s. 29.014, “rule making for this chapter”, establishes that the department shall establish and maintain conditions for taking fish and game. This grant of rule-making authority allows the department to promulgate rules related to the licensing, use of harvest permits, and other regulations necessary to conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting, and trapping.

Wisconsin’s boundary waters with other states are popular hunting, fishing, and trapping locations. Specific authority to regulate hunting and fishing in and on all interstate boundary waters and outlying waters is established in s. 29.041.

Sections 23.11 and 29.014, Stats., allow for the protection of natural resources, establish general department powers on lands it manages including migratory bird refuges, and authority to establish hunting and trapping regulations on department managed lands. This authority could apply if property-specific permits currently issued by the department are converted to electronic permit delivery.

Statutes Interpreted and Explanation: Nonstatutory provisions of 2015 Act 89 establish that the department may enact these rules using the process for emergency rules without finding that promulgating a rule is necessary for the preservation of public peace, health, safety, or welfare.

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waters with other states are popular hunting, fishing and trapping locations. Specific authority to regulate hunting and fishing in and on all interstate boundary waters and outlying waters is established in s.29.041.

Related Statute or Rule: The department is also promulgating permanent rules, Board Order CS-03-16, which will contain provisions of this rule. This rule is modifying the provisions of EmR 1613, referred to by the department as Board Order CS-04-16(E), which is a more broad revision of the recreational license issuance program and the products and their use. When this rule modifies CS-04-16(E) the action clause for each section will describe that the action is “as affected by Emr 1613.”

Plain Language Rule Analysis: These rules will modernize Wisconsin’s automated system for delivering recreational license products. This will result in better access to products, faster delivery of special permits and registrations, and improved customer service and satisfaction.

SECTIONS 1, 6, 7 and 8 create an exception to the requirement that carcass tags which have been validated upon harvest of an animal must remain intact. The exception allows validation by cutting the carcass tag if that is required by the department and the tag indicates where to do so.

SECTION 2 establishes an alternative to marking certain carcass tags in order to validate them after harvesting an animal. The exception will allow separating a designated portion of the tag as indicated on the tag.

Current rules also require that a validated carcass tag remain with the meat of certain species until the meat is consumed. In order to accommodate that the carcass tag may have been separated when it was validated, these sections establish that only a portion of the tag bearing a tag number needs to remain with the meat.

SECTIONS 3 and 4 eliminate the requirement to write a registration confirmation number on a validated tag in order to show evidence that registration has occurred. This is of reduced importance with the current statewide automated licensing system because conservation wardens can use the unique tag number generated upon issuance to locate all customer information and identify if an animal has been registered.

SECTION 5 eliminates the requirement to validate a Canada goose hunting permit. Reporting harvest to the department by telephone or online would still be required.

Federal Regulatory Analysis: States may manage the fish and 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.

Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20. Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. Wisconsin annually adjusts migratory bird seasons and regulations in order to stay within the federal framework.

Comparison with rules in Adjacent States: Wisconsin’s surrounding states have comparable systems for the delivery of licensing products. Minnesota, Iowa, and Indiana all utilize print-on-demand systems with plain paper. Michigan still uses a durable paper system with equipment supported by their agency. Minnesota, Iowa, Illinois and Indiana all utilize electronic harvest reporting or registration systems.

Summary of Factual Data and Analytical Methodologies: The policies in this rule are consistent with past policies of issuing recreational licenses through an electronic based system using a network of local vendors and department offices.

Various methods to manage the public harvest of wild animals or sturgeon are available to the department. The department requires the use of carcass tags for certain species when that will assure equitable distribution of harvest, regulations compliance, or to limit harvest to a very specific level. Hunters purchase tags or, when demand exceeds supply, apply to be included in random drawings for tags.

For wildlife species, carcass tags are required to hunt or trap deer, bear, elk, wild turkey, sharp-tailed grouse, Canada goose when extra harvest control measures are being implemented, bobcat, fisher, otter, and wolves when they are not listed as a threatened or endangered species. A carcass tag is also required when an angler intends to harvest, or keep, a lake sturgeon during an open fishing season.

Immediately upon harvesting an animal for which a carcass tag is required, the carcass tag must be validated. Under current rules, this is done by marking the tag with a pen or pencil. Under these proposed rules, the department will be able to allow carcass tags to be validated by other methods as indicated on the tag, such as by separating a portion of it.

Registration of harvested animals is another requirement that helps assure compliance with regulations and provides important management information to the department. Current rules require that a registration verification number, provided by the department at the time of harvest registration, be written on the validated carcass tag. Under these rules, hunters will still be required to register or report their harvest for certain species. Hunters will not be required to record a harvest registration verification number on their tag. With the current statewide automated license system a conservation warden only needs the number originally printed on the tag by the department in order to electronically verify if an animal was registered.

Anticipated Private Sector Costs and Economic Impact of Implementing the Rule: No economic impacts are anticipated as a result of these rules. The department currently contracts with a vendor and provides automated licensing to the public at private retail outlets, department service centers, and online. Following these rules, the same basic framework of license delivery would still be in place.

The department anticipates improved delivery of services and continued high levels of customer satisfaction because more services will be available at all locations and through the internet. These proposals will generally contribute to providing access to opportunities for hunting, fishing, trapping and other outdoor activities and maintenance of the economic activity generated by people who participate in those activities. The long range implications of this rule proposal will be the same as the short term impacts in that access to outdoor recreational activities will continue or improve and that activity will continue to generate economic activity.

These rules are primarily applicable to individuals and impose no new compliance or reporting requirements for small business.

These rules will not modify the actual fees for any licenses, permits, registrations, or trail use stickers.

Pursuant to the Governor's Executive Order 50, Section II, this will be a level 3 economic impact analysis for the permanent version of this rule. For the comparable permanent rule, a notice for Solicitation of comments on this analysis will be posted on the department's website in 2017 and various interest groups may be contacted by email.

Effects on Small Business: The department currently contracts with a vendor and provides automated licensing to the public at private retail outlets, department service centers, and online. Following these rules, the same basic framework of license delivery would still be in place.

These rules are primarily applicable to individuals and impose no new compliance or reporting requirements for small business. Vendors who choose to serve as department license outlets will continue to have the compliance and reporting requirements and follow the same operational standards as under current rules.

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SECTION 1. NR 10.08 (7) (d), as affected by EmR 1613, is amended to read:

NR 10.08 (7) (d) Fail to keep a validated carcass tag ~~intact and~~ in good, legible condition so as to permit meaningful inspection by the department. Carcass tags shall remain intact except that part of a tag may be separated as designated by the department on the tag as a means of validation.

SECTION 2. NR 10.085 (2), (5) and (6) (b), as affected by EmR 1613, are amended to read:

NR 10.085 (2) VALIDATION. Any person who kills any of the species identified in this section, or if s. 29.324 Stats. applies, the person providing the carcass tag, shall immediately validate the carcass tag by separating a designated portion of the tag or by marking it as designated by the department on the tag. Failure to completely validate the carcass tag renders possession of the animal illegal and the carcass tag invalid.

(5) REMOVAL AND RETENTION. A carcass tag attached as required in this section may be removed from the carcass at the time of butchering or when prepared by a taxidermist, but the person who killed or obtained the animal shall retain ~~all tags~~ a portion of the validated tag which bears a legible tag number until the meat is consumed. ~~The~~ A portion of the validated carcass tag which bears a legible tag number shall be retained by the person who possesses the carcass until it is consumed.

SECTION 3. NR 10.085 (5) (Note), as affected by EmR 1613, is created to read:

NR 10.085 (5) Note: Historically a registration tag or registration validation number was required to be kept with the meat until consumed in order to show proof that the animal had been registered. With the current statewide automated license system a conservation warden only needs the number originally printed on the tag by the department in order to electronically verify if an animal was registered.

SECTION 4. NR 10.085 (6) (b), as affected by EmR 1613, is repealed.

SECTION 5. NR 10.125 (1) (d) as affected by EmR 1613, is repealed.

SECTION 6. NR 10.25 (2) (a) 1., as affected by EmR 1613, is amended to read:

NR 10.25 (2) (a) 1. Validate the license and carcass tag by separating a designated portion of the tag or by marking it in the manner indicated by the department on the tag. Failure to follow the validation procedure in this manner invalidates the license and carcass tag.

SECTION 7. NR 20.07 (1v), as affected by EmR 1613, is amended to read:

NR 20.07 (1v) Fail to keep a validated lake sturgeon carcass tag ~~intact and~~ in good, legible condition so as to permit meaningful inspection by the department. Carcass tags shall remain intact except that part of a tag may be separated as designated by the department on the tag as a means of validation.

SECTION 8. NR 20.10 (7m) is created to read:

NR 20.10 (7m) Fail to keep a validated lake sturgeon carcass tag ~~intact and~~ in good, legible condition so as to permit meaningful inspection by the department. Carcass tags shall remain intact except that part of a tag may be separated as designated by the department on the tag as a means of validation.

SECTION 9. FINDING OF EMERGENCY. Nonstatutory provisions of 2015 Act 89 establish that the department may enact these rules using the process for emergency rules without finding that promulgating a rule is necessary for the preservation of public peace, health, safety, or welfare. The emergency rule may remain in effect until July 1, 2018 or until the permanent rule is promulgated.

SECTION 10. EFFECTIVE DATE. This rule shall take effect upon publication in the Wisconsin state paper pursuant to s. 227.24 (1) (c).

SECTION 11. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on March 1, 2017.

Dated at Madison, Wisconsin _____ 4/18/17 _____.