

SUBJECT:

Request that the Board adopt Emergency Board Order WM-08-14(E), proposed rules modifying ch. NR 10 related to issuance of antlerless permits through the Deer Management Assistance Program and implementation of the 2012 White-tailed Deer Trustee's Report

FOR: August 2014 Board meeting

PRESENTER'S NAME AND TITLE: Bob Nack, Big Game Section Chief

SUMMARY:

This emergency rule will facilitate the issuance of antlerless deer permits through the Deer Management Assistance Program. This order will also allow 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.

Deer Management Assistance Program

Under current law, with limited exceptions, hunting permits can only be used by the individual to whom the permit is issued. The department has been working with stakeholders to develop the Deer Management Assistance Program as recommended by the 2012 White-tailed Deer Trustee's Report. During development, the department has identified a need for more flexibility in the way that permits are issued in order to implement the program efficiently and best serve customers. These rules will allow the purchase of antlerless deer hunting permits by a landowner or primary contact who is enrolled in the program or their authorized representative. The permits could then be transferred, for no more than face value cost, to hunters who could use the tags on the enrolled property. These do not change existing requirements that the tags can only be used during the normal deer hunting seasons and consistent with all other deer hunting regulations.

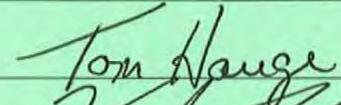
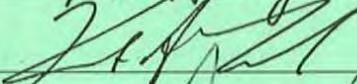
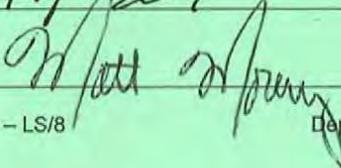
County Deer Management Advisory Committees/Councils

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. 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 will establish that committee membership may also include a participant in the Deer Management Assistance Program. These rules will also clarify that the department is responsible for establishing the guidelines for committee operation.

RECOMMENDATION: That the Board adopt emergency Board Order WM-08-14(E).

LIST OF ATTACHED MATERIALS (check all that are applicable):

- background memo
- Fiscal estimate and economic impact analysis (EIA) form
- Response summary
- Attachments to background memo
- Environmental assessment or impact statement
- Board order/rule

Approved by	Signature	Date
Tom Hauge, Bureau Director		7/29/14
Kurt Thiede, Division Administrator		7/30/14
Cathy Stepp, Secretary		7/30/14

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: July 17, 2014

TO: Natural Resources Board

FROM: Cathy Stepp

SUBJECT: NRB Adoption of Board Order WM-08-14 (E) related to issuance of antlerless permits through the Deer Management Assistance Program and participation in County Deer Management Advisory Committees, Ch. NR 10 Wis. Admin. Code.

I am requesting that the Natural Resources Board adopt Board Order WM-08-14 (E). This emergency rule will facilitate the issuance of antlerless deer permits through the Deer Management Assistance Program. This order will also allow 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.

Background:

Deer Management Assistance Program

These rules will 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. 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 consistent with all other deer hunting regulations.

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 identified this 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.

County Deer Management Advisory Committees/Councils

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. These rules will establish that committee membership may include a participant in the Deer Management Assistance Program.

Under emergency rules currently in effect committee membership, in the ceded territory as defined by s. NR 13.02 (1), may include a representative of Wisconsin Chippewa bands. Statewide, membership may include a representative of; agriculture, forestry, tourism, transportation, local government, and a local organization representing hunting interests.

Summary of the Rule: These rules would:

- Allow the sales of antlerless deer hunting permits to a landowner, primary contact for landowners, or an authorized representative of people who are enrolled in the Deer Management Assistance Program. 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.
- Establish that membership on a County Deer Management Advisory Committee may also include a participant in the Deer Management Assistance Program.
- 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.

Discussion

Deer Management Assistance Program

Under current rules and statutes, with limited exceptions, deer hunting permits can only be used by the individual to whom the permit is issued and no more than one bonus permit can be purchased per day. 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 the purchase of antlerless deer hunting permits by a primary contact or landowner 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. 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 or authorized representative's control over the use of permits by allowing them to distribute tags 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 issue all antlerless permits for a property. It is possible that a landowner or authorized representative could be the program enrollee and not 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.

County Deer Management Advisory Committees/Councils

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.

Previous Board Action:

The board approved the statement of scope for this rule at its June 25, 2014 meeting.

Public Involvement:

A public hearing process is not required under Ch. 227 Stats. for the promulgation of emergency rules. The department often does hold hearings on emergency rules but decided not to in this situation because of the very short time frame for program implementation. The department will hold hearings on a permanent version of this rule as part of the larger package of permanent rules implementing recommendations of the 2012 White-tailed Deer Trustee's Report.

Rule Development:

These rules were developed with assistance from the bureaus of law enforcement, legal services, and customer service & licensing.

Small Business and Regulatory Flexibility Analysis:

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).

Economic Impact of Proposed Rules

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.

A copy of the economic and fiscal impact analysis is attached as part of this agenda item.

Environmental Analysis:

The department has determined that these rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

wagon, motor bus, motorcycle or other similar motor vehicle.

SECTION 537. 27.01 (7) (a) 3. of the statutes is amended to read:

27.01 (7) (a) 3. ~~In this subsection "vehicle "~~Vehicle admission area means the Bong area lands acquired under s. 23.09 (13), the Wisconsin Dells natural area, the Point Beach state forest, recreational areas in other state forests designated as such by the department, designated use zones within recreation areas established under s. 23.091 (3), and any state park or roadside park except those specified in par. (c) 5.

SECTION 538. 27.01 (7) (c) 1. of the statutes is amended to read:

27.01 (7) (c) 1. Any vehicle in ~~an a~~ a vehicle admission area between November 1 and March 31, except as the department provides by rule.

SECTION 539. 27.01 (7) (c) 1m. of the statutes is created to read:

27.01 (7) (c) 1m. Any vehicle, except a motor bus, that is in a vehicle admission area on Veterans Day or during the 3-day weekend that includes Memorial Day and that is occupied by a person who produces evidence that shows that he or she is a state resident and a service member.

SECTION 540. 27.01 (8) (bn) 3. of the statutes is created to read:

27.01 (8) (bn) 3. Any person who on Veterans Day or during the 3-day weekend that includes Memorial Day produces evidence that shows that he or she is a state resident and a service member, as defined in sub. (7) (a) 1m.

SECTION 541. 27.01 (9) of the statutes is renumbered 27.01 (9) (a).

SECTION 542. 27.01 (9) (a) (title) of the statutes is created to read:

27.01 (9) (a) (title) *Generally.*

SECTION 543. 27.01 (9) (bn) of the statutes is created to read:

27.01 (9) (bn) *Annual vehicle admission receipt fee waiver.* The department shall waive the fee, including the issuing fee, imposed under sub. (7) for an annual vehicle admission receipt for any vehicle, except a motor bus, that has Wisconsin registration plates and that is owned by a person who produces evidence that he or she is the owner, is a state resident, and is a service member, as defined in sub. (7) (a) 1m. Each person who qualifies for this waiver may receive the waiver only once. For purposes of administering this paragraph, the department shall establish and maintain a list of service members, as defined in sub. (7) (a) 1m., who have received the one-time exemption.

SECTION 544. 27.01 (9) (c) of the statutes is created to read:

27.01 (9) (c) *Annual trail fee waiver.* The department shall waive any annual fee for admission to state trails that is established under sub. (8) (c) for any person who

produces evidence that he or she is a state resident and a service member, as defined in sub. (7) (a) 1m. Each person who qualifies for this waiver may receive the waiver only once. For purposes of administering this paragraph, the department shall establish and maintain a list of service members, as defined in sub. (7) (a) 1m., who have received the one-time exemption.

SECTION 550m. 29.001 (58) of the statutes is created to read:

29.001 (58) "Municipal fish hatchery" means a fish hatchery that is owned or operated by a city, village, town, county, or a federally recognized Indian tribe or band located in this state.

SECTION 551. 29.020 of the statutes is created to read:

* **29.020 Deer management assistance program. (1)**

The department shall establish a deer management assistance program. Under this program, the department shall provide deer management assistance to participating landowners. The department shall also provide a method for collecting information from participating landowners about deer health and the deer population in this state and for receiving suggestions from participating landowners about managing the deer population. The department shall analyze the information received and use it to improve deer health and manage the deer population in this state. The department shall promulgate rules to implement this program.

(2) The department may establish fees for participation in the deer management assistance program. The department shall credit all fees to the appropriation under s. 20.370 (1) (Lv).

SECTION 552. 29.040 of the statutes is created to read:

* **29.040 Deer management report rules.** The department may promulgate rules to implement the recommendations contained in the 2012 final report of the assessment of this state's deer management plans and policies that was conducted under the terms of a contract between the department of administration and a recognized deer management expert.

SECTION 552m. 29.053 (2m) of the statutes is created to read:

~~29.053 (2m) The department shall establish a catch-and-release only season for bass fishing for the areas of the state where there is not a continuous open season for bass fishing. The season shall begin on the first Saturday in March and end on the Sunday preceding the first Saturday in May.~~

SECTION 553. 29.181 (2) of the statutes is renumbered 29.181 (2) (a) (intro.) and amended to read:

29.181 (2) (a) (intro.) A bonus deer hunting permit shall authorize the holder of the bonus deer hunting permit to ~~take an additional deer of the sex or type specified by the department on the permit. do any of the following:~~

(c) Except as authorized by rule or as provided under par. (d), a person may not apply for or be issued more than one bonus deer hunting permit in a single season.

Vetoed
In Part

Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until June 30, 2015, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(2i) **PAYMENTS TO CERTAIN TOWNS.** In fiscal year 2013-14, the secretary of natural resources shall distribute \$2,500,000 from the appropriation account under section 20.370 (1) (mv) of the statutes, as affected by this act, to towns that were eligible to receive national forest income payments under section 59.25 (3) (rm), 2011 stats., during the 2012-13 fiscal year. The secretary shall distribute the moneys to the towns according to the criteria required for the distribution of national forest income payments under section 59.25 (3) (rm), 2011 stats.

* (3) **DEER MANAGEMENT ASSISTANCE PROGRAM.** The department of natural resources may use the procedure under section 227.24 of the statutes to promulgate rules under section 29.020 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until June 30, 2015, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of natural resources is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for rules promulgated under this subsection.

(3e) **WALLEYE PRODUCTION GRANTS AND CONTRACTS.** The department of natural resources may promulgate emergency rules under section 227.24 of the statutes implementing sections 29.739 and 29.740 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until June 30, 2016, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(3i) **MACKENZIE ENVIRONMENTAL EDUCATION CENTER.** The department of natural resources shall expend \$239,000 in fiscal year 2013-14 from the appropriation account under section 20.370 (9) (mu) of the statutes for the continuation of school-based environmental educa-

tion services at the MacKenzie Environmental Education Center from August 15, 2013, to August 15, 2014.

(4c) **FISH HATCHERY INFRASTRUCTURE PROJECT.** Not later than June 30, 2014, the department of natural resources shall submit a report to the joint committee on finance that describes the need for renovation of the Kettle Moraine Springs fish hatchery. The report shall include all of the following:

(a) A statement about whether private aquaculture facilities or other entities are able to meet the department's fish stocking needs in an economically feasible manner.

(b) A description of all proposed expenditures for the renovation of the Kettle Moraine Springs fish hatchery and how those expenditures minimize the requirement to contract state debt.

(4d) **SPORTING HERITAGE GRANTS.**

(a) In addition to the requirements under section 29.605 (3) of the statutes, as created by this act, a nonprofit organization is eligible to receive a grant under section 29.605 (1) of the statutes, as created by this act, during fiscal biennium 2013-15 only if the nonprofit organization submits an application to the department of natural resources within 30 days after the effective date of this paragraph.

(b) 1. There is created a committee to review grant applications submitted to the department of natural resources under section 29.605 of the statutes, as created by this act, in fiscal year 2013-14 and to submit a recommendation to the secretary of natural resources on which applicant should receive the grant. The committee shall consist of the following members:

a. Three members appointed by the chairperson of the sporting heritage council.

b. The chairperson of the standing committee of the assembly with jurisdiction over natural resources matters.

c. The chairperson of the standing committee of the senate with jurisdiction over natural resources matters.

2. The committee shall submit its recommendation to the secretary of natural resources as required under subdivision 1. not later than 50 days after the effective date of this subdivision. The committee terminates upon submission of that recommendation.

3. The department of natural resources shall award the grant under section 29.605 of the statutes, as created by this act, for fiscal biennium 2013-15 not later than 60 days after the effective date of this subdivision.

(4e) **MILWAUKEE SHORELINE.**

(a) The state declares all of the following:

1. That if any part of the shoreline established under section 30.2038 of the statutes, as created by this act, is located on any part of the lake bed of Lake Michigan, the ceding of that lake bed by the city of Milwaukee to a private party under the agreement described in section 30.2038 (1) (a) of the statutes, as created by this act, was

**ADMINISTRATIVE RULES
FISCAL ESTIMATE AND
ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Board Order WM 08-14 (E) modifying Ch. NR 10 Game and Hunting.

Subject

Issuance of antlerless permits through the Deer Management Assistance Program and participation in County Deer Management Advisory Committees, Ch. NR 10 Wis. Admin. Code.

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20 , Stats. Appropriations Affected

None

Fiscal Effect of Implementing the Rule

No Fiscal Effect

Indeterminate

Increase Existing Revenues

Decrease Existing Revenues

Increase Costs

Could Absorb Within Agency's Budget

Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

This emergency rule will facilitate the issuance of antlerless deer permits through the Deer Management Assistance Program. This order will also allow 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.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Because these are emergency rules the department is not required to offer a comment period on this economic analysis. The department will hold a comment period pursuant to Governor's Executive Order 50, Section IV, when permanent rules are promulgated. Fiscal impacts on the department are also summarized in this analysis.

Economic Impact

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.

Fiscal Impact

The department anticipates no fiscal impact resulting from these rules. Additional automated licensing system programming will not be required to implement the proposals.

These rules would allow issuance of antlerless deer hunting permits to a primary person who is enrolled in the

<p>Deer Management Assistance Program or their designee. 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. Allowing permit transfers creates efficiency for the department because we would not need to establish automated license system processes to assure that permits are distributed only to people designated by the primary program enrollee (there is also not time to implement such a system in 2014 and, since an alternative could not be implemented anyway, our proposed rule is not considered to be a cost savings). Only one contact with the department is all that would be needed to issue all antlerless permits for a property.</p>
<p>Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</p> <p>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. Alternatives to this method of implementation are limited because of the importance of implementing the program in 2014. There is limited time for the development of needed technology to implement alternatives. Not implementing the rule is an alternative but this may not result in delivering the best customer service.</p>
<p>Long Range Implications of Implementing the Rule</p> <p>These emergency rules will only be in place for the 2014 deer hunting season. Long range implications may be evaluated in an economic impact analysis of a permanent rule.</p>
<p>Compare With Approaches Being Used by Federal Government</p> <p>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.</p>
<p>Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</p> <p>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.</p>
<p>Name and Phone Number of Contact Person</p> <p>Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.</p>

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

The statement of scope for this rule, SS 056-14, was published in Register No. 702, on June 14, 2014 and approved by the Natural Resources Board at its June 25, 2014 meeting. This emergency rule was approved by the Governor on February _____.

The Wisconsin Natural Resources Board proposes an order to amend NR 10.104 (8) (a), and to create NR 10.001 (7p) and (7w), 10.104 (9m) (a) and (b), 10.104 (5) (b) 8. and 10.104 (5) (c) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committee.

WM-08-14 (E)

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: The department's ability to promulgate emergency rules to implement recommendations of the deer trustee report is established in non-statutory provisions of 2013 ACT 20. The department is given authority to promulgate emergency rules that will implement recommendations of the assessment of this state's deer management plans and policies under s. 29.040 Stats. These emergency rules can remain in place until permanent rules are implemented. The department is not required to make a finding of emergency.

Additional authority related specifically to the issuance of hunting permits is found in s. 29.024 (2) (d) Stats. This statute establishes that it is illegal to transfer an approval or permit or allow its use by any other person. The law establishes limited exceptions and that the department can, by rule, allow the transfer of permits or approvals.

The primary authority to establish hunting regulations for deer and other species is established in s. 29.014 Stats. This section directs the department to establish and maintain open and closed seasons, bag limits, size limits, rest days, and other conditions for the taking of game that conserves the game supply and provides citizens with good hunting opportunities.

Statutes Interpreted and Explanation: Non-statutory provisions of 2013 ACT 20, ss. 29.024 (2) (d), and 29.014 Stats.

Related Statute or Rule: The Deer Management Assistance Program is designed to provide habitat and herd management assistance to landowners interested in managing their property for wildlife and is established by emergency rules currently in effect, SS 098-13 or Board Order WM-24-13(E).

Emergency rules currently in place, SS 098-13 or Board Order WM-24-13(E), 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.

This rulemaking will modify provisions of the emergency rule SS 098-13 which the department refers to as Board Order WM-24-13 (E) for its own tracking purposes.

The department will promulgate permanent rules which are similar or identical to this emergency board order in WM-11-13, a comprehensive rule package implementing the recommendations of the 2012 White-tailed Deer Trustee's Report.

Plain Language Rule Analysis: 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: 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: 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: 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 background 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: 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: 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: 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 227.14(6) or 227.14(2g).

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SECTION 1. NR 10.001 (7p) is created to read:

NR 10.001 (7p) “Deer Management Assistance Program Authorized Representative” The person a landowner has designated to act and make decisions on the landowner’s behalf for purposes of the program, including but not limited to, granting access to the landowner’s property for department staff to conduct on-site consultation visits.

SECTION 2. NR 10.001 (7w) is created to read:

NR 10.001 (7w) “Deer Management Assistance Program Primary Contact” means a person who is primarily responsible for submitting program enrollment applications and fees, scheduling meetings with department staff, and sharing information with landowners or their authorized representatives in a group cooperative or when there is more than one owner of an individual property.

SECTION 3. NR 10.104 (8) (a), as affected by SS 098-13 (WM-24-13E), is amended to read:

NR 10.104 (8) (a) *General issuance.* The department may issue bonus antlerless deer tags on a first-come, first-served basis to individuals who possess a valid deer hunting license. No person may purchase more than 1 bonus antlerless deer carcass tag per day except as established in sub. (9m).

SECTION 4. NR 10.104 (9m) (a) and (b) are created to read:

NR 10.104 (9m) (a) **CARCASS TAG DISTRIBUTION.** A landowner or their authorized representative for an individually enrolled property may distribute the carcass tags to persons who are authorized to hunt on the enrolled property or portion of the property or may retain the carcass tags for their own use. The primary contact or authorized representative for a cooperative or an individually enrolled property with multiple owners may distribute the carcass tags to persons who are authorized to hunt on the enrolled property or portion of the property and may retain a portion of the allotted carcass tags for their own use. A landowner, primary contact for a cooperative, or authorized representative may not charge a fee for permits which are distributed except for an amount sufficient to recover the actual cost of the permit.

(b) CARCASS TAG REPORTING. Each landowner, primary contact, or their authorized representative who distributes carcass tags shall keep a current, correct and complete record of all carcass tags distributed as required by the department on forms furnished by the department. Records of carcass tag distribution shall be provided to the department by required deadlines or upon request.

Note: The number of carcass tags distributed will be agreed upon following a site visit by a wildlife biologist and a forester. Permits are available only to Level 2 and Level 3 participants in the Deer Management Assistance Program established in NR 10.72. Deer Management Assistance Program enrollees are exempt from the restriction of purchasing no more than one bonus permit daily on a first-come-first-served basis which is established in NR 10.104 (8) (a).

SECTION 5. NR 10.104 (5) (b) 8. is created to read:

NR 10.104 (5) (b) 8. A person who is enrolled as a participant in the Deer Management Assistance Program as established under subch. II

SECTION 6. NR 10.104 (5) (c) is created to read:

NR 10.104 (5) (c). *Operation of county deer management advisory committees.* 1. The department shall establish guidance for the operation of county deer management advisory committees. Guidance may include, but is not limited to, any conditions which are necessary for the operation of meetings, selecting members, and establishing terms of service for members.

2. Whenever application is made to the department by a person interested in becoming a member of a committee, the bureau of law enforcement may conduct a criminal history, character and background check on the applicant. Upon becoming aware of information indicating prior illegal activity, the department shall make appropriate inquiry into criminal history and character of applicants for committee membership and determine their suitability for the proposed activity.

SECTION 7. FINDING OF EMERGENCY. The department is not required to make a finding of emergency before promulgating these rules. The department is directed to promulgate these rules in s. Ch. 29.040 Stats., established by 2013 ACT 20 and is exempted from making a finding of emergency under non-statutory provisions in SECTION 9132 of the ACT.

SECTION 8. EFFECTIVE DATE. This rule shall take effect upon publication in the Wisconsin state paper pursuant to s. 227.24(1)(c).

SECTION 9. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 10, 2014.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)