

SUBJECT: Request adoption of Board Order LE-07-07, revisions to NR 8, Wis. Adm. Code, pertaining to procedures for implementation of the Wildlife Violator Compact.

FOR: OCTOBER 2007 BOARD MEETING

TO BE PRESENTED BY: Thomas Van Haren

SUMMARY:

The Department of Natural Resources has been authorized by the legislature under 2005 Wis. Act 282 to enter into a Wildlife Violator Compact with other states. Under the compact, convictions of wildlife law and revocation of license privileges and approvals that authorize the pursuing, taking or possession of wildlife that occur in any member state are treated as if they occurred in all member states. Before the Wisconsin DNR can formally become a member state, rules need to be promulgated which establish procedures to:

1. Assure all violators receive notification when their license privileges and approvals have been revoked by this state or any other member state,
2. Assure the exchange of information between the department, the district attorneys and the clerks of court, and
3. Provide an administrative appeal process by which the department can establish if sufficient grounds exist to deny a person's application for an approval or the revocation of their existing approvals.

These new rules are required pursuant to 2005 Wisconsin Act 282 which created s. 29.03, Wis. Stats., titled Wildlife Violators Compact, and s. 29.972, Wis. Stats., which requires the department to revoke all issued hunting, fishing or trapping license privileges and approvals or deny new applications for approvals, by any person who fails to respond to a summons or warrant, fails to appear on their court date without having made a deposit, or fails to appear before the court and is subject to a bench warrant. These rules are also required to ensure that due process is accorded to individuals subject to revocation in this state or who are revoked in another member state. These rules are also necessary to assure information on revocations is exchanged between clerks of court and the department. Once the new rules and procedures are in place, the department will apply to become a member state.

RECOMMENDATION: Adoption of Board Order LE-07-07, revisions to NR 8, Wis. Adm. Code, pertaining to procedures for implementation of the Wildlife Violator Compact.

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

/s/	10/01/07
_____ Bureau Director, Randall J. Stark	_____ Date
/s/	10/01/07
_____ Administrator, Randall J. Stark	_____ Date
/s/	10/03/07
_____ Secretary, Matt Frank	_____ Date

- | | | |
|---------------------------|------------------------------|------------------------------------|
| cc: Laurie J. Ross - AD/5 | Karl Brooks - LE/5 | Regional LE Supervisors - LE/5 (5) |
| Randy Stark - LE/5 | Steve Sisbach - LE/5 | |
| Mike Lutz - LS/5 | Diane Brookbank - CS&L GEF 3 | |
| Carol Turner - LS/5 | Kevin Huggins - CS&L GEF 3 | |
| | Tom Van Haren - LE/5 | |

DATE: October 1, 2007

TO: Christine L. Thomas - Chair
Jonathan P. Ela - Vice Chair & Chair (Air, Waste and Water Management/Enforcement Committee)
John W. Welter - Chair (Land Management, Recreation and Fisheries/Wildlife Committee)

FROM: Matt Frank, Secretary

Subject: Requesting adoption of Board Order LE-07-07 pertaining to rules for establishing the procedures for implementation of the Wildlife Violators Compact.

I am requesting that the Natural Resources Board adopt Board Order LE-07-07, modifications to ch. NR 8, Wis. Adm. Code pertaining to the procedures for implementation of the Wildlife Violators Compact.

Background and Reason for Rule Proposal:

Prior to the authority granted by 2005 Act 282, a person who had their hunting, trapping or fishing privileges suspended in another state could still obtain an approval and engage in those activities in this state. Under Act 282, the department has been authorized to enter into a Wildlife Violator Compact with other states. Doing so will allow the department to treat nonresidents who are from a state which is a member of the compact the same as a resident when they commit a violation in this state.

The mobility of many violators necessitates the maintenance of channels of communication among the various states. Usually, if a person is cited for a wildlife violation in a state other than the person's home state, one or more of the following occur:

- a. The violator is required to post collateral or a bond to secure appearance for a trial at a later date.
- b. The violator is taken into custody until the collateral or bond is posted.
- c. The violator is taken directly to court for an immediate appearance.

The purpose of these enforcement practices is to ensure compliance with the terms of a wildlife citation by the violator who, if permitted to continue on his or her way after receiving the citation, could return to his or her home state and disregard the terms of the citation. These practices may cause inconvenience and hardship for the violator who is unable at the time to post collateral, furnish a bond, stand trial, or pay a penalty, and thus is compelled to remain in custody until some alternative arrangement is made. This practice can consume a substantial amount of law enforcement time.

States that are members of the compact must agree to recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat the suspension as if it had occurred in the home state. In addition, each member state must allow a violator to accept a wildlife citation and, without delay, proceed on his or her way, whether or not a resident of the state in which the citation was issued, if the violator's home state is party to this compact.

New rules are required pursuant to Act 282 to assure due process is afforded to individuals subject to administrative suspensions in this state or who are suspended in a member state. When all necessary rules and procedures are in place, the department will apply to become a member state.

The purpose of this rule order package is to develop procedures which will allow the Department of Natural Resources to become a member of the Wildlife Violators Compact. These rules will be located in s. NR 8, Wis. Adm. Code.

Before the department can become a member of the compact, new rules and procedures need to be developed which allow the department to administer a program that will:

1. Assure all residents receive notification when their license has been suspended by this state or any other member state,
2. Assure the exchange of information between the department, the district attorneys and the clerks of court, and
3. Provide an administrative appeal process by which the department can establish if sufficient grounds exist to deny a persons application or suspend their approvals.

Rule Summary:

SECTION 1 repeals the title of Chapter NR 8, Wis. Adm. Code which was “Standards and procedures for the automated license issuance system” and recreates it to read “License and permit procedures”.

SECTION 2 and 3 create 2 subchapters within Chapter NR 8, Wis. Adm. Code. Subchapter I contains the original language and sections found in Chapter NR 8, Wis. Adm. Code related to the standards and procedures for the automated license issuance system. Subchapter II contains the new rules establishing procedures for the revocation of hunting, fishing and trapping approvals as required by the Wildlife Violator Compact and s. 29.972, Stats.

SECTION 4 of the order creates definitions and establishes the procedures to be followed by the clerk of the circuit courts and the Department’s Wildlife Violator Compact Administrator when a violator fails to pay or appear in court, and when a persons hunting, fishing or trapping privileges or approvals are revoked. More specifically, these rules establish procedures to be followed by the clerks and the Department’s Wildlife Violator Compact Administrator when a person who is charged with a violation of a wildlife related law in this state or a state that is a member of the Wildlife Violator Compact and fails to pay or appear in court. These rules establish revocation related notification requirements and acknowledgement of compliance notification requirements. This order also establishes the term of a revocation for failure to pay or appear in court and when a person is entitled to the opportunity for an administrative appeal of a revocation made by the department under s. 29.972, Stats.

To comply with the due process requirements of s. 29.03(4)(a), Stats., these rules require that when a person violates a wildlife related law and is issued a citation pursuant to s. 23.53, Stats., or served a complaint and summons pursuant s. 23.55, Stats., the issuing officer or the District Attorney issuing the complaint and summons shall provide the violator with a written notice that informs the violator that Wisconsin is a member of the Wildlife Violator Compact and what the ramifications will be if their hunting, fishing or trapping privileges or approvals are revoked in this state, or if they fail to appear in court, pay the required penalty or otherwise fail to resolve the charges.

Lastly, this order clarifies that any revocations or convictions occurring or imposed in this state prior to the effective date of this rule or the date the state becomes a participant of the wildlife violator compact pursuant to s. 29.03(8)(c), Stats., which ever is later, are not be subject to the these new rules or the provisions of the Wildlife Violator Compact.

Public Hearing, Other Comments Received, and Modifications Made:

The department held a hearing on this rule on July 26, 2007. There were no public appearances or written comments received at the hearing. Because the Clerks of the Circuit Courts were the ones most affected by these rules, the Department also shared a copy of the proposed rules with the Clerk of Courts Association, Wisconsin Supreme Court Operations Staff, as well as members of the Consolidated Court Automation Program (CCAP). The department met with members of these groups and listened to their questions and concerns. The clerks and Court Operations Staff expressed concern about several parts of the proposed rules. Specifically the concerns related to the number of notices to the clerks would be required to provide the Department when a violator fails to pay or appear, the information that must be included in the notices, the deadline required for the clerks to provide the department with such notices and the reference to Clerks of Court being too broad.

As a result of the department's meeting and follow-up contacts with the Clerks of Court, CCAP and Supreme Court Operations staff, the department modified the rules to simply require the clerks to provide the Wildlife Violator Compact Administrator with one notice after a violator fails to comply with the conditions of a default judgment for failure to pay or appear in court. A follow-up notice will also be required when a violator has paid or otherwise resolved the charge against them. It was determined that there was not a need to notify the department both when the violator first fails to appear or pay their fine or forfeiture on or before their initial court date and again after the violator fails to pay by any second deadline provided by the court.

The department removed the list of required information that the clerks needed to provide in a default judgment notice to a violator, and instead simply listed the information the Clerks need to provide the department when a violator fails to pay or appear in court. The department also defined the term clerk to mean a clerk of the circuit court with jurisdiction over a wildlife related violation. Clarifications were also made to several definitions in this rule order based on comments from the clerks and Court Operations staff. Based on comments for Court Operations staff, we have also consolidated 2 separate sections in the initial rule order that both related to denial of applications for approvals and preference points by the department during a period of revocation.

Rule Development:

These rules were developed with assistance of the Bureau of Law Enforcement and Legal Services with input from members of the Clerk of Courts Association and the Consolidated Court Automation Program.

Small Business and Initial Regulatory Flexibility Analysis:

The revisions to ch. NR 8, Wis. Adm. Code, pertain to the revocation of hunting, fishing and trapping privileges and approvals of individuals who violate the Wildlife laws in this state or any other state that is a member of the Wildlife Violators Compact. These rules are applicable to individuals who hunt, fish and trap and do not impose compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule for small businesses. Therefore, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.

Environmental Analysis:

The department has determined that these rule revisions are a Type III action under ch. 50, Wis. Adm. Code, and no environmental analysis is required.

Legislative Clearing House Report:

Almost all of the comments received from the Legislative Council Rules Clearinghouse were incorporated into this final rule order.

Fiscal Estimate — 2007 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number LE-07-07

Subject

Loss of hunting, fishing & trapping privileges in Wisconsin for failure to appear in court or pay penalties and recognition of revocations from other states that are members of the Wildlife Violator Compact.

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

Increase Costs — May be possible to absorb within agency's budget.

Yes No

Decrease Costs

Local: No Local Government Costs

Indeterminate

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others Clerk of Courts
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

20.370 (3) (mu)

Assumptions Used in Arriving at Fiscal Estimate

Summary: Under 2005 Wis. Act 282, the department has been authorized to become of member of the Wildlife Violator Compact, currently made up of 24 states. This compact requires a member state to notify another member state when a resident of that other state has been issued a citation for a wildlife violation and has failed to comply with the citation. In addition, the member state is required to notify the violator and initiate an action to suspend the violator's fish and game approvals and privileges, as well as, notifying a violator's home state if the violator has been convicted of a wildlife violation. The home state is required to treat such convictions as if they occurred in the violator's home state. In addition, the compact requires member states to make reports to other member states about wildlife convictions and suspension actions. It is assumed that Wisconsin's admission to the compact is dependent on approval from the Natural Resource Board. In addition, Act 282 requires the department to deny a license or revoke, if already issued, all hunting, trapping, and fishing approvals if a person fails to appear in court, fails to post a deposit in response to a citation, or fails to respond to a summons or warrant issued for a wildlife related violation.

State Fiscal Impact: It is expected that 1 FTE will be required by the department to maintain the data and update the data exchange system, and administration costs for the program would be \$12,000/year, for an annual cost of \$53,000. In addition, data system changes will cost an estimated \$75,000 in one-time expenses.

Based on experience of other states in the compact, and the large number of hunters and anglers in Wisconsin, the department estimates it will take 160 hours per month to administer the compact, at an annual cost of \$38,900 (\$13.28 /hr x 2080hrs = \$27,622 x 48% fringe benefits = \$41,000). In addition, there would be nonsalary costs estimated at \$1,000/month or \$12,000 annually. The \$1,000 per month includes costs associated with maintenance of the system, transfer of the data, and communications with county clerks and other states, including activities related to the multi-state compact Board.

Long-Range Fiscal Implications

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	

Fiscal Estimate — 2007 Session

Page 2 Assumptions Narrative Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number LE-07-07

Assumptions Used in Arriving at Fiscal Estimate – Continued

ONE TIME COSTS:

In addition to the above mentioned ongoing annual costs, it is estimated there would be a ONE TIME cost of \$75,000 to cover the cost of information & technology development. These costs are broken down as follows:

1. In order for the Department's Automated License Issuance System (ALIS) to accommodate these new revocations, modifications to the ALIS revocation tables will be needed (3270 ALIS & WOLF screens) at a cost of approx. \$5,000.
2. There would need to be a new nightly batch process to interface this revocation data from the LE citations database. It is anticipated that \$10,000 would be needed for initial development and possibly \$200/month to run the batch process [\$200/month cost is not included in estimate total]. This estimate is based on the fees that DWD pays for this service on a monthly basis.
3. There would be a cost to modify the Department's Oracle/LE Citations Data Base to accommodate the new revocation or suspension information from other states and implementation of a tool for other states to use to update their revocation information. The cost for this modification is estimated to be \$15,000.
4. Modifications will need to be made to provide DNR Court Officers and the County Clerk of Courts access to the Department's citations system so they can add, modify and delete revocation or suspension information in a timely manner. Cost estimate: \$30,000.
5. Finally, the Department would also need to modify the TYME server queries to allow DNR's arrest and revocation records to be available nationwide for other states who are in, or that later enter into, the compact. Cost estimate: \$15,000.

Local Fiscal Impact: There may be some local costs to the Clerks of Courts who are required to provide the department with written or electronic copies of: 1.) notices of noncompliance when a violator fail to pay or appear in court; and 2.) hunting, fishing or trapping license revocation orders of the court. These costs may be reduced by using electronic notification or providing postage paid envelopes.

Fiscal Estimate Worksheet — 2007 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number LE-07-07

Subject

Loss of hunting, fishing & trapping privileges in Wisconsin for failure to appear in court or pay penalties and recognition of revocations from other states that are members of the Wildlife Violator Compact.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 \$75,000

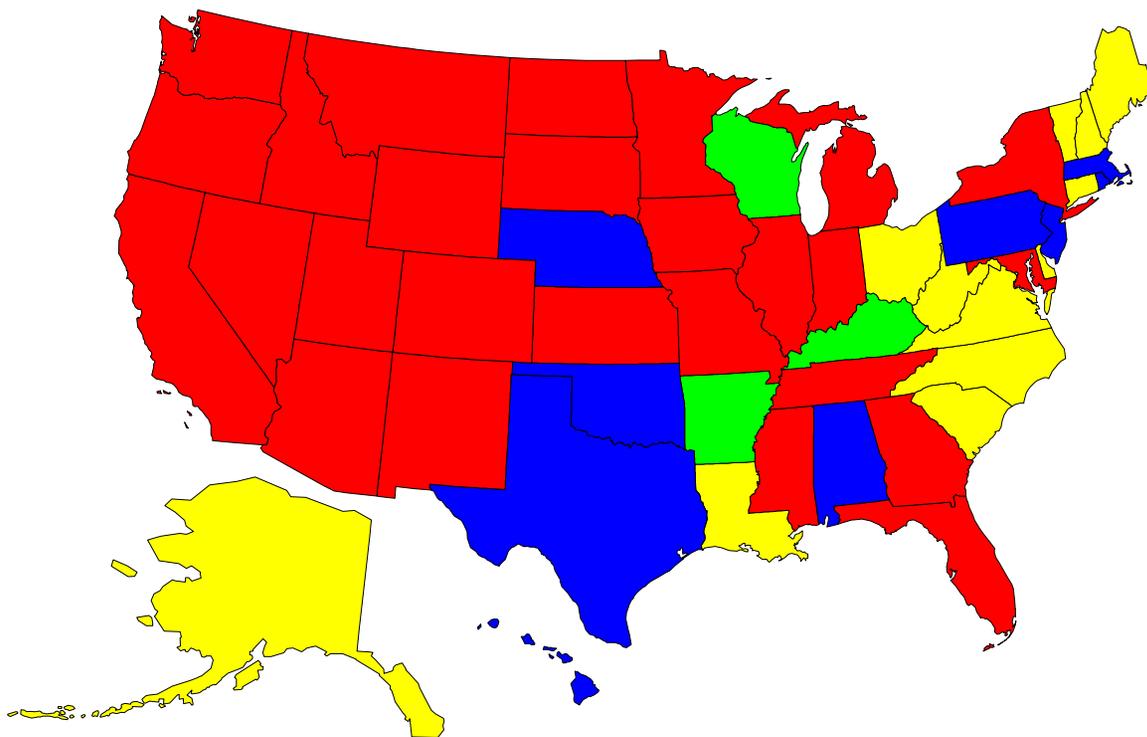
Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category		Increased Costs	Decreased Costs
State Operations — Salaries and Fringes		\$ 41,000	\$ -
(FTE Position Changes)		(1.00 FTE)	(- FTE)
State Operations — Other Costs		12,000	-
Local Assistance			-
Aids to Individuals or Organizations			-
Total State Costs by Category		\$ 53,000	\$ -
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S		53,000	-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$	\$ -

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 53,000	\$
Net Change in Revenues	\$	\$

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature	Telephone No. 266-2794	Date (mm/dd/ccyy)

WILDLIFE COMPACT MEMBER STATES



MEMBER STATES	
■ In Process	(12)
■ NO	(9)
■ Passed Legislation	(3)
■ Yes	(26)

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

The Wisconsin Natural Resources Board proposes an order to repeal and recreate ch. NR 8 Title, and to create NR 8, subch. I Title and NR 8, subch. II relating to implementation of the wildlife violator compact

LE-07-07

Analysis Prepared by the Department of Natural Resources

1. Statutory Authority and Explanation:

Section 29.03, Stats., provides the department with the authority to enter into a Wildlife Violator Compact with other states. Section 29.972, Stats., provides the department with the authority to promulgate rules establishing the procedures to be followed for sharing of information on wildlife-related arrests and the revocation of hunting, fishing and trapping license privileges between Wisconsin and other states participating as member of the compact.

2. Statutes Interpreted and Explanation:

Section 29.03, Stats, adopts the current provisions of the Wildlife Violator Compact, which outlines the procedures each state must follow when they become a participant in the compact with regards to sharing of arrest records and the revocation of hunting, fishing or trapping licenses. Rules are needed to establish the procedures necessary to implement the compact. Section 29.972, Stats., created under 2005 Wis. Act 282 requires the department to deny an application to issue or renew, or revoke if already issued, all hunting, fishing, or trapping approvals issued to a person under ch. 29, Stats., if the person is charged with a wildlife-related violation in this state and does not take care of the matter by appearing in court or posting the required penalty. This section requires the department to promulgate rules that establish the procedures to be followed for the revocation of hunting, fishing and trapping license privileges and approvals under these circumstances. In addition to establishing procedures for the revocation of license privileges and approvals, the department must establish procedures for:

- exchange of information between the department, the district attorneys, and the clerks of court.
- providing notice to the person who is subject to the revocation and their opportunity for an administrative appeal to the department.

3. Related Statute or Rule: Sections 23.54(3)(k), 23.55(2)(c), 23.63(2), 29.99, 814.76(20), 814.77(16) and 973.05(2m), Stats.

4. Plain Language Rule Analysis:

SECTION 1 repeals the title of Chapter NR 8, Wis. Adm. Code which was "Standards and procedures for the automated license issuance system" and recreates it to read "License and permit procedures".

SECTIONS 2 and 3 create 2 subchapters within ch. NR 8, Wis. Adm. Code. Subchapter I contains the original language and sections found in ch. NR 8, Wis. Adm. Code related to the standards and procedures for the automated license issuance system. Subchapter II contains the new rules establishing procedures for the revocation of hunting, fishing and trapping approvals as required by the Wildlife Violator Compact and s. 29.972, Stats. Subchapter II creates definitions and establishes the procedures to be followed by the clerk of the circuit courts and the Department's Wildlife Violator Compact Administrator when a violator fails to pay or appear in court, and when a persons hunting, fishing or trapping privileges or approvals are revoked. More specifically, these rules establish procedures to be followed by the clerks and the Department's Wildlife Violator Compact Administrator when a person who is charged with a violation of a wildlife-related law in this state or a state that is a member of the Wildlife Violator Compact and fails to pay or appear in court. These rules establish revocation related notification requirements and acknowledgement of compliance notification requirements. This order also establishes the term of a revocation for failure to pay or appear in court and when a person is entitled to the opportunity for an administrative appeal of a revocation made by the department under s. 29.972, Stats.

To comply with the due process requirements of s. 29.03(4)(a), Stats., these rules require that when a person violates a wildlife-related law and is issued a citation pursuant to s. 23.53, Stats., or served a

complaint and summons pursuant s. 23.55, Stats., the issuing officer or the District Attorney issuing the complaint and summons shall provide the violator with a written notice that informs the violator that Wisconsin is a member of the Wildlife Violator Compact and what the ramifications will be if their hunting, fishing or trapping privileges or approvals are revoked in this state, or if they fail to appear in court, pay the required penalty or otherwise fail to resolve the charges.

Lastly, this order clarifies that any revocations or convictions occurring or imposed in this state prior to the effective date of this rule or the date the state becomes a participant of the Wildlife Violator Compact pursuant to s. 29.03(8)(c), Stats., which ever is later, are not be subject to the these new rules or the provisions of the Wildlife Violator Compact.

5. Summary of and preliminary comparison with existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

There are no existing federal regulations that affect the proposed rules.

6. Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois and Michigan)

All of the adjacent states have joined the Wildlife Violator Compact as a participating state, along with 22 other states to date. The states of Arkansas and Kentucky, like Wisconsin, have also passed authorizing legislation and are working toward joining the compact. Most of the member states have adopted the Wildlife Violator Compact Manual under their state statute as Wisconsin has done. Some states, such as Iowa, have also implemented administrative rules to establish procedures for implementing the provisions of the compact. Twelve other states are in the process of seeking legislation to authorize them to become a member state.

The administrative rules created by the State of Iowa, like this rule order, created definitions, established a 30 day period from time of notification until the revocation would take effect, created a requirement that violator's be advised in writing of revocations and the circumstances which resulted in the revocation, the effective date of the revocation, how to avoid the revocation and what issues are subject to appeal. Iowa's rules also establish reinstatement provisions and uses first class mail sent to the violator's last known address as the method of notification. Iowa's rules also require a notice be sent to the violator, confirming when the matter has been resolved and impose hunting, trapping or fishing privilege revocation in that state when a person is revoked in any other member state, including the requirement that the revocation information be entered into their departments records.

States that are currently members of the Wildlife Violator Compact include: Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, North Dakota, Oregon, South Dakota, Tennessee, Utah, Washington, Wyoming

7. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

The department has reviewed the laws and rules in place in the surrounding participating states and has contacted the district attorneys and clerks of courts associations.

8. Analysis and supporting documentation that the agency used in support of the agency's determination of the rules effect on small businesses under s. 227.114, stats or that was used when the agency prepared an economic impact report:

This rule does not regulate small business and is not anticipated to have any significant effect on them.

9. Effects on Small Businesses including how rule will be enforced:

This rule is not anticipated to have any significant effect on small businesses.

10. Agency contact person:

Tom Van Haren, 101 S. Webster St., PO BOX 7921, Madison, WI 53707 (608)266-3244,
Thomas.VanHaren@wi.gov

SECTION 1. Chapter NR 8 (title) is repealed and recreated to read:

NR 8 (title) LICENSE AND PERMIT PROCEDURES

SECTION 2. NR 8 subch. I (title) is created to read:

NR 8 (title) SUBCHAPTER I – STANDARDS AND PROCEDURES FOR THE AUTOMATED LICENSE ISSUANCE SYSTEM

[Note to reviser: Place NR 8 Subchapter I (title) before s. NR 8.01]

SECTION 3. NR 8 subch. II is created to read:

NR 8 (title) SUBCHAPTER II - PROCEDURES FOR REVOCATION OF HUNTING, FISHING AND TRAPPING APPROVALS

NR 8.50 Purpose. This subchapter is adopted to establish consistent standards for implementing the provisions of the wildlife violator compact under s. 29.03, Stats, and the revocation requirements of s. 29.972, Stats. The intent is to ensure all violator's whose hunting, fishing or trapping privileges and approvals have been revoked by a court or the department as the result of a violation or for failure to appear or pay a fine or forfeiture in this or another participating state are notified of the violator's revocation status and of the violator's appeal rights.

NR 8.51 Definitions. For the purpose of this subchapter:

- (1) "Clerk" means the clerk of the circuit court with jurisdiction over a wildlife-related violation.
- (2) "Citation" has the meaning given in s. 29.03(2)(a), Stats., and includes summons and complaints issued by a district attorney for a wildlife-related violation.
- (3) "Convicted" or "conviction" has the meaning given in s. 29.03(2)(d), Stats.
- (4) "Department" means the department of natural resources.
- (5) "Last known address" means the address provided by the violator to the officer issuing the citation or a more current address if provided by the violator.
- (6) "Mail" means to send a letter by first class mail to the person's last known address.
- (7) "Notice of compliance" means documentation issued by the clerk or a participating state that a violator has resolved a citation, summons or complaint subject to this subchapter.
- (8) "Notice of noncompliance" means documentation issued by the clerk or a participating state that a violator has not resolved a citation, summons or complaint subject to this subchapter.-
- (9) "Notice of revocation by the department" means confirmation that a violator has failed to resolve a citation, summons or complaint and that such in action will result in the revocation of that person's hunting, fishing and trapping licenses, privileges and approvals.
- (10) "Notice of revocation by the court" means confirmation that a persons hunting, fishing or trapping privileges or approvals have been suspended or revoked by the court as provided or required under s. 29.971, Stats., or in lieu of an order of imprisonment under s. 23.795(1)(a), Stats., for a violation of ch. 29, Stats., for which the person failed to comply with or take action to resolve the citation, summons

or complaint through an appearance in court or through the payment of all required forfeitures, fines, costs, and surcharges.

(11) "Participating state" has the meaning given in s. 29.03(2)(j), Stats.

(12) "Privileges" means ability to hunt, fish or trap wild animals in this state, or purchase, obtain, or apply for any approval or preference points related to hunting, fishing or trapping of wild animals.

(13) "Resolved" means to come into compliance with all required actions related to a citation, summons or complaint through the payment of all applicable forfeitures, fines, costs, and surcharges imposed by the court for a wildlife related violation.

(14) "Revocation" or "revoked" means suspension as defined under s. 29.03(2)(m), Stats.

(15) "Violator" has the meaning given in s. 29.03(2)(o), Stats.

(16) "Wildlife-related violation" has the meaning given in s. 29.03(2)(s), Stats., and includes any violation of ch. 29, Stats., or chs. NR 10 to 28, or a similar violation committed in a participating state, except that violations involving a captive wild animal subject to regulation under ch. 169, Stats., may not be considered a wildlife-related violation for the purposes of this subchapter.

NR 8.52 Revocations for failure to pay or appear in court. (1) VIOLATIONS OCCURRING IN WISCONSIN. (a) *Clerk of court.* 1. After a violator does any of the following regarding a wildlife-related violation, the clerk shall provide a notice of noncompliance to the department's wildlife violator compact administrator:

- a. Fails to respond to a summons under s. 23.66 (3) or 23.67 (4), Stats., or a warrant or summons under s. 968.04, Stats.
- b. Fails to appear on the court date set under s. 23.72 or 23.75, Stats., unless the person makes a deposit under s. 23.66, Stats., or makes a deposit and stipulation under s. 23.67, Stats.
- c. Fails to appear before the court and is subject to a bench warrant under s. 968.09.

Note: Clerks need only provide the department with one notice on noncompliance when a person fails to respond or appear as described in subd. 1. If the court enters a default judgment against a violator and provides the violator with an additional period of time to pay, the clerk may wait until to see if the violator fails to make the required deposit by the new deadline established by the court under s. 23.75(3)(a)2.. Stats., before providing the department with a notice of noncompliance under subd. 2.

Note: Notices may be mailed to the: Department of Natural Resources, Wildlife Violator Compact Administrator, 101 S. Webster St., Madison, WI 53707-7921, or by FAX at (608) 266-3696. An e-mail address for the Compact Administrator may be obtained by calling the department's Bureau of Law Enforcement at (608) 266-2141.

2. A notice of noncompliance provided under subd. 1. shall include at least the following information:
 - a. The violator's full name, date of birth if known and last known address.
 - b. Case number, statute, or administrative rule number violated, description of violation, date of violation and county of violation.
 - c. Name, address and telephone number of the court.
 - d. Disposition by the court, including conviction date, any penalty imposed and any hunting, trapping or fishing privilege or approval revocations ordered by the court.

3. After a violator has resolved any citation, summons, or complaint which is subject to this section, the clerk shall provide a notice of compliance to the department's wildlife violator compact administrator. The notice shall include the following:

- a. The violator's full name, date of birth, if known, and last known address.
- b. Case number, statute, or administrative rule number violated, description of violation, date of violation and county of violation.
- c. Name, address and telephone number of the court.
- d. Disposition by the court, including conviction date and penalty imposed, if applicable, and any court ordered revocation of the violator's hunting, fishing or trapping licenses, privileges and approvals under s. 29.971, Stats., not related to the violator's failure to pay or appear in court.
- d. The date on which any hunting, fishing or trapping privilege and approval revocation was ordered by the court under s. 29.971, Stats., will end.

Note: Notifications may be mailed to the: Department of Natural Resources, Wildlife Violator Compact Administrator, 101 S. Webster St., Madison, WI 53707-7921, or by FAX at (608) 266-3696. An e-mail address for the Compact Administrator may be obtained by calling the department's Bureau of Law Enforcement at (608) 266-2141.

(b) *Wildlife violator compact administrator.* The department's wildlife violator compact administrator or designee shall keep a record of all notices received from the clerk under par. (a) and s. NR 8.53(1), and shall do all of the following after receiving a notice of noncompliance from a clerk under par. (a)1.:

1. Mail a notice of revocation by the department to the violator. The notice shall include all the following information:

- a. The violator's full name, date of birth, if known, and last known address.
- b. Case number, statute, or administrative rule number violated, description of violation, date of violation and county of violation.
- c. Name, address and telephone number of the court.
- d. Disposition by the court, including conviction date, any penalty imposed by the court.
- e. That the revocation for failure to resolve the citation, summons or complaint shall take effect 21 days after issuance of the notice of revocation by the department, unless an earlier date has been specified by the court as authorized under ss. 23.79(5)(2) or 29.971 Stats. The date on which the revocation takes effect shall be provided in the notice of revocation.

Note: 23.795(2), Stats., states that in lieu of an order of imprisonment under s. 23.795(1)(a), Stats., for a violation of ch. 29, the court may revoke or suspend any privilege or approval granted under ch. 29 as provided in s. 29.971 (12).

f. That the revocations shall remain in effect until the department's wildlife violator compact administrator receives a notice of compliance from the clerk of the court with jurisdiction.

g. Of the conditions provided under s. 29.972(1)(a) to (c), Stats., under which the violator may request a hearing to appeal the revocation and the procedures for doing so.

2. Update the department's Automated License Issuance System with a violator's revocation status, including the starting date and the ending date when known.

3. Notify all other participating states of the hunting, fishing and trapping revocation status of a violator for any wildlife-related violations.

Note: Pursuant to s. 29.972(1), Stats., the opportunity for an administrative appeal to the department is limited to the issue of whether the violator did any of the following:

(a) Failed to respond to a summons under s. 23.66 (3) or 23.67 (4), Stats., or a warrant or summons under s. 968.04, Stats., or

(b) Failed to appear on the court date set under s. 23.72 or 23.75, Stats., unless the person makes a deposit under s. 23.66, Stats., or makes a deposit and stipulation under s. 23.67, Stats., or

(c) Failed to appear before the court and is subject to a bench warrant under s. 968.09, Stats.

Note: Revocations of ch. 29, Stats., privileges or approvals for violations that are not wildlife related violations and revocations imposed under ss. 29.024(2g)(d) or (2r)(d), 938.17(2)(d)1., 938.34(8) or (8d)(d) and 938.343(2) or (6), Stats., or for a violation of s.167.31(3m)(a), Stats., are not subject to the provisions of the wildlife violator's compact under s. 29.03, Stats.

Note: Section 29.972(2)(a), Stats., does not require the administrative revocation by the department if the court has already revoked any or all of the person's hunting, fishing, or trapping approvals under s. 23.79 (4) or 23.795 (2), Stats.

(c) *Alternative revocation by the department.* Notwithstanding the procedures established in par. (a), the department may revoke all hunting, fishing and trapping privileges and approvals of a violator pursuant to s. 29.972, Stats., when the department determines that the procedures of par. (a) are applicable, but have not been complied with. If the department revokes the violator's hunting, fishing and trapping privileges and approvals under this paragraph, the department's wildlife violator compact administrator or designee shall do all of the following:

1. Send a notice of revocation by the department to the violator containing the information required under par. (b).

2. Update the department's Automated License Issuance System with a violator's revocation status, including the starting date and the ending date when known.

3. Provide updated information to all other participating states of the hunting, fishing and trapping revocation status of the violator.

Note: Section 29.972(2)(a), Stats., does not require the administrative revocation by the department if the court has already revoked any or all of the person's hunting, fishing, or trapping approvals under s. 23.79 (4) or 23.795 (2), Stats.

Note: A clerk of court and the department shall consider a revocation under s. 29.972(2), Stats., to be resolved when the violator complies with the order of the court, the judgment is satisfied, or the court orders the revocation of the persons ch. 29, Stats., privileges or approvals under the authority of s. 29.971, Stats., or in lieu of an order of imprisonment under s. 23.795(1)(a), Stats.

(d) *Wildlife violator compact administrator acknowledgement of compliance.* When a violator has resolved the matter subject to par. (a) or (c) with the court and the department has received a notice of compliance from the clerk, the department's wildlife violator compact administrator or designee shall do all of the following:

1. Mail the violator an acknowledgement of receipt of the notice of compliance. The acknowledgement shall include:

a. The violator's full name, date of birth, if known, and last known address.

b. Case number, statute, or administrative rule number violated, description of violation, date of violation and county of violation.

c. Name, address and telephone number of the court.

d. Disposition by the court, including conviction date, any penalty imposed by the court, including any additional court ordered revocation still in effect and the term of any court ordered revocation, if known.

e. The date on which the violator's hunting, fishing and trapping privileges and approvals are to be reinstated by the department, or the ending date of any court ordered revocation, whichever is later.

2. Update the department's Automated License Issuance System with any change in the violator's hunting, fishing and trapping revocation status.

3. Provide updated information to all other participating states of the change in hunting, fishing and trapping revocation status of the violator as appropriate.

Note: A clerk of court and the department shall consider a revocation under s. 29.972(2), Stats., to be resolved when the violator complies with the order of the court, the judgment is satisfied, or the court orders the revocation of the persons ch. 29, Stats., privileges or approvals under the authority of s. 29.971, Stats., or in lieu of an order of imprisonment under s. 23.795(1)(a), Stats.

(e) *Appeals and request for a hearing.* 1. The opportunity for an administrative appeal of a revocation by the department pursuant to s. 29.972, Stats., shall be limited to the issues specified in s. 29.972(1)(a) to (c), Stats.

2. If the revocation is upheld, the violator must then proceed to resolve the court case with the revocation remaining in effect.

3. If the revocation is overturned for any reason, the matter is terminated and the revocation order vacated.

Note: The question of guilt or innocence regarding the original charge or good cause for failing to resolve the matter will not be a subject of hearings held under the provisions of this section. Appeals shall be subject to the procedures under s. 227.42, Stats., which shall be limited to the issues specified in s. 29.972(1)(a) to (c), Stats.

Note: Pursuant to s. 29.972(1)(a) to (c), Stats., the opportunity for an administrative appeal to the department are limited to the issue of whether the violator:

(a) Failed to respond to a summons under s. 23.66 (3) or 23.67 (4), Stats., or a warrant or summons under s. 968.04, Stats., or

(b) Failed to appear on the court date set under s. 23.72 or 23.75, Stats., unless the person makes a deposit under s. 23.66, Stats., or makes a deposit and stipulation under s. 23.67, Stats., or

(c) Failed to appear before the court and is subject to a bench warrant under s. 968.09, Stats.

(f) *Exemption.* This subsection does not apply to a violator who prior to the effective date of this rule ... [reviser insert date] failed to do any of the following in response to a wildlife-related violation that occurred in this state:

1. Failed to respond to a summons under s. 23.66 (3) or 23.67 (4), Stats., or a warrant or summons under s. 968.04, Stats., or

2. Failed to appear on the court date set under s. 23.72 or 23.75, Stats., or makes a deposit and stipulation under s. 23.67, Stats., or

3. Failed to appear before the court and is subject to a bench warrant under s. 968.09, Stats.

(2) VIOLATIONS OCCURRING IN A PARTICIPATING STATE. (a) *Receipt of notification.* When the department receives a notice from a participating state that a Wisconsin resident has been charged with a wildlife-related violation in the participating state and has failed to respond to the citation, summons or complaint, or failed to appear before the court with jurisdiction, or failed to pay the fine or forfeiture imposed for the violation, the wildlife violator compact administrator or designee shall do all of the following:

1. Mail the violator a notice of revocation by the department which informs the violator of the department's receipt of a notice of noncompliance from the participating state and of the requirements of the wildlife violator compact pursuant to s. 29.03, Stats. The notice of revocation shall include the following information:

- a. The violator's full name, date of birth, if known, and last known address.
- b. Description and date of the violation, including citation or case number.
- c. Action of the court.
- d. Procedures to be followed to resolve the matter with the court.
- e. Name, address and telephone number of the court with jurisdiction in the participating state.
- f. Revocation requirement of s. 29.03, Stats., of all hunting, fishing and trapping licenses, privileges and approvals if the matter is not resolved.
- g. The effective date of the revocation, which shall be 21 days after issuance of the notice.
- h. That revocation will not occur if the department receives a notice of compliance before the revocation effective date.
- i. That once a revocation has become effective, the revocation may only be lifted upon the department's receipt of a written notice of the compliance from the participating state in which the violation occurred.

(b) *Administrative revocation by the department.* When a violator fails to resolve the matter within 21 days of the date the notice of revocation by the department was issued, the department shall revoke all the violator's hunting, fishing and trapping privileges and approvals and the department's wildlife violator compact administrator or designee shall do all of the following:

1. Forward a copy of the notice of revocation by the department to the participating state.
2. Enter the person's identifying information and beginning date of the revocation of all the violator's hunting, fishing and trapping privileges and approvals into the department's Automated License Issuance System.

(c) *Appeals and request for a hearing.* 1. The opportunity for an administrative appeal to the department shall be subject to the procedures under s. 227.42, Stats., and shall be limited to whether or not the violator did any of the following:

- a. Failed to respond to a warrant or summons, or
- b. Failed to appear on their court date, or
- c. Failed to make a deposit or a deposit and stipulation, or
- d. Failed to appear before the court and is subject to a bench warrant.

2. If the revocation is upheld, the violator must then proceed to resolve the court case with the revocation remaining in effect.

3. If the revocation is overturned for any reason, the matter is terminated and the revocation order vacated. In such cases the issuing state will be informed of the reason for denial.

Note: The question of guilt or innocence regarding the original charge or good cause for failing to resolve the matter will not be a subject of hearings held under the provisions of this section.

(3) TERM OF REVOCATIONS. (a) A revocation imposed under sub. (1)(b) or (c), pursuant to s. 29.972(1), Stats., for a wildlife-related violation shall remain in effect until the department receives a notice of compliance from the clerk.

Note: Section 29.972(1), Stats., include those situations where the violator does any of the following:

(a) Fails to respond to a summons under s. 23.66 (3) or 23.67 (4), Stats., or a warrant or summons under s. 968.04.

(b) Fails to appear on the court date set under s. 23.72 or 23.75, Stats., unless the person makes a deposit under s. 23.66, Stats., or makes a deposit and stipulation under s. 23.67, Stats..

(c) Fails to appear before the court and is subject to a bench warrant under s. 968.09, Stats..

(b) A revocation imposed under sub. (2), pursuant to s. 29.03, Stats., for a wildlife-related violation in a participating state, shall remain in effect until the department receives a notice of compliance issued by the participating state.

(4) REINSTATEMENT OF PRIVILEGES AND APPROVALS. Privileges or approvals revoked pursuant to this subchapter may be reinstated by the department upon the receipt of a notice of compliance from the clerk of court or from the participating state with jurisdiction.

NR 8.53 Court ordered revocations. (1) NOTIFICATION. (a) When the court revokes any of a person's ch. 29, Stats., privileges or approvals pursuant to the penalty provisions allowed or required under s. 29.971, Stats., for a violation of 167.31(3m)(a), Stats., or for failure to pay a forfeiture as authorized under ss. 938.34(8) and (8d)(d) and 938.343(2) and (6), Stats., the clerk shall do all of the following:

1. Send a notice of revocation by the court to the department's wildlife violator compact administrator. The notice shall include at least the following information:

a. The violator's full name, date of birth, if known, and last known address.

b. Case number, statute, or administrative rule number violated description of violation, date of violation and county of violation.

c. The date on which any court ordered revocation of the violator's hunting, fishing or trapping privileges and approvals ends.

2. Notify the department's wildlife violator compact administrator if there is a change in the status of the revocation before the period of revocation expires.

Note: Revocations of ch. 29, Stats., privileges or approvals for violations of state laws not listed in subd. 3., and revocations imposed under ss. 29.024(2g)(d) or (2r)(d), 938.17(2)(d)1., 938.34(8) or (8d)(d) and 938.343(2) or (6), Stats., or for a violation of 167.31(3m)(a), Stats., are not subject to the provisions of the wildlife violator's compact under s. 29.03, Stats.

Note: Notices may be mailed to the: Department of Natural Resources, Wildlife Violator Compact Administrator, 101 S. Webster St., Madison, WI 53707-7921. An e-mail address for the compact administrator may be obtained by calling the department's Bureau of Law Enforcement at (608) 266-2141.

(2) TERM OF REVOCATION. Under this section, the term of the revocation is the period specified by the court or required under s. 29.971, Stats., starting on the date of conviction.

NR 8.54 Revocations imposed in a participating state. (1) RECEIPT OF NOTIFICATION. (a) When the department receives written or electronic notice from a participating state that the participating state has suspended or revoked a violator's hunting, fishing or trapping privileges or approvals in the participating state, the department shall revoke the violator's hunting, fishing or trapping privileges and approvals in this state and the department's wildlife violator compact administrator or designee shall do all of the following:

1. Maintain a record of the notification.
2. Enter the violator's identifying information and revocation status into the department's Automated License Issuance System if not already entered into the system.
3. Mail a notice to the violator to inform the violator which ch. 29, Stats., privileges and approvals have been revoked in this state as a result of the violator's revocation in the participating state.

(b) In addition to the requirements under par. (a), the department, through the Automated License Issuance System, shall deny applications for any hunting, fishing and trapping privileges, approvals and preference points subject to the revocation for the term of the revocation.

(c) Written or electronic notice received under this section from a participating state may not be recognized by the department unless the notice includes all of the following:

1. Violator's full name and date of birth.
2. Violator's last known address.
3. Violation description along with statute or administrative rule number violated.
4. Date, county and state of violation.
5. Penalty imposed by the court, including the type and term of the revocation.
6. Required court appearance date.

(2) TERM OF REVOCATION. A revocation in this state based upon a notice received from a participating state in accordance with s. 29.03, Stats., shall remain in effective until the term of the revocation expires or until the department receives written or electronic notification from the participating state that the revocation has been terminated, which ever comes first.

NR 8.55 Wildlife violator compact notice to violators. When a person violates a wildlife-related law and is issued a citation pursuant to s. 23.53, Stats., or is served a complaint and summons pursuant s. 23.55, Stats., the issuing officer or the district attorney issuing the complaint and summons shall provide the violator with a written notice that informs the violator that Wisconsin is a member of the wildlife violator compact and what the ramifications will be if the violator's hunting, fishing or trapping privileges or approvals are revoked in this state, or if the violator fail to appear in court, pay the required penalty or otherwise fails to resolve the citation, summons or complaint.

NR 8.56 Retroactivity. Revocations of hunting, trapping or fishing privileges or approvals and convictions for wildlife related violations occurring in this state prior to the effective date of this rule ... [reviser insert date] or the date the state becomes a participant of the wildlife violator compact pursuant to s. 29.03(8)(c), Stats., which ever is later, shall not be subject to the provisions of this subchapter or the wildlife violator compact.

Note: Section 29.03(8)(c), Stats., states the effective date of entry into the compact shall be specified by the applying state but shall not be less than 60 days after notice has been given by one of the following: 1. The chairperson of the board of the compact administrators; 2. The secretary of the board to each participating state that the resolution from the applying state has been received.

NR 8.57 Denial of applications for approvals and preference points. The department shall deny all applications for hunting, fishing and trapping approvals and preference points received from a violator whose hunting, fishing and trapping privileges or approvals have been revoked and are subject to this subsection until the department's wildlife violator compact administrator has been notified in writing by the clerk or the participating state that the matter leading to the revocation has been resolved, or until the date specified by the court.

Section 4. Effective date. This rule shall take effect April 1, 2008 or the date on which the department officially becomes a participating state under s. 29.03(8), Stats., whichever is later, but not before 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
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary

(SEAL)