

SUBJECT: Adoption of modifications to WM-03-09, the 2009 Wildlife Management housekeeping rule package

FOR: FEBRUARY, 2010 BOARD MEETING

TO BE PRESENTED BY: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

At its September 23, 2009 hearing the Assembly Fish & Wildlife Committee unanimously requested that the department place a two-year sunset on a rule that splits the bobcat hunting and trapping seasons into two separate permit periods.

The department conducted an additional public hearing on the amended version of Board Order WM-03-09 in December.

Under this proposal, the bobcat season reverts to a single permit period that begins on the Saturday nearest October 17 and continues through December 31 in 2012 following a two year trial period. If the current split bobcat season framework is supported by hunters and trappers and the sunset is lifted by rule, then the season would continue to be split into the following permit periods:

- 1) Saturday nearest October 17 - December 25
- 2) December 26 - January 31

RECOMMENDATION: Request adoption of Board Order WM-03-09 which is amended to establish a two year trial period for the newly established, split bobcat hunting and trapping season framework.

LIST OF ATTACHED MATERIALS:

- | | |
|--|--|
| No <input checked="" type="checkbox"/> Fiscal Estimate Required | Yes <input 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:

Tom Hauge
Bureau Director, Tom Hauge

2/3/2010
Date

Laurie Osterdorf
Administrator, Laurie Osterdorf

2/3/2010
Date

Matt Frank
Secretary, Matt Frank

2-5-10
Date

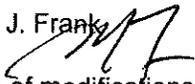
cc: Laurie J. Ross - AD/8
Tom Hauge - WM/6

Scott Loomans - WM/6

John Olson - WM/6

DATE: February 3, 2010

TO: Natural Resources Board Members

FROM: Matthew J. Frank 

SUBJECT: Adoption of modifications to the 2009 Wildlife Management housekeeping rule package

Recommendation:

The department recommends adoption of Board Order WM-03-09 which has been amended in response to a request from the Assembly Fish & Wildlife Committee.

As amended, the rule establishes a sunset provision that will cause the bobcat hunting and trapping seasons to revert to a single permit period beginning on the Saturday nearest October 17 and continuing through December 31 following a two year trial period with a split season structure. If the current split bobcat season framework is supported by hunters and trappers and the sunset is lifted by rule, then the season would continue to be split into the following permit periods:

- 1) Saturday nearest October 17 - December 25
- 2) December 26 - January 31

Motion Summary:

On September 23, 2009, the Assembly Fish & Wildlife Committee unanimously requested modifications to WM-03-09, the Bureau of Wildlife Management's annual housekeeping rule package. The committee requested that the department place a two-year sunset on a rule that splits the bobcat hunting and trapping seasons into two separate permit periods (Appendix 1).

The bobcat season framework is not a provision of the housekeeping rule but rather a proposal that was recently promulgated as part of the 2009 spring hearing rules package, WM-01-09 (Appendix 2).

Additional Department Hearings

A hearing on the proposed sunset was held by the department in Stevens Point on December 14. Two people attended the hearing, both individuals representing themselves. Both hearing attendees supported the concept of a sunset. One preferred a three year trial period and the other preferred a two year trial.

Background:Split Bobcat Season Framework

The split bobcat season framework that will be implemented in 2010 is the result of several years of development and was initiated by hound hunters who have a desire to hunt at a time when there is greatest likelihood of snow cover. A comparable bobcat season proposal was supported in voting at Conservation Congress hearings in 2008, Ayes, 2,521; Noes, 1,933 with 49 counties supporting and 23 opposing. The proposal was supported by 57% of voters.

Following 2008 spring hearings the proposal was considered by the department's furbearer committee and reconsidered at a joint meeting of the wildlife management and law enforcement bureau policy teams. The proposal was not recommended because of concern that it would have the net impact of increasing harvest pressure and depended upon population monitoring precision that is not achievable in areas south of HWY 64 where hunting is not allowed. Department staff people continued to be aware, however, of the strong desire, on the part of hound hunters in particular, for expanded opportunity.

Bureau director Tom Hauge directed his staff to continue working with congress delegates and members of the public to identify opportunities for improving bobcat hunting and trapping regulations. Discussions about bobcat harvest management continued and, at a November 14, 2008 meeting the split season framework which is in place today was developed. Attendees of the November meeting included five department staff people and the following members of the public:

Eric Anderson (University of Wisconsin-Stevens Point), Leslie Adams (UWSP), Ed Harvey (Conservation Congress), Scott McAuley (Wisconsin Trappers Association; CC), Lee Sillars (WTA, CC), Ralph Fritsch (Wisconsin Wildlife Federation), George Meyer (WWF), Dick Baudhuin (WWF, CC), Joan Baudhuin, Scott Zimmerman (CC), Fred Wiesman (Wisconsin Bear Hunters Association), Larry Vanderhoef (WTA), Paul Wait (Wisconsin Outdoor News), Al Lobner (CC, WBHA), Bob Welch (WBHA), Rich Kirchmeyer (trapper).

At its January meeting, the Natural Resources Board recommended the proposal as a 2009 DNR Spring Hearing agenda item.

Spring Hearings

The rule addressed by the committee's motion actually results from a question asked at the 2009 spring hearings as a department proposal in board order WM-01-09. Spring hearing attendees supported the proposal to split the bobcat season framework and require harvest reporting within 24 hours. The vote was Ayes, 3,447; Noes, 1,851 with 62 counties supporting and ten opposing. The proposal was supported by 65% of voters. No written comments were received.

Legislative Review

Legislative committees in the Senate and Assembly showed interest in the bobcat season framework when they held hearings in summer, 2009. At both meetings, representatives of the Wisconsin Bear Hunters Association expressed opposition. Concerns expressed were focused on the likelihood of an early closure if the bobcat harvest quota is met before the end of the season. The number of applicants for bobcat harvest tags exceeds the number of permits available in any given year - in 2009 the minimum number of preference points required to draw a permit is four. As described at the hearing, association members were upset that, after applying for four years, it is possible that someone who did not hunt early in the season may not get the opportunity to use that tag at all. This is a concern that was raised by others as early as the November 14, 2008 meeting but, at that time, people recognized that possibility and accepted it.

The legislative committees took no formal action during review of the spring hearing rule but concerns persisted.

Rule Development:

These rules were developed with assistance from the bureaus of Law Enforcement, Legal Services, Customer Service & Licensing, Facilities and Lands, Endangered Resources and Parks & Recreation.

Legislative Council Rules and Clearinghouse Report:

All comments the department received from Legislative Council Clearinghouse have been incorporated (see attached report) with one exception. A provision which would have modified restriction on the transportation of deer carcasses from the CWD Management zone to other areas has been removed from the proposal and those comments are no longer relevant.

Small Business and Initial Regulatory Flexibility Analysis:

These revisions to chs. NR 10 and 19, Wis. Adm. Code, pertain to hunting, trapping and wildlife rehabilitation. These rules are applicable to individual sportspersons and wild animal rehabilitators and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

Environmental Analysis:

Bureau of Integrated Science Services has determined that these rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.



ANN HRAYCHUCK
STATE REPRESENTATIVE

September 24, 2009

Secretary Matthew Frank
Department of Natural Resources
101 S. Webster Street (GEF 2)
Hand-delivered

RE: Clearinghouse Rule 09-024

Dear Secretary Frank,

This letter is to inform you that on September 23, 2009, during an Executive Session of the Assembly Committee on Fish and Wildlife on Clearinghouse Rule 09-024, relating to hunting, trapping and wildlife rehabilitation, the Committee unanimously adopted the following motion:

"Moved, that the Assembly Committee on Fish and Wildlife, pursuant to s. 227.19 (4) (b), Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 09-024, relating to hunting, trapping and wildlife rehabilitation, to add a two-year sunset to the provisions in the current rules regarding the bobcat season framework."

Please inform me in writing by 5 p.m. on Monday, September 28th if the Department agrees to consider the modification to this rule. Thank you for your consideration.

Sincerely,

Rep. Ann Hraychuck
Chair, Assembly Committee on Fish and Wildlife

Cc: Members of the Assembly Committee on Fish and Wildlife

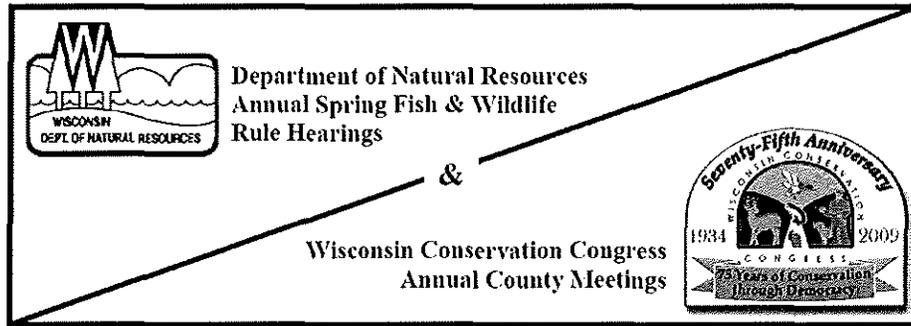
RECEIVED

SEP 24 2009

OFFICE OF THE
SECRETARY

To: Scott Loomans
cc: Mel + Laurie O.

Appendix 2.



Monday, April 13, 2009

7:00 PM

QUESTION 31 & 32 – Modify the bobcat hunting and trapping seasons (2010)

The bobcat season currently runs from the third Saturday in October to December 31 for hunters and trappers. Ideal conditions for hunting with hounds occur when there is snow cover but these conditions do not occur before the end of season every year. In order to provide the type of hunting opportunity that hunters have asked for, but still maintain opportunities that other bobcat harvesters have enjoyed, this proposal would add an additional month, create two time periods, and establish harvest reporting requirements.

Under this proposal harvest tags would be split between an early time period which runs from the Saturday nearest October 17 to December 25 and a late time period which would run from December 26 to January 31. Hunting and trapping would be legal during both periods but permits would be season specific.

Because harvest success may increase with more days of good hunting conditions, an emergency closure provision would help prevent overharvest. Hunters and trappers would be required to report their harvest within 24 hours by telephone or other approved methods, such as online. When it is apparent based on reported harvest that the quota will be reached for a time period, the DNR would publish a Secretary's Order and issue news releases closing that time period after a 48 hour grace period.

Initially the department will issue harvest permits based upon the current permit allotment system. Permit levels will be adjusted in the future as more is learned about harvest under the new season structure or as the bobcat population changes.

This proposal also would allow the use of cable restraints during both of the proposed new bobcat time periods. A cable restraint is a device used for restraining furbearers without injuring them which consists of a non-spring activated galvanized aircraft cable which includes a relaxing mechanical lock, stops, and swivel. Cable restraints have been legal for use by the public for the January and February portions of the fox and coyote season for four years and in December for bobcat, coyote and fox for one year. Under current rules the use of cable restraints for bobcat in December will sunset after the 2009 season. Extensive testing of this device has proven that it is effective, humane, and very species specific.

Do you favor creating two bobcat permit periods (third Sat. in Oct – Dec. 25 and Dec. 26 – Jan. 31), limiting hunters and trappers to one period, and requiring 24 hour harvest reporting to monitor progress toward the bobcat harvest quota?

31. YES _____ NO _____

Do you favor allowing the use of cable restraints during all of the proposed new bobcat season structure (third Sat. in Oct – Dec. 25 and Dec. 26 – Jan. 31)?

32. YES _____ NO _____

Fiscal Estimate — 2009 Session

<input type="checkbox"/> Original	<input checked="" type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number WM-03-09

Subject
 Housekeeping rule package modifying chapters NR 10 and 19 related to hunting, trapping and wildlife rehabilitation.

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"/> Increase Costs — May be possible to absorb within agency's budget. <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No Local Government Costs
 Indeterminate

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Chapter 20 Appropriations
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Assumptions Used in Arriving at Fiscal Estimate

The intent of these rule changes is to correct drafting errors, provide clarification to existing rules, simplify regulations, and update administrative code language and references. The department anticipates no fiscal effect from these proposed rule changes. This rule has been amended to:

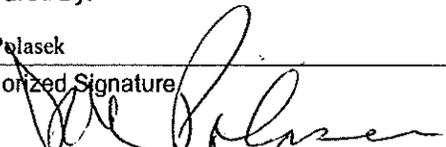
- Place a two year sunset on rules which establish a bobcat season that is split into two permit periods. After two years, the season would revert back to a single permit period if the current rule is not reauthorized.

Additionally, it will:

- Clarify that access permits are required of deer hunters at Lake Wissota State Park.
- Allow harvest of deer of either sex by disabled archers to be consistent with firearm regulations.
- Clarify that deer bait may be placed on the day before the archery season as well as the day before the gun seasons.
- Clarify that hunting deer with full metal jacketed bullets is legal.
- Update a cross reference so that hunting is prohibited only on the day before the 9-day deer season.
- Incorporate by reference the definitions for a section of federal regulations that are already incorporated in NR code.
- Eliminate an unnecessary cross reference.
- Clarify that, where body-gripping type traps from 60 to 75 square inches are prohibited, larger traps are also prohibited.
- Eliminate an unnecessary gear requirement; relaxing mechanical locks are not needed on snares.
- Eliminate a limit on participation by disabled hunters during special turkey hunts.
- Correct an omission in the name of a deer management unit.
- Include trapping as an educational outdoor skills activity for which certain exemptions are available.
- Correct the number of a subdivision.
- Update wildlife rehabilitation code to be consistent with changes to the list of threatened and endangered species.

Long-Range Fiscal Implications

No long-range fiscal implications are anticipated.

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 10-26-09

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-03-09

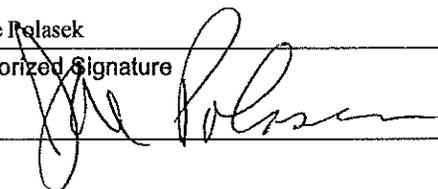
Subject
 Housekeeping rule package modifying chapters NR 10 and 19 related to hunting, trapping and wildlife rehabilitation.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None.

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes	\$	\$ -	
(FTE Position Changes)	(FTE)	(- FTE)	
State Operations — Other Costs		-	
Local Assistance		-	
Aids to Individuals or Organizations		-	
Total State Costs by Category	\$ 0	\$ - 0	
B. State Costs by Source of Funds			
		Increased Costs	Decreased Costs
GPR	\$	\$ -	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
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	\$ 0	\$ - 0	

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 10-26-09



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-024

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

- a. The proposed changes in SECTION 3 should list s. NR 10.01 (3) (et) 2. as the affected provision.
- b. Individual letters in a word should not be stricken or underscored. Therefore, in SECTION 12, “will exceed” should be stricken and “exceeds” should follow all of the stricken material. In SECTION 18, “federally” should be stricken and “Federally” should follow it.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In SECTIONS 2 and 3, the added language could be interpreted to require a Class A or C permit holder to harvest an antlerless deer after harvesting an antlered deer. The department should consider replacing the added language with “A person holding a Class A or Class C disabled permit under s. 29.193, Stats., is not required to harvest or tag an antlerless deer in that unit or units before the person may tag a buck.”
- b. In the plain language analysis of the rule proposal, SECTION 7 is described to clarify that possession of velvet antlers is allowed in a chronic wasting disease (CWD) zone and to clarify that antlers being transported out of a CWD zone must be free of brain tissue but that hair or hide does not need to be removed. However, the changes under SECTION 7 do not expressly allow possession of velvet antlers in a CWD zone. It might be inferred that possession of velvet antlers must be allowed if one can transport them from the deer management unit but, if so, the

proposed language is still ambiguous as to whether possession, without transportation, requires written Department of Natural Resources (DNR) permission. Also, the proposal does not expressly allow hair or hide to be attached to a transported skull. It might be implied by the prohibition against transporting skulls with "meat or brain tissue" attached, but there could be ambiguity about what constitutes "meat" versus "hide." Lastly, it would be helpful if the rule included information about who to contact at DNR to seek written permission to transport velvet antlers.

c. In SECTION 15, the "limited capacity" under which volunteers may work on wildlife rehabilitation activities should be explained or reference should be made to the limits under s. NR 19.73 (3) (d), or this definition could be removed as it may be redundant as compared to s. NR 19.73 (3) (d).

d. The comma after the word "birds" in the second line of SECTION 18 should be removed.

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

The Wisconsin Natural Resources Board proposes an order to renumber 19.73(3)(a)4.; to amend NR 10.001(1), 10.01(2)(f)4.a., 10.01(3)(d), 10.01(3)(e)(2), 10.01(3)(ed)1.b., 10.01(3)(et)1.d.2., 10.01(3)(ev), 10.07(2m)(e)1, 10.09(1)(c)2., 10.09(2), 10.102(4m)(c)2., 10.12(1)(h), 10.13(1)(b)6., 10.13(1)(b)12.(intro.), 10.13(1)(b)13.a., 10.40(5)(e), 10.41(3)(b)1., 19.025(2)(b), (d) and (e), 19.71(10), and 19.78(4) relating to hunting, trapping and wildlife rehabilitation.

WM-03-09

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014, 29.089, 29.193, 29.197, 29.597, 169.085, 169.24, and 227.11, Stats. These sections grant rule making authority to the department to establish open and closed seasons for hunting and to establish other regulations for hunting, trapping, and wildlife rehabilitation. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: In promulgating this rule, ss. 29.014, 29.089, 29.193, 29.197, 29.597, 169.085, 169.24, and 227.11, Stats., have been interpreted as providing the department with the authority to make these housekeeping clarifications.

Related Statute or Rule: There are no state rules or statutes currently under promulgation that directly relate to the provisions that are proposed in this administrative order.

Plain Language Rule Analysis: The Bureau of Wildlife Management recommends promulgating administrative rules that modify sections of chs. NR 10 and 19. These rule changes related to hunting, trapping and wildlife rehabilitation are minor and unlikely to be controversial. The intent of these rule changes is to correct drafting errors, provide clarification to existing rules, simplify regulations, and update administrative code language and references. Policy issues affected by this rule are ones which have already been addressed by previous rulemaking.

Section 1 clarifies that the definition of the term "accompanied by", which currently applies to 12 and 13 year old hunters at all times, also applies to all youth hunt participants who are not hunting under the more restrictive hunting mentorship program requirements.

Section 2 allows participation in the youth turkey hunting season by youth who have not completed a hunter safety course. This section also clarifies that a qualified mentor may only supervise one person who is either 10 or 11, or who has not completed a hunter safety course and requires that the mentor be within arms reach of the hunter they are supervising.

Section 3 Establishes that, beginning in 2012, the bobcat hunting and trapping seasons begin on the Saturday nearest October 17 and continue through December 31 for one permit period

Section 4 clarifies that access permits are required of deer hunters at Lake Wissota state park.

Sections 5 and 6 clarify that the harvest of deer of either sex is allowed by archery and gun hunters who possess disabled hunting permits, making this regulation consistent with the law that applies to disabled hunters during firearm seasons.

Section 7 allows hunting by 10 and 11 year olds during the youth deer hunting season and allows participation by youth who have not completed a hunter safety course. This section also clarifies that a qualified mentor may only supervise one person who is either 10 or 11, or who has not completed a hunter safety course and requires that the mentor be within arms reach of the hunter they are supervising.

Section 8 clarifies that, where it is legal to place bait for hunting deer, bait may be placed on the day before the archery season as is currently allowed on the day before the gun seasons.

Section 9 removes the prohibition of hunting deer with full metal jacketed, nonexpanding type bullets so that only nonexpanding type bullets are prohibited.

Section 10 establishes that the prohibition of hunting and firearm discharge on the day before the firearm deer season applies only to the traditional nine-day deer season.

Section 11 establishes that a Class A bear permit may be issued to a person who reaches the age of 10 during the bear hunting season.

Section 12 incorporates by reference the definitions for a section of federal regulations that are already incorporated into Wisconsin code related to baiting migratory game birds.

Section 13 eliminates an unnecessary cross reference.

Section 14 eliminates confusing and unnecessary language and clarifies that, where body-gripping type traps from 60 to 75 square inches in size are prohibited, larger traps are also prohibited.

Section 15 eliminates an unnecessary gear requirement; relaxing mechanical locks are not needed on snares.

Section 16 eliminates a limit on participation by disabled hunters during turkey seasons that is no longer needed with only seven turkey management zones.

Section 17 corrects an omission in the name of a deer management unit.

Section 18 Includes trapping as an educational outdoor skills activity for which certain exemptions are available so that this rule language will be consistent with statute.

Section 19 clarifies that volunteer wildlife rehabilitators may only serve in a limited capacity on wildlife rehabilitation activities.

Section 20 corrects the number of a subdivision.

Section 21 updates wildlife rehabilitation code language so that it is consistent with proposed changes to the list of threatened and endangered species.

Federal Regulatory Analysis: These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies. Additionally, none of the proposed rules exceed the authorities granted to states in 50 CFR 10.

Comparison with rules in Adjacent States: These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of wild game and furbearer species that are established based on needs that are unique to that state's resources and public desires.

Summary of Factual Data and Analytical Methodologies: This rule order is necessary to correct inconsistencies created through the promulgation of other rules and statutes, update code language, correct previous drafting errors, and to clarify existing administrative code language. The rule changes included in this order do not deviate from current department policy on the management of wildlife and the regulation of hunting and trapping.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Business: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule.

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

Section 1. NR 10.001(1) is amended to read:

NR 10.001 (1) "Accompanied by", for the purposes of s. 29.304, Stats., and s. NR 10.01 means within sight and voice contact, without the aid of any mechanical or electronic amplifying device other than a hearing aid.

Section 2. NR 10.01(2)(f)4.a. is amended to read:

NR 10.01(2)(f)4.a. Persons under the age of 16 years of age who possess ~~a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province~~, a valid carcass tag issued for the current license year, and all necessary ch. 29, Stats., approvals may hunt turkeys for 2 consecutive days starting on the Saturday immediately preceding the beginning of the spring turkey hunting season established in subd. 1. in the turkey management zone for which the carcass tag was issued. Only one male or bearded turkey may be killed and shall be tagged immediately with a valid carcass tag for that zone pursuant to s. NR 10.25 (2). Hunters shall be accompanied by an adult 18 years of age or older and be in compliance with s. 29.592, Stats. One adult may not accompany more than 2 hunters and pursuant to s. 29.592, Stats., not more than one of the 2 hunters may be age 10 or 11, or be a person who does not possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state, country or province. All other spring turkey hunting regulations apply.

Section 3. NR 10.01(3)(d) is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(3)(d) Bobcat (wildcat; hunting and trapping) 1. All that part of Wisconsin north of state highway 64	Two permit periods: The Saturday nearest Oct. 17 – Dec. 25 Dec. 26 – Jan 31 <u>Beginning in 2012, the season begins on the Saturday nearest October 17 and continues through December 31 for one permit period</u>	One per season by permit
2. Remainder of the state	None	None

Section 4. NR 10.01(3)(e)(2) is amended to read:

10.01(3)(e)(2) State parks and forests. No person may hunt deer with a firearm on the state-owned portions of state parks and recreation areas except as provided in this section. Portions of the properties listed may be posted closed to deer hunting. Additionally, no person may hunt deer with a firearm in Perrot, High Cliff, Lake Wissota, Peninsula, Wyalusing, Wildcat Mountain, Council Grounds, Rib Mountain, Harrington Beach, Kohler-Andrae, Brunet Island state parks or the Loew Lake Unit - Kettle Moraine state forest without first obtaining a permit which authorizes access to the park.

Section 5. NR 10.01(3)(ed)1.b. is amended to read:

NR 10.01(3)(ed)1.b. If after 2 consecutive years, as described in subd. 1. a., the department determines a third season, as described under subd. 1. a., is unlikely to reduce the deer population to within 20% of the overwinter population goal established in s. NR 10.104 for the same deer management unit or units in the subsequent year, hunters shall harvest or tag an antlerless deer in that unit or units with either a bow or a gun during any deer season or with an agricultural shooting permit, before they may tag a buck with either weapon in that unit or units. One antlerless deer is required to authorize harvest of one buck in that unit or units, or in state parks with gun deer seasons that are within or adjoining these units, for each archery and gun deer license. A person holding a Class A or Class C disabled permit under s. 29.193, Stats., is not required to harvest or tag an antlerless deer in that unit or

units before the person may tag a buck. Deer harvested as described in this paragraph shall be transported in accordance with s. NR 10.105 (2).

Section 6. NR 10.01(3)(et)2. is amended to read:

NR 10.01(3)(et)2. Earn-a-buck control measures. If the department estimates that the deer population in a deer management unit or units located in a CWD management zone is at or above the overwinter population goal in s. NR 10.41 (3), the department may require that hunters shall first tag an antlerless deer in that deer management unit or units during the archery or firearm hunts, with either a bow or a gun during any deer season or with an agricultural shooting permit, before they may tag a buck with either weapon in that deer management unit or units during the either sex hunts listed in this paragraph. One antlerless deer is required to authorize harvest of one buck in that deer management unit or units, or in state parks with gun deer seasons that are within or adjoining these units, for each archery and gun deer license. A person holding a Class A or Class C disabled permit under s. 29.193, Stats., is not required to harvest or tag an antlerless deer in that unit or units before the person may tag a buck. Deer harvested as described in this paragraph shall be transported in accordance with s. NR 10.105 (2).

Section 7. NR 10.01(3)(ev) is amended to read:

NR 10.01(3)(ev) *Special youth gun deer hunt event.* ~~Persons 12-years-of-age or older but under the age of 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province,~~ may hunt deer with a firearm for 2 consecutive days beginning on the Saturday nearest October 8 in all deer management units, except state park units and deer management unit 48. Allowable types of firearms are those authorized on the first day of the regular gun deer season under par. (e) or (et). The bag limit is one buck deer per valid gun deer carcass tag and additional antlerless deer per valid antlerless deer carcass tags issued under par. (ed) or s. NR 10.104 (8). Hunters shall be accompanied by an adult 18 years of age or older and be in compliance with s. 29.592, Stats. One adult may not accompany more than 2 hunters and pursuant to s. 29.592, Stats., not more than one of the 2 hunters may be age 10 or 11, or be a person who does not possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state, country or province. ~~and all All~~ other hunting regulations apply. Blaze orange requirements under s. 29.301 (2), Stats., apply to all hunters on these days except waterfowl hunters. Earn-a-buck requirements do not apply to youth hunters hunting in CWD zones identified in s. NR 10.28 (3) or non-CWD earn-a-buck units when using their regular gun buck deer carcass tag. Youth hunters may harvest and tag bucks or antlerless deer in CWD zones as authorized by CWD tags under s. NR 10.104 (11) or CWD landowner permit tags issued pursuant to s. NR 10.41 (3).

Section 8. NR 10.07(2m)(e)1. is amended to read:

NR 10.07(2m)(e)1. During the closed season for hunting deer. For the purpose of this paragraph, the open season for hunting of deer includes the 24-hour period prior to the deer seasons established in s. NR 10.01(3)(e) ~~and (es).~~

Section 9. NR 10.09(1)(c)2. is amended to read:

NR 10.09(1)(c)2. *Deer or bear hunting.* Hunt any deer or bear with any air rifle, rim-fire rifle, any center-fire rifle less than .22 caliber, any .410 bore or less shotgun or with ammunition loaded with full metal-jacket, nonexpanding type bullets.

Section 10. NR 10.09(2) is amended to read:

NR 10.09(2) SPECIAL ONE-DAY RESTRICTION. During the 24-hour period prior to the opening date for the regular gun deer season established in ~~s. NR 10.01(3)(e)~~ s. NR 10.01(3)(e)1.a., b. and 5., no person may possess a gun wherein there is an open season for deer with guns specified in s. NR 10.01 (3) (e), unless the gun is unloaded and enclosed within a carrying case. Exceptions:

Section 11. NR 10.102(4m)(c)2. is amended to read:

NR 10.102(4m)(c)2. The person turns ~~42~~ 10 years of age during the open season for hunting bear.

Section 12. NR 10.12(1)(h) is amended to read:

NR 10.12(1)(h) *Baiting*. By the aid of baiting as described by the U.S. fish and wildlife service in 50 CFR 20.11 and 20.21(i).

Section 13. NR 10.13(1)(b)6. and note are amended to read:

NR 10.13(1)(b)6. *'Trap, snare, and cable restraint use.'* Set, place, operate or possess while trapping, any trap other than a steel jawed trap, enclosed trigger trap, cage or box trap, body gripping trap, snare ~~{other than that defined in s. NR 10.001 (25e)}~~ or cable restraint as defined in s. NR 10.001 (5g) for the purpose of taking, capturing, or killing furbearing animals. Cage or box traps shall be constructed so that after an animal has been captured, no additional animals may enter the trap until the captured animal is removed and the trap is reset.

~~Note: Subd. 6. is shown as amended eff. 2-1-09 by CR 08-011. The bracketed language was dropped from CR 08-011 without being shown as stricken. The department intends to reinsert the dropped language in a future rule order. Prior to 2-1-09 it reads:~~

~~6. 'Trap, snare, and cable restraint use.' Set, place, operate or possess while on or adjacent to waters of this state, any trap other than a steel jawed trap, live trap, body gripping trap, snare other than that defined in s. NR 10.001 (25e) or cable restraint as defined in s. NR 10.001 (5g) for the purpose of taking, capturing, or killing furbearing animals. Live traps shall be constructed so that not more than one animal can be taken or captured in any single trap setting.~~

Section 14. NR 10.13(1)(b)12. (intro) is amended to read:

NR 10.13(1)(b)12. *'Trap placement.'* Set, place or operate any body-gripping type trap greater than 60 square inches ~~or less than 75 square inches~~ measured from the maximum outside points on the width and height of the jaws of a trap that has not been set, or any snare or cable restraint regardless of the size of the noose, in the following locations:

Section 15. NR 10.13(1)(b)13.a. is amended to read:

NR 10.13(1)(b)13.a. All snares and cable restraints shall be non-spring activated, constructed of galvanized aircraft cable and include a ~~relaxing mechanical lock and swivel~~.

Section 16. NR 10.40(5)(e) is amended to read:

NR 10.40(5)(e) *Hunter participation limits*. The department may not authorize disabled turkey hunts when ~~once~~ the number of participating hunters will ~~exceed~~ exceeds 50 in any one wild turkey management zone or a total of 1,000 statewide in a calendar year. The department shall approve applications in the sequence in which they are received.

Section 17. NR 10.41(3)(b)1. is amended to read:

NR 10.41(3)(b)1. The deer goal for the CWD management units is as follows:

54B CWD	20
70 CWD	20
70A CWD.....	20
70B CWD.....	24

70E CWD24
70G CWD24
71 CWD20
73B CWD16
73E CWD18
75A CWD16
75C CWD16
75D CWD16
76 CWD16
76A CWD20
76M CWD10
77A CWD16
77B CWD.....15
77C CWD.....15

Section 18. NR 19.025(2)(b), (d) and (e) are amended to read:

NR 19.025(2)(b) "Educational outdoor skills activity" means a course to teach novice participants how to hunt, trap or fish.

NR 19.025(2)(d) "Novice participant" means for hunting any person who is 10 years old or older, who has had less than 2 years of hunting experience. For fishing, it means any person who is 5 years of age or older who has less than 2 years of fishing experience. For trapping, it means a person who has no prior trapping experience as a Wisconsin licensed trapper.

NR 19.025(2)(e) "Substantial loss of revenue" means a loss of fishing, trapping and hunting license fees from persons who are not novice participants.

Section 19. NR 19.71(10) is amended to read:

NR 19.71(10) "Volunteer" means any person, including interns, working in a limited capacity subject to the limits under s. NR 19.73(3)(d) and under the supervision of an advanced licensee on wildlife rehabilitation activities.

Section 20. NR 19.73(3)(a)4. is renumbered to NR 19.73(3)(a)3.

Section 21. NR 19.78(4) is amended to read:

NR 19.78(4) ~~Peregrine falcons, bald or golden eagles, and any other federally~~ Federally endangered or threatened migratory birds may only be euthanized and disposed of under the direction of the migratory bird permit office, United States fish and wildlife service, and the department.

Section 22. Effective dates. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary

(SEAL)