Form 1100-001
(R 2/11)

# NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 3.B.1

**SUBJECT:** Request adoption of Board Order WM-02-11, modifications to Chs. NR 10, 15 19 and 45, the 2011 Wildlife Management housekeeping rules package

**FOR:** AUGUST, 2011 **BOARD MEETING**

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

**SUMMARY:**

Annually the department updates administrative code language to correct inconsistencies, revise outdated language and provide clarification where appropriate. This year, the department is proposing changes that would:

- Clarify that the definitions of "animal part or animal byproduct" and "carcass" are general definitions not limited to deer baiting regulations.
- Relax deer registration requirements in the CWD management zone.
- Eliminate the April 10 elk permit application deadline in order to allow more time for people to submit applications.
- Allow the use of no. 8 gauge shotguns for waterfowl hunting when the gun is modified for no. 10 gauge cartridges.
- Repeal a trap tagging requirement that is unnecessary because there is a specific statutory requirement.
- Correct the location information of Vernon Marsh Wildlife Management area in Waukesha County.
- Clarify that the prohibition on the placement of personal property on department lands also applies to items left out to mark or "reserve" trap locations if the season is not open.

**RECOMMENDATION:** Request adoption of Board Order WM-02-11, modifications to Chs. NR 10, 15 19 and 45, the 2011 Wildlife Management housekeeping rules package

**LIST OF ATTACHED MATERIALS:**

| | | | | | |
|---|---|---|---|---|---|
| No | ☐ | Fiscal Estimate Required | Yes | ☑ | Attached |
| No | ☑ | Environmental Assessment or Impact Statement Required | Yes | ☐ | Attached |
| No | ☐ | Background Memo | Yes | ☑ | Attached |

**APPROVED:**

Tom Hauge — Bureau Director, Tom Hauge, Wildlife Management — Date 7/1/11

Administrator, Kurt Thiede, Lands Division — Date 7/11/11

Matt Moran — Secretary, Cathy Stepp — Date 7/13/11

cc: NRB Liaison
DNR Rules Coordinator

Scott Loomans - WM/6

Tom Hauge - WM/6

# CORRESPONDENCE/MEMORANDUM

**State of Wisconsin**

DATE: June 23, 2011

TO: Natural Resources Board Members

FROM: Cathy Stepp

SUBJECT: Adoption of Board Order WM-02-11, modifications to chs. NR 10, 15, 19 and 45, the 2011 Wildlife Management housekeeping rules package

I am requesting that the Natural Resources Board adopt Board Order WM-02-11, a wildlife management housekeeping rules package relating to chapters NR 10, 15, 19 and 45, Wis. Adm. Code.

Most of these technical rule changes are minor and non-controversial in nature and can most effectively be handled through wildlife management's annual housekeeping rule package. 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. Most policy issues affected by this rule are ones which have already been addressed by previous rulemaking.

**Rule Summary:**

This year, the department is proposing the following changes relating to game and hunting, game refuges, miscellaneous fur, fish, game and outdoor recreation, wildlife rehabilitation, and the use of department properties:

*Sections 1, 2, and 8* clarify that the definitions of "animal part or animal byproduct" and "carcass" apply to bear baiting regulations as well as to deer baiting and feeding. These sections also clarify that eggs are not legal to use as bear bait and milk is, consistent with current interpretation. Lastly, this proposal clarifies that the term carcass includes domestic as well as wild animal carcasses.

*Section 3* relaxes the deer registration requirement in the CWD management zone so that it is consistent with the registration requirements for archery hunters in the rest of the state.

*Section 4* eliminates the April 10 elk permit application deadline in order to allow more time for people to submit applications. Under current rules, there will not be sufficient time between making the population estimate that triggers the first season and the application deadline. A new deadline will not be established by rule but is expected to be June 1.

*Section 5* allows the use of no. 8 gauge shotguns for waterfowl hunting as long as the gun is modified so that the chamber cannot hold cartridges larger than no. 10 gauge and no larger cartridges are possessed.

*Section 6* repeals trap tagging information that is unnecessary because there is a specific statutory requirement and because 2009 ACT 38 allowed use of a department issued customer identification number instead of name and address information.

*Section 7* corrects the location information of Vernon Marsh Wildlife Management area in Waukesha County to include acreage in an additional township.



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*Section 9* clarifies that the prohibition on the placement of personal property on department lands also applies to items left out to mark or "reserve" trap locations if the season is not open.

**Background:**

*Clarifies that the definitions of "animal part or animal byproduct" and "carcass" are general definitions not limited to deer baiting regulations.*

This rule would clarify that the definition of "animal part or animal byproduct" and "carcass" apply to bear and other baiting regulations as well as for deer. There is only one definition of these terms in our administrative code chapters and it is used universally so the reference to deer baiting is not needed. These proposals also establish that eggs are included in the definition of carcass and establish, by note, that milk is not, consistent with current interpretations of both. These two provisions will reduce questions from field staff. Finally, this proposal clarifies that the term carcass includes domestic as well as wild animal carcasses.

*Relaxing deer registration requirements in the CWD management zone.*

Deer harvested in a CWD Management Zone currently must be registered by 5:00 p.m. on the day after harvest. This allows hunters less time than in other areas because the department was interested in obtaining fresh samples for disease testing. The shorter deadline is no longer seen as needed because there are no summer deer hunting seasons and there have been few problems with collecting viable samples.

*Eliminate the April 10 elk permit application deadline to allow more time for people to submit applications.*

Under current rules, there will not be sufficient time between making the population estimate that triggers the first season and the application deadline. A new deadline will not be established by rule but is expected to be June 1.

*Allow the use of no. 8 gauge shotguns for waterfowl hunting when the gun is modified for no. 10 gauge cartridges.*

Federal regulations prohibit hunting waterfowl ammunition larger than no. 10 gauge. Shotguns larger than no. 10 gauge, when fitted with chamber inserts for no. 10 gauge ammunition, are legal under federal rules. This proposal will allow the use of some antique firearms and make Wisconsin consistent with federal regulations.

*Repeals a trap tagging requirement that is unnecessary because there is a specific statutory requirement.*

This repeal is also needed because the existing language is not consistent with 2009 ACT 38 which allowed use of a department issued customer identification number instead of name and address information.

*Corrects the location information of Vernon Marsh Wildlife Management area in Waukesha County.*

Corrects the location information of Vernon Marsh Wildlife Management area in Waukesha County to include acreage in an additional township.

*Clarifies that the prohibition on the placement of personal property on department lands also applies to items left out to mark or "reserve" trap locations if the season is not open.*

Currently, no person may place or use structures or store personal property on department managed lands unless the objects are removed daily. The department interprets this prohibition to include items used to pre-stake trapping locations when the season is not open. This proposal explicitly states that personal property includes items used to mark trapping locations if they are placed prior to the season opener or are not accompanied by a legally placed and set trap. Trappers, who requested this change through the Conservation Congress spring hearing process, hope to reduce territorialism over trapping locations which results in conflict and dispute in the

field. For some people, this conflict detracts from enjoyment of the activity and discourages new trappers. Pre-staking is done by some trappers in hopes that others will avoid trapping in those locations. Stakes used as markers are often cut willow poles that are carried onto department lands, placed to mark a future trap site and are left out overnight.

If approved, this prohibition would apply only to department managed lands. Expanding the prohibition to public lands that are not managed by the DNR would require a legislative change to state statute.

**Public Hearings and Written Comments**

The department held a hearing in Madison on June 28, 2011 and there were no appearances. Additionally, no written comments were received.

**Legislative Council Rules and Clearinghouse Report**

All comments the department received from Legislative Council Clearinghouse have been incorporated. The report is attached as part of the rules package.

**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.

**Small Business and Initial Regulatory Flexibility Analysis:**

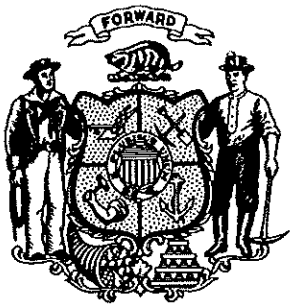
These revisions to chs. NR 10, 15, 19 and 45 Wis. Adm. Code, relate to hunting, trapping and wildlife rehabilitation. These rules are applicable to individual sportspersons and wild animal rehabilitators and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule that would apply to small businesses. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

The scope statement for the rule proposal was published prior to the effective date of 2011 ACT 21 and this rulemaking is not subject to the Environmental Impact Assessment requirements of Ch. 227.137 Stats.

**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.

# State of Wisconsin




Date of enactment: **August 13, 2009**
Date of publication*: **August 27, 2009**

**2009 Senate Bill 112**

# 2009 WISCONSIN ACT 38

AN ACT *to repeal* 29.539 (5) (b); *to renumber and amend* 29.351 (1) (b), 29.351 (1) (c), 29.539 (1m), 29.539 (4), 29.539 (5) (a) and 29.539 (7); *to consolidate, renumber and amend* 29.351 (1) (intro.) and (a); *to amend* 29.331 (1), 29.351 (2m), 29.539 (title), 29.539 (1) (a) (intro.), 29.539 (1) (a) 1., 29.539 (1) (b) and 29.539 (6); and *to create* 29.024 (5) (e), 29.351 (1m) (b), 29.539 (1) (a) 1m., 29.539 (1m) (a), 29.539 (1m) (b), 29.539 (1m) (c), 29.539 (1m) (g) and 29.539 (1m) (h) of the statutes; **relating to:** the possession of green skins of fur–bearing animals, the tagging of traps, and the sale, purchase, bartering, and trade of wild animals and their carcasses.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

SECTION 1. 29.024 (5) (e) of the statutes is created to read:

29.024 **(5)** (e) *Identification numbers.* The department may issue customer identification numbers as part of its statewide automated system for issuing approvals.

SECTION 2. 29.331 (1) of the statutes is amended to read:

29.331 **(1)** TAGS. Each trap used under a trapping license shall be tagged with a metal tag stamped with the name and address or customer identification number of the ~~owner~~ operator of the trap. All untagged traps shall be seized and confiscated, and the owner or person using or attending the untagged traps shall be punished as provided under s. 29.971 (4) and (12).

SECTION 3. 29.351 (1) (intro.) and (a) of the statutes are consolidated, renumbered 29.351 (1g) and amended to read:

29.351 **(1g)** No person may ~~do any of the following: (a) Possess~~ possess or control the skin of any mink, muskrat, fisher, pine marten, or otter showing that the animal was shot.

SECTION 4. 29.351 (1) (b) of the statutes is renumbered 29.351 (1m) (a) and amended to read:

29.351 **(1m)** (a) ~~Possess~~ Except as provided in par. (b), or unless otherwise authorized by the department, no person may possess or control the green skin of any fur–bearing animal~~, except beaver,~~ from the 5th day after the beginning of the closed season for that animal until the end of that closed season.

SECTION 5. 29.351 (1) (c) of the statutes is renumbered 29.351 (1r) and amended to read:

29.351 **(1r)** ~~Possess~~ No person may possess the raw skin of any muskrat, mink, otter, fisher, or pine marten at any time unless the person is the holder of a valid scientific collector permit, fur dealer license, trapping license, or resident conservation patron license. No license is required for a person breeding, raising, and producing domestic fur–bearing animals in captivity, as defined in s. 29.627, or for a person authorized to take muskrats on a cranberry marsh under a permit issued to the person by the department.

SECTION 6. 29.351 (1m) (b) of the statutes is created to read:

29.351 **(1m)** (b) Paragraph (a) does not apply to any of the following:

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* Section 991.11, WISCONSIN STATUTES 2007–08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

1. A fur–bearing animal that was lawfully taken and that has a valid registration tag attached to it by the department.

2. A fur–bearing animal that is taken as authorized under s. 29.337.

3. A fur–bearing animal that was lawfully taken for which an open season is established by rule and for which no bag or possession limit is imposed by rule.

**SECTION 7.** 29.351 (2m) of the statutes is amended to read:

29.351 **(2m)** ~~Subsection (1) does~~ Subsections (1g) to (1r) do not apply to the skins of fur–bearing animals that are subject to regulation under ch. 169.

**SECTION 8.** 29.539 (title) of the statutes is amended to read:

**29.539** (title) **Sale of ~~game or fish~~ wild animals.**

**SECTION 9.** 29.539 (1) (a) (intro.) of the statutes is amended to read:

29.539 **(1)** (a) (intro.) Except as otherwise expressly provided under this chapter, no person may sell, ~~buy~~ purchase, barter, or trade, or offer to sell, ~~buy~~ purchase, barter, or trade or have in possession or under control for the purpose of sale, barter, or trade any of the following:

**SECTION 10.** 29.539 (1) (a) 1. of the statutes is amended to read:

29.539 **(1)** (a) 1. ~~Deer~~ Any deer, elk, ~~bear,~~ squirrel, game bird, game fish, or the carcass of any ~~of these~~ such wild ~~animals~~ animal at any time.

**SECTION 11.** 29.539 (1) (a) 1m. of the statutes is created to read:

29.539 **(1)** (a) 1m. Any bear or any carcass of a bear at any time, including any head of a bear, bear claws, or bear teeth.

**SECTION 12.** 29.539 (1) (b) of the statutes is amended to read:

29.539 **(1)** (b) This subsection applies whether ~~the~~ a wild ~~animals~~ animal listed under par. (a) ~~were~~ was lawfully or unlawfully taken within or without the state.

**SECTION 13.** 29.539 (1m) of the statutes is renumbered 29.539 (1m) (intro.) and amended to read:

29.539 **(1m)** (intro.) Subsection (1) does not apply to ~~farm–raised~~ any of the following:

(d) A farm–raised deer, a farm–raised fish, a farm–raised game ~~birds~~ bird, or a wild ~~animals,~~ animal that ~~are~~ is subject to regulation under ch. 169 or the ~~carcasses of these animals~~ carcass of such a wild animal.

**SECTION 14.** 29.539 (1m) (a) of the statutes is created to read:

29.539 **(1m)** (a) A lawfully taken wild animal that is not listed in sub (1) (a) 1. or 1m. for which an open season is established by rule and for which there is no bag or possession limit imposed by rule, or the carcass of such a wild animal.

**SECTION 15.** 29.539 (1m) (b) of the statutes is created to read:

29.539 **(1m)** (b) A fur–bearing animal, or the carcass of a fur–bearing animal, that was lawfully taken and that has a valid registration tag attached by the department.

**SECTION 16.** 29.539 (1m) (c) of the statutes is created to read:

29.539 **(1m)** (c) Liquid scent made from the carcass of a lawfully taken wild animal, other than the gallbladder of a bear.

**SECTION 17.** 29.539 (1m) (g) of the statutes is created to read:

29.539 **(1m)** (g) Any claws, head, or teeth that are part of the hide of a bear that is lawfully taken.

**SECTION 18.** 29.539 (1m) (h) of the statutes is created to read:

29.539 **(1m)** (h) A rabbit, or the carcass of a rabbit, that is taken as authorized under s. 29.337 or 29.885.

**SECTION 19.** 29.539 (4) of the statutes is renumbered 29.539 (1m) (i) and amended to read:

29.539 **(1m)** (i) The ~~tails and~~ tail, claws, skull, or skin of any squirrel that is lawfully ~~killed, when~~ taken and that is severed from the rest of the carcass ~~are exempted from this section~~.

**SECTION 20.** 29.539 (5) (a) of the statutes is renumbered 29.539 (1m) (f) and amended to read:

29.539 **(1m)** (f) The hide of any bear ~~which is~~ that is lawfully ~~killed is exempt from sub. (1) if the hide includes~~ taken and that includes the claws, head, and teeth of the bear.

**SECTION 21.** 29.539 (5) (b) of the statutes is repealed.

**SECTION 22.** 29.539 (6) of the statutes is amended to read:

29.539 **(6)** The sale and purchase of a species of fish specified under s. 29.506 (7m) (b) or of the carcass of any of these fish is exempt under this section if the sale ~~is~~ and purchase are authorized by a permit issued under s. 29.506 (7m).

**SECTION 23.** 29.539 (7) of the statutes is renumbered 29.539 (1m) (e) and amended to read:

29.539 **(1m)** (e) ~~Subsection (1) does not apply to the tails and skulls~~ The tail or skull of any deer or elk that is lawfully ~~killed, to~~ taken, the antlers of any deer or elk that are lawfully ~~killed~~ taken and that are not in the velvet, and ~~to~~ the ~~skins~~ skin of any deer or elk that is lawfully ~~killed~~ taken and that ~~are~~ is not in the spotted coat.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R05/2011)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
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# ADMINISTRATIVE RULES – FISCAL ESTIMATE

**1. Fiscal Estimate Version**

☐ Original ☒ Updated ☐ Corrected

2. Administrative Rule Chapter Title and Number

WM-02-11, revisions to chapters NR 10, 15, 19 and 45 Wis. Admin. Code.

3. Subject

2001 DNR Wildlife Management housekeeping rules package.

**4. State Fiscal Effect:**

| | | |
|---|---|---|
| ☒ No Fiscal Effect | ☐ Increase Existing Revenues | ☐ Increase Costs ☐ Yes ☐ No May be possible to absorb within agency's budget. |
| ☐ Indeterminate | ☐ Decrease Existing Revenues | ☐ Decrease Costs |

5. Fund Sources Affected:

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

6. Affected Ch. 20, Stats. Appropriations:

**7. Local Government Fiscal Effect:**

| | | |
|---|---|---|
| ☒ No Fiscal Effect | ☐ Increase Revenues | ☐ Increase Costs |
| ☐ Indeterminate | ☐ Decrease Revenues | ☐ Decrease Costs |

8. Local Government Units Affected:

☐ Towns ☐ Villages ☐ Cities ☐ Counties ☐ School Districts ☐ WTCS Districts ☐ Others:

**9. Private Sector Fiscal Effect (small businesses only):**

| | | |
|---|---|---|
| ☒ No Fiscal Effect | ☐ Increase Revenues | ☐ Increase Costs |
| | ☐ Decrease Revenues | ☐ Yes ☐ No May have significant economic impact on a substantial number of small businesses |
| ☐ Indeterminate | ☐ Yes ☐ No May have significant economic impact on a substantial number of small businesses | ☐ Decrease Costs |

10. Types of Small Businesses Affected:

None

11. Fiscal Analysis Summary

Annually the department updates administrative code language to correct inconsistencies, update outdated language and provide clarification where appropriate. The department anticipates no fiscal impact. This year, the department is proposing changes that would:

- Clarify that the definitions of "animal part or animal byproduct" and "carcass" are general definitions not limited to deer baiting regulations.
- Relax deer registration requirements in the CWD management zone.
- Eliminate the April 10 elk permit application deadline in order to allow more time for people to submit applications.
- Allow the use of no. 8 gauge shotguns for waterfowl hunting when the gun is modified for no. 10 gauge cartridges.
- Repeal a trap tagging requirement that is unnecessary because there is a specific statutory requirement.
- Correct the location information of Vernon Marsh Wildlife Management area in Waukesha County.
- Clarify that the prohibition on the placement of personal property on department lands also applies to items left out to mark or "reserve" trap locations if the season is not open.

This fiscal estimate has been updated by removing a provision which clarified that volunteer wildlife rehabilitators are subject to the same restrictions as basic license holders. The proposal was removed at the time of hearing authorization and it was not a topic of the June 28 hearing. Additional similar rule making material has been identified and the department anticipates working on a stand-alone wildlife rehabilitation related proposal that will incorporate this and other material.

12. Long-Range Fiscal Implications

None

| 13. Name - Prepared by | Telephone Number | Date |
|---|---|---|
| Scott Loomans | 608-267-2452 | 06/27/2011 |
| 14. Name – Analyst Reviewer | Telephone Number | Date |
| | | |
| Signature –Secretary or Designee | Telephone Number | Date |
| | 266-2794 | 07-08-11 |

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# WISCONSIN LEGISLATIVE COUNCIL
# RULES CLEARINGHOUSE

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*Clearinghouse Director*

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*Legislative Council Director*

**Pam Shannon**
*Clearinghouse Assistant Director*

**Laura D. Rose**
*Legislative Council Deputy Director*


## CLEARINGHOUSE RULE 11-030

## 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. In both the statutory authority and statutes interpreted sections of the department's rule analysis, it appears that "(2)" should be added in between "ss. 23.09" and "(b)".

b. In SECTION 1, the treatment clause should be changed to "NR 10.001 (1r) is amended to read:", in order to conform to the proper format. A similar problem occurs in SECTION 2 and SECTION 8. [See s. 1.04, Manual.]

c. SECTION 6 repeals s. NR 10.13 (1) (b) 13. b. Since this will result in only one subdivision paragraph, subd. 13. (intro.) and a. should be consolidated.


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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 amend NR 10.001(1r), 10.106(2)(f), 10.111(7), 10.12(5)(a), 10.13(1)(b)13., 15.024(4)(a) and 19.001(5); and to create NR 10.001(pm) 19.001(5)(note) and 45.04(3)(m)1. relating to game and hunting, game refuges, miscellaneous fur, fish, game and outdoor recreation, and the use of department properties.

WM-02-11

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. 23.09(2)(b), 29.011, 29.014, 29.063(3), 29.335, 29.361, and 227.11, Stats. These sections grant rule making authority to the department to manage department lands, establish open and closed seasons for hunting and to establish other regulations for hunting and trapping. All rules promulgated under this authority are subject to review under ch. 227, Stats.

**Statutes Interpreted and Explanation:** In promulgating this rule, ss. 23.09(2)(b), 29.011, 29.014, 29.063(3), 29.335, 29.361 and 227.11, Stats., have been interpreted as providing the department with the authority to make these housekeeping clarifications. Statutes establish trap tagging requirements, which were updated by 2009 ACT 38, and provisions in administrative code are no longer needed.

**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, 15, 19 and 45. These rule changes related to hunting, trapping and the management of public lands 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.

SECTIONS 1, 2, and 8 clarify that the definitions of "animal part or animal byproduct" and "carcass" apply to bear baiting regulations as well as to deer baiting and feeding. These sections also clarify that eggs are not legal to use as bear bait and milk is, consistent with current interpretation. Lastly, this proposal clarifies that the term carcass includes domestic as well as wild animal carcasses.

SECTION 3 relaxes the deer registration requirement in the CWD management zone so that it is consistent with the registration requirements for archery hunters in the rest of the state.

SECTION 4 eliminates the April 10 elk permit application deadline in order to allow more time for people to submit applications. A new deadline will not be established by rule but is expected to be June 1.

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SECTION 7 corrects the location information of Vernon Marsh Wildlife Management area in Waukesha County to include acreage in an additional township.

SECTION 8 clarifies that the prohibition on the placement of personal property on department lands also applies to items left out to mark or "reserve" trap locations if the season is not open.

**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.

The current definition of "animal part of byproduct" has been used universally for all baiting regulations. A cross reference in this section to laws on baiting deer could be read as limiting this definition to applying only in deer baiting situations. This proposal eliminates the cross reference to clarify that the definition applies in other situations. These sections also clarify in a note that milk is legal to use, a question that bear hunters occasionally ask.

Minnesota has established that no trap, either set or unset, may be placed or staked, and no flag, stake, or other device may be placed to mark or pre-empt a trapping site before the opening of any trapping season. Additionally, markers may not be placed while Minnesota's muskrat season is open unless the marker is accompanied by a set trap. Iowa has a similar prohibition that applies on state game management areas.

**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.

This rule would clarify that the definition of "animal part or animal byproduct" and "carcass" apply to bear and other baiting regulations as well as for deer. There is only one definition of these terms and so it is used universally and the reference to deer baiting is not needed. These proposals also establish that eggs are included in the definition of carcass and establish, by note, that milk is not, consistent with current interpretations of both. These two provisions will reduce questions from field staff. Finally, this proposal clarifies that the term carcass includes domestic as well as wild animal carcasses.

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This proposal eliminates the April 10 elk permit application deadline in order to allow more time for people to submit applications. Under current rules, there will not be sufficient time between making the population estimate that triggers the first season and the application deadline. A new deadline will not be established by rule.

Federal regulations prohibit hunting waterfowl with ammunition larger than no. 10 gauge. Shotguns larger than no. 10 gauge, when fitted with chamber inserts for no. 10 gauge ammunition, are legal under federal rules.

Currently, no person may place or use structures or store personal property on department managed lands unless the objects are removed daily. The department interprets this prohibition to include items used to pre-stake trapping locations when the season is not open. This proposal explicitly states that personal property includes items used to mark trapping locations if they are placed prior to the season opener or are not accompanied by a legally placed and set trap. Trappers, who requested this change through the Conservation Congress spring hearing process, hope to reduce territorialism over trapping locations which results in conflict and dispute in the field. For some people, this conflict detracts from enjoyment of the activity and discourages new trappers. Pre-staking is done by some trappers in hopes that others will avoid trapping in those locations. Stakes used as markers are often cut willow poles that are carried onto department lands, placed to mark a future trap site and are left out overnight.

**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

**Deadline for Written Comments:** The deadline for written comments was June 29, 2011.

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**SECTION 1. NR 10.001(1r) is amended to read:**

NR 10.001(1r) "Animal part or animal byproduct", ~~for the purposes of s. 29.336 (3) (d) and (4) (d), Stats.,~~ means honey, bones, fish, meat, solid animal fat, animal carcass or parts of animal carcasses, but does not include liquid scents.

*Note: Milk is not considered to be a part of an animal carcass or an animal byproduct for the purposes of this chapter.*

**SECTION 2. NR 10.001(5pm) is created to read:**

NR 10.001(5pm) "Carcass" for the purpose of this chapter has the meaning given in s. NR 19.001 (5).

**SECTION 3. NR 10.106(2)(f) is amended to read:**

NR 10.106(2)(f) *CWD management zone.* Any deer harvested in the CWD management zone shall be registered at registration stations designated by the department no later than 5:00 p.m. on the ~~day after it was killed,~~ third day after it was killed, or by 5:00 P.M. on the day after the close of the season during which it was killed, as described in s. NR 10.01 (3) (et), whichever is earlier, unless otherwise authorized by the department.

**SECTION 4. NR 10.111(7) is amended to read:**

NR 10.111(7) APPLICATION PROCEDURE. Applications for elk licenses shall be on forms provided by the department. Applications shall be postmarked no later than ~~April 10 or received by a department service center location no later than April 10.~~ the deadline dates indicated on the form or received by a department service center location no later than those dates to be considered for selection.

**SECTION 5. NR 10.12(5)(a) is amended to read:**

NR 10.12(5)(a) *Guns and devices.* With a trap, snare, cable restraint, net, rifle, pistol, crossbow other than as authorized in ss. 29.171 and 29.193 (2) (cr) 2. and 3., Stats., swivel gun, punt gun, battery gun, machine gun, fishhook, poison, drug, explosive, stupefying substance ~~or shotgun of a larger bore~~ , shotgun chambered for a shell that is larger than a no. 10 gauge, or while in possession of a shell that is larger than no. 10 guage.

**SECTION 6. NR 10.13(1)(b)13 is amended to read:**

NR 10.13(1)(b)13. *'Snare and cable restraint specifications.'* Set, place or operate any snare or cable restraint unless they are ~~conform to the following specifications:~~
~~a. All snares and cable restraints shall be~~ non-spring activated, constructed of galvanized aircraft cable and include a swivel.
~~b. All snares and cable restraints shall be tagged with a metal tag stamped with the name and address of the operator.~~

**SECTION 7. NR 15.024(4)(a) is amended to read:**

NR 15.024(4)(a) *Vernon wildlife area.* Township 5 north, range 18 east, town of Mukwonago, Township 5 north, range 19 east, town of Vernon and township 6 north, range 19 east, town of Waukesha.

**SECTION 8. NR 19.001(5) is amended to read:**

NR 19.001(5) "Carcass" means the dead body of any ~~wild~~ animal ~~to which it refers,~~ including the head, hair, skin, plumage, skeleton, eggs, or any other part thereof.

*Note: Milk is not considered to be a part of an animal carcass or an animal byproduct for the purposes of this chapter.*

**SECTION 9. NR 45.04(3)(m)1. is created to read:**

NR 45.04(3)(m)1. Personal property includes stakes, markers, or any other object which is placed with the intent of marking the location of a trap site except when the season established in s. NR 10.01 for that species is open and a lawfully set trap is placed with the stake or marker.

**SECTION 10. 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.

**SECTION 11. Board adoption.** This rule order 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 _____
Cathy Stepp, Secretary

(SEAL)