

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT:

Request that the Board approve the statement of scope for Board Order WM-11-13, proposed rules affecting Ch's. NR 1, 8, 10, 11, 12, 13, 15 and 19 related to deer management, hunting, and implementation of the 2012 White-tailed Deer Trustee's Report.

FOR: April 2013 Board meeting

PRESENTER'S NAME AND TITLE: Eric Lobner, Southern Region Wildlife Management Supervisor

SUMMARY:

The objective of these proposed rules is to work with sportsmen and sportswomen and other stakeholders in order to implement ideas and solutions from the Deer Trustee's Report to forge a new age for deer management.

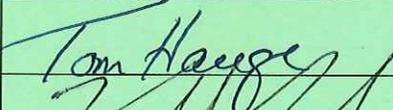
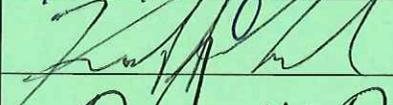
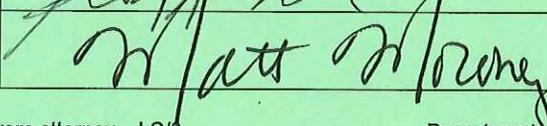
The report contains 62 recommendations assembled by Dr. James Kroll, along with Drs. Gary Alt and David Guynn, who were commissioned by the Governor as the state's deer trustees to perform an objective evaluation of deer management practices. Implementation of the Deer Trustee's Report will result in establishing significant new rules and policies for deer management and hunting compared to current rules.

The public has been invited to play an active role in the implementation of the Deer Trustee Report through direct participation in a series of meetings that will be hosted by the department. DNR's role will be to create an effective system for collecting, organizing and forwarding the input from teams that will work together at these meetings. The efforts of these teams will guide the next steps of the agency in developing administrative rule proposals and other policy changes.

RECOMMENDATION: That the Board approve the statement of scope for Board Order WM-11-13.

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

- | | |
|--|---|
| <input type="checkbox"/> (choose one) | <input type="checkbox"/> Attachments to background memo |
| <input checked="" type="checkbox"/> Statement of scope | <input checked="" type="checkbox"/> Governor approval of statement of scope |
| <input type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement |
| <input type="checkbox"/> Response summary | <input type="checkbox"/> Board order/rule |

Approved by	Signature	Date
Tom Hauge, Bureau Director		3/20/13
Kurt Thiede, Administrator		3/22/13
Cathy Stepp, Secretary		3/25/13

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: March 14, 2013

TO: Natural Resources Board Members

FROM: Cathy Stepp, Secretary

SUBJECT: Scope statement for permanent rules related to Deer management, hunting, and implementation of the 2012 White-tailed Deer Trustee's Report

Subject of the Proposed Rule:

In 2011 Dr. James C. Kroll, officially known as Wisconsin's white-tailed deer trustee, entered into a contract with the State of Wisconsin to conduct an independent, objective and scientifically-based review of Wisconsin's deer management practices. The White-tailed Deer Trustee's report was released to the public in July, 2012. The report contains 62 recommendations.

The objective of these proposed rules is to work with sportsmen and sportswomen and other stakeholders in order to implement ideas and solutions from the Deer Trustee's report to forge a new age for deer management.

Policy Analysis:

Implementation of the Deer Trustee's report will result in establishing significant new policies for deer management and hunting management compared to current rules. The primary policy alternatives being analyzed and considered are ones recommended in the report. Throughout this rulemaking process, the department and its partners may evaluate other policy alternatives as they are identified.

The full report is located on the Wisconsin Department of Administration's website at:
<http://www.doa.state.wi.us/section.asp?linkid=239&locid=0>

Ch. NR 1 related to Natural Resources Board Policies

Ch. NR 1 establishes a general framework for the department's wildlife and forestry management activities. The department is reviewing the report with this framework in mind and will recommend modifications that are consistent with the report. These rules are likely to shift away from deer population goals expressed in specific numbers of animals in favor of more general population goals. The basis for establishing deer population goals may also be modified by these rules. The department may revise what it considers to be tolerable levels of crop damage. The chapter currently addresses wildlife habitat management policy and those provisions may be strengthened or made more specific based on significant wildlife habitat related recommendations in the report. Development of a Young Forest Initiative Task Force may be addressed in this chapter as well as a Deer Management Assistance Program. Deer research priorities may also be a topic that is addressed in this policy-setting chapter. This chapter will be amended to maintain cross-reference citations with Ch. NR 10.

Ch. NR 8 related to License and Permit Procedures

Ch. NR 8 establishes standards and procedures for the automated license issuance system. These rules may recommend changes if they are necessary to improve efficiency or flexibility in the issuance of licenses, as needs arise during development of new automated licensing systems, and to maintain cross-reference citations.

Ch. NR 10 related to Game and Hunting

This chapter establishes most of the deer population management policy and practices and hunting regulations that are in place today. Ch. NR 10 establishes the Sex-Age-Kill model for estimating deer populations, deer population goals, and deer management units. These rules will replace the current population goals with a simplified goal statement to, “increase, stabilize, or decrease population density.”

These rules will establish a set of metrics to monitor progress towards the goal. These rules will reduce the number of deer management units and may combine farmland regions. The department will consider using county boundaries in place of the current unit boundaries.

These rules will simplify the regulatory process by setting antlerless harvest goals, regulations, and antlerless permit quotas on a three-to-five year cycle instead of annually under current rule. Historical demand for antlerless permits has not been a factor considered in quota setting in the past but would be a consideration under these rules. Through these rules, the department may eliminate free antlerless deer tags, currently referred to as herd control tags. These rules may establish a fee for antlerless tags which allow harvest of deer in its CWD management zones. Currently, some units have an unlimited number of antlerless deer permits available per hunter but, under this proposal, that may no longer be the case. Finally, these rules may establish antlerless deer permits and allow the establishment of quotas for public lands that are different from the permits and quotas that are established for privately owned lands in a management unit.

Simplifying the regulatory process and implementing a new population management goal system may require a variety of related hunting regulations changes. Changes may include the names for permits and the allowable use of various deer permits. Back tags worn by hunters, deer carcass tags, and tagging requirements may be modified or eliminated where possible in order to simplify regulations or as opportunities arise during development of new automated licensing systems. Deer registration and transportation requirements may be relaxed and, in their stead, more customer-friendly harvest reporting procedures established. Black bear are another species for which in-person registration of harvested animals is required. These rules may modify bear harvest recording requirements if that is practical because deer and bear registration occur at the same locations and through the same process under current rules.

The department may recommend deer hunting season date modifications as a result of this rulemaking. While the report generally recommends that, “keeping seasons and bag limits consistent for longer periods of time would allow better assessment of management progress”, it is challenging to discuss management system changes of this scale without considering season dates. For instance, it may be possible to simplify hunting regulations by eliminating a one-day closure of the archery season on the day before the traditional nine-day firearm season opens. The timing of other seasons for youth, disabled hunters, or other special seasons may also be evaluated. A move to more “passive” management of CWD, as recommended in the report, may also involve changes to deer hunting season dates.

This rulemaking will establish a Deer Management Assistance Program that will allow landowners and hunters to work together with the department to manage deer on a site-specific basis. The program will actively involve members of the public in the collection, analysis, and reporting of deer harvest information and improve management of the deer herd. The department may establish enrollment fees for participation in the program and that money will be credited back to implementation. This is a central recommendation of the report and recommends that the department establish: a) applicability to private

and public lands, b) initial areas eligible to participate, c) administration of DMAP, d) funding, e) personnel and training, f) minimum property size to participate, g) fees, h) participation requirements, i) data collection requirements, j) registration of deer harvested on DMAP properties, k) data analysis and reporting, and l) assessment of DMAP effectiveness.

The department does not intend to modify regulations on the method of deer harvest at this time. However if an ACT of the legislature modifies a legal method of harvest while this rule package is being promulgated, and related rule changes are needed, this rule package would implement an ACT of the legislature. Notably, the department is aware that changes to the allowable uses of crossbows are being considered.

The trustee's report generally recommends a more passive approach than current department policy to the management of Chronic Wasting Disease. CWD-related rulemaking will be correspondingly limited in this proposal. However, regulation changes related to disease testing protocol, harvest permits and other hunting regulations may be identified and included if they are consistent with the report. The department establishes separate population goals for deer units that are in a CWD zone. Those goals and methods of population estimation will be modified or eliminated by these rules.

These rules may make other modifications to deer hunting regulations if they can be characterized as simplifications. These may include changes to the allowable hunting hours or allowable guns, ammunition, and other devices.

Ch.'s NR 11 and 15 related to Closed Areas and Game Refuges

Modifications to Ch.'s NR 11 and 15 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. The report did not recommend changes to these chapters of administrative code. Additional modifications to these chapters may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 12 related to Wildlife Damage and Nuisance Control

Modifications to Ch. NR 12 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. The report did not recommend significant structural changes to the damage program. Additional modifications to this chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 13 related to Chippewa Treaty Rights Participants

Chapter NR 13 is intended to regulate off-reservation treaty rights of treaty rights participants recognized by *Lac Courte Oreilles Band v. Voigt*, 700 F. 2d 341 (7th Cir. 1983). Modifications to Ch. NR 13 will likely be needed to update numerous cross references with Ch. NR 10 which will be modified significantly. The report did not recommend changes to this chapter of administrative code.

Ch. NR 19 related to Miscellaneous Fur, Fish, Game and Outdoor Recreation

Modifications to Ch. NR 12 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. This section also contains regulations for feeding of wild animals and white-tailed deer related provisions which are not directly related to the report. Additional modifications to the chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 45 related to the Use of Department Properties

Modifications to Ch. NR 45 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. The report did not recommend specific changes to this chapter of administrative code. However, many regulations in this chapter apply to deer hunters who are using department managed lands. Additional modifications to this chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

Statutory Authority:

Department authority to conduct a variety of habitat and wildlife management activities is established in ss. 23.09(2)(b), (d), and (h), (k) and (km), and (p) Stats. These sections authorize rulemaking related to deer and deer habitat management and: plans and priorities for conservation, game refuges, cooperative forest protection, research, resources inventory, and disease control. These sections authorize many of existing provisions of Ch. NR's 1 (Natural Resources Board Policy), 11 (closed areas), 15 (game refuges), and 45 (use of department properties).

The primary authority to establish hunting regulations for deer and other species is established in s. 29.014 Stats. This section directs the department to establish and maintain open and closed seasons, bag limits, size limits, rest days, and other conditions for the taking of game that conserves the game supply and provides citizens with good hunting opportunities. This section authorizes many of the existing provisions of Ch. NR's 8 (license and permit procedures), 10 (game and hunting) and 19 (Miscellaneous Fur, Fish, Game and Outdoor Recreation).

The wildlife damage and nuisance program and rulemaking authority are established in s. 29.889(2)(b) Stats., which directs the department to establish rules for program eligibility and funding, methods of abating damage, forms and procedures, prorating claims, and record keeping, audits and inspections. This is the authorizing legislation for much of Ch. NR 12 related to wildlife damage.

Rules related to Chippewa treaty rights (Ch. NR 13) are promulgated under general authority to establish hunting regulations in s. 29.014 Stats. and these rules are the department's interpretation of how laws must be interpreted or limited in order to comply with the general limitations on state regulatory authority expressed in *Lac Courte Oreilles v. State of Wisconsin*, 668 F. Supp. 1233 (W.D. Wis. 1987) and the specific limitations expressed in the regulatory phase of the Voigt litigation. (See e.g., *Lac Courte Oreilles v. State of Wisconsin*, 707 F. Supp. 1034 (W.D. Wis. 1989).

Estimate of Staff Time Needed to Develop the Proposed Revision:

The department estimates that rule and program development will require the equivalent of 5 full time staff people, or 10,400 hours. This estimate includes developing new deer management programs in addition to time spent specifically on rule promulgation.

Groups Likely Affected by the Proposed Rule:

White-tailed deer affect nearly every Wisconsin resident in some way. Many of these effects are significant from a recreational, economic, and/or social perspective. A wide variety of groups and individuals will be interested in this proposed rule. Some groups include: Wisconsin Conservation Congress, Great Lakes Indian Fish and Wildlife Commission, Wis Farm Bureau Federation, WI Deer Hunters Assn., The Nature Conservancy, Whitetails Unlimited, WI Bowhunters Assn., WI County Forest Association, WI Woodland Owners Assn., Quality Deer Management Association, Rocky Mountain Elk Foundation, and the Sierra Club.

Groups registered to lobby the Wisconsin legislature within the last year, many registered specifically on these rules, include: WI Bear Hunter's Assoc., White-tails of WI, Safari Club International – WI Chapters, WI-Force, WI Wildlife Federation, National Rifle Assoc. of America, and the Assoc. of WI Snowmobile Clubs.

Anticipated economic impact of implementing the rule:

The department estimates that the economic impact of these rules will be moderate and, pursuant to 2011 Executive Order 50, will facilitate a 30 day period for comment on a draft economic impact analysis. The comment period will be held in late summer, 2013.

These rules will significantly modify rules that establish the department's habitat and deer harvest management strategies. Examples of the types of changes that could be made include; increased emphasis of habitat management on private land, use of different methods of measuring and estimating deer populations, and new ways to define and achieve desired deer populations or population trends. These rules will result in moderate revisions to regulations that apply to individual deer hunters. Examples of the types of changes that could be made include; eliminating or creating new deer management units, simplified harvest registration procedures, different deer hunting regulations on private versus public lands, and different uses and changes in the availability of antlerless deer harvest permits.

Deer population, harvest, and habitat management affect many entities in this state. A broad description of affected industries includes agriculture, forestry, tourism, and retail. Governments may be impacted by these rules because many do have programs to manage nuisance deer locally. Many non-profit groups are focused on natural resource conservation, wildlife resources, or deer in particular, and may be affected by these rules.

The department anticipates there may be moderate effects on the financial health of industries, governments, and groups. The department anticipates there will be moderate effects of these regulations for individual hunters and landowners. The longer comment period will allow 30 days for affected industries, governments, and groups to prepare comments that will be useful for preparation of the final economic impact analysis.

Affected entities are likely to base their evaluations of economic impact on their opinions of whether-or-not the rules will result in deer population increases, stabilization, or decreases. For instance, agriculture and forest-products interests may benefit from low deer populations and resulting low levels of crop and tree damage. The tourism and retail industries may benefit from high deer populations that result in greater enthusiasm and participation in deer hunting. This rule package will be designed to balance competing interests with a different approach than current rules.

It may be important to note that the department is statutorily prohibited from managing deer populations with regulations that require a hunter to first harvest an antlerless deer before harvesting a buck. The department also lacks rulemaking authority for certain deer hunting season frameworks. These changes to the department's regulatory authority result from recently enacted statutes and they will not be considered as part of an economic analysis prepared for these rules. While deer may have significant positive or negative impacts to different entities, removal of these harvest regulations likely moderates the economic impact of this rule package.

The department anticipates that there will be no or very few implementation and compliance costs for the affected entities. These rules will not establish reporting or compliance requirements or other regulations for small business. A possible outcome of these rules is the elimination of deer registration stations at local businesses throughout the state. The department will summarize the value of registration fees paid by the department to businesses, and related impacts of this voluntary program, in the economic impact analysis.

This is not a complete estimate of economic impacts but, rather, a summary which indicates that these rules could have moderate economic effects and that a longer period to gather information from affected entities is warranted. The final economic analysis for these rules may include descriptions of specific impacts of deer and deer hunting in this state based on surveys and research done by the department, other state and federal agencies, and affected industries. However, even though significant research exists, the impact of wild deer on the environment and to people under various conditions cannot be anticipated with exact precision. The final analysis will also include significant narrative descriptions of anticipated economic impacts.

Agency Contact:

Scott Loomans, Wildlife Regulation Policy Specialist, 101 South Webster Street, PO Box 7921, Madison, WI 53707-7921, (608) 267-2453, Scott.Loomans@wisconsin.gov

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM -11 - 13

Relating to: Deer management, hunting, and implementation of the 2012 White-tailed Deer Trustee's Report, Ch's. NR 1, 8, 10, 11, 12, 13, 15 and 19.

Rule Type: These will be permanent rules

1. Finding/nature of emergency (Emergency Rule only):

These will be permanent rules.

A proposal contained in the 2013 – 15 state budget would direct the department to develop emergency rules allowing final implementation of provisions from the White-tailed Deer Trustee's Report as soon as the 2014 deer season. If that proposal is enacted, the department will prepare a scope statement for emergency rules that will be similar to this scope statement.

2. Detailed description of the objective of the proposed rule:

There has been dissatisfaction with various issues related to white-tailed deer management and hunting in Wisconsin. Gubernatorial candidate Scott Walker made a promise to appoint a "Deer Trustee" to review programs. In October of 2011 Dr. James C. Kroll, officially known as Wisconsin's white-tailed deer trustee, entered into a contract with the State of Wisconsin to conduct an independent, objective and scientifically-based review of Wisconsin's deer management practices. The White-tailed Deer Trustee's report was released to the public in July, 2012.

The objective of these proposed rules is to work with sportsmen and sportswomen and other stakeholders in order to implement ideas and solutions from the Deer Trustee's report to forge a new age for deer management.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Implementation of the Deer Trustee's report will result in establishing significant new policies for deer management and hunting management compared to current rules. The primary policy alternatives being analyzed and considered are ones recommended in the report. Throughout this rulemaking process, the department and its partners may evaluate other policy alternatives as they are identified.

The full report is located on the Wisconsin Department of Administration's website at:
<http://www.doa.state.wi.us/section.asp?linkid=239&loclid=0>

Ch. NR 1 related to Natural Resources Board Policies

Ch. NR 1 establishes a general framework for the department's wildlife and forestry management activities. The department is reviewing the report with this framework in mind and will recommend modifications that are consistent with the report. These rules are likely to shift away from deer population goals expressed in specific numbers of animals in favor of more general population goals. The basis for establishing deer population goals may also be modified by these rules. The department may revise what it considers to be tolerable levels of crop damage. The chapter currently addresses wildlife habitat management policy and those provisions may be strengthened or made more specific based on
Rev. 3/6/2012

significant wildlife habitat related recommendations in the report. Development of a Young Forest Initiative Task Force may be addressed in this chapter as well as a Deer Management Assistance Program. Deer research priorities may also be a topic that is addressed in this policy-setting chapter. This chapter will be amended to maintain cross-reference citations with Ch. NR 10.

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Ch. NR 8 establishes standards and procedures for the automated license issuance system. These rules may recommend changes if they are necessary to improve efficiency or flexibility in the issuance of licenses, as needs arise during development of new automated licensing systems, and to maintain cross-reference citations.

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These rules will simplify the regulatory process by setting antlerless harvest goals, regulations, and antlerless permit quotas on a three-to-five year cycle instead of annually under current rule. Historical demand for antlerless permits has not been a factor considered in quota setting in the past but would be a consideration under these rules. Through these rules, the department may eliminate free antlerless deer tags, currently referred to as herd control tags. These rules may establish a fee for antlerless tags which allow harvest of deer in its CWD management zones. Currently, some units have an unlimited number of antlerless deer permits available per hunter but, under this proposal, that may no longer be the case. Finally, these rules may establish antlerless deer permits and allow the establishment of quotas for public lands that are different from the permits and quotas that are established for privately owned lands in a management unit.

Simplifying the regulatory process and implementing a new population management goal system may require a variety of related hunting regulations changes. Changes may include the names for permits and the allowable use of various deer permits. Back tags worn by hunters, deer carcass tags, and tagging requirements may be modified or eliminated where possible in order to simplify regulations or as opportunities arise during development of new automated licensing systems. Deer registration and transportation requirements may be relaxed and, in their stead, more customer-friendly harvest reporting procedures established. Black bear are another species for which in-person registration of harvested animals is required. These rules may modify bear harvest recording requirements if that is practical because deer and bear registration occur at the same locations and through the same process under current rules.

The department may recommend deer hunting season date modifications as a result of this rulemaking. While the report generally recommends that, "keeping seasons and bag limits consistent for longer periods of time would allow better assessment of management progress", it is challenging to discuss management system changes of this scale without considering season dates. For instance, it may be possible to simplify hunting regulations by eliminating a one-day closure of the archery season on the day before the traditional nine-day firearm season opens. The timing of other seasons for youth, disabled hunters, or other special seasons may also be evaluated. A move to more "passive" management of CWD, as recommended in the report, may also involve changes to deer hunting season dates.

This rulemaking will establish a Deer Management Assistance Program that will allow landowners and hunters to work together with the department to manage deer on a site-specific basis. The program will actively involve members of the public in the collection, analysis, and reporting of deer harvest information and improve management of the deer herd. The department may establish enrollment fees for participation in the program and that money will be credited back to implementation. This is a central recommendation of the report and recommends that the department establish: a) applicability to private and public lands, b) initial areas eligible to participate, c) administration of DMAP, d) funding, e) personnel

and training, f) minimum property size to participate, g) fees, h) participation requirements, i) data collection requirements, j) registration of deer harvested on DMAP properties, k) data analysis and reporting, and l) assessment of DMAP effectiveness.

The department does not intend to modify regulations on the method of deer harvest at this time. However if an ACT of the legislature modifies a legal method of harvest while this rule package is being promulgated, and related rule changes are needed, this rule package would implement an ACT of the legislature. Notably, the department is aware that changes to the allowable uses of crossbows are being considered.

The trustee's report generally recommends a more passive approach than current department policy to the management of Chronic Wasting Disease. CWD-related rulemaking will be correspondingly limited in this proposal. However, regulation changes related to disease testing protocol, harvest permits and other hunting regulations may be identified and included if they are consistent with the report. The department establishes separate population goals for deer units that are in a CWD zone. Those goals and methods of population estimation will be modified or eliminated by these rules.

These rules may make other modifications to deer hunting regulations if they can be characterized as simplifications. These may include changes to the allowable hunting hours or allowable guns, ammunition, and other devices.

Ch.'s NR 11 and 15 related to Closed Areas and Game Refuges

Modifications to Ch.'s NR 11 and 15 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. The report did not recommend changes to these chapters of administrative code. Additional modifications to these chapters may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 12 related to Wildlife Damage and Nuisance Control

Modifications to Ch. NR 12 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. The report did not recommend significant structural changes to the damage program. Additional modifications to this chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 13 related to Chippewa Treaty Rights Participants

Chapter NR 13 is intended to regulate off-reservation treaty rights of treaty rights participants recognized by Lac Courte Oreilles Band v. Voigt, 700 F. 2d 341 (7th Cir. 1983). Modifications to Ch. NR 13 will likely be needed to update numerous cross references with Ch. NR 10 which will be modified significantly. The report did not recommend changes to this chapter of administrative code.

Ch. NR 19 related to Miscellaneous Fur, Fish, Game and Outdoor Recreation

Modifications to Ch. NR 12 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. This section also contains regulations for feeding of wild animals and white-tailed deer related provisions which are not directly related to the report. Additional modifications to the chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 45 related to the Use of Department Properties

Modifications to Ch. NR 45 will likely be needed to update cross references with Ch. NR 10 which will be modified significantly. The report did not recommend specific changes to this chapter of administrative code. However, many regulations in this chapter apply to deer hunters who are using department managed lands. Additional modifications to this chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Department authority to conduct a variety of habitat and wildlife management activities is established in ss. 23.09(2)(b), (d), and (h), (k) and (km), and (p) Stats. These sections authorize rulemaking related to deer and deer habitat management and: plans and priorities for conservation, game refuges, cooperative forest protection, research, resources inventory, and disease control. These sections authorize many of existing provisions of Ch. NR's 1 (Natural Resources Board Policy), 11 (closed areas), 15 (game refuges), and 45 (use of department properties).

The primary authority to establish hunting regulations for deer and other species is established in s. 29.014 Stats. This section directs the department to establish and maintain open and closed seasons, bag limits, size limits, rest days, and other conditions for the taking of game that conserves the game supply and provides citizens with good hunting opportunities. This section authorizes many of the existing provisions of Ch. NR's 8 (license and permit procedures), 10 (game and hunting) and 19 (Miscellaneous Fur, Fish, Game and Outdoor Recreation).

The wildlife damage and nuisance program and rulemaking authority are established in s. 29.889(2)(b) Stats., which directs the department to establish rules for program eligibility and funding, methods of abating damage, forms and procedures, prorating claims, and record keeping, audits and inspections. This is the authorizing legislation for much of Ch. NR 12 related to wildlife damage.

Rules related to Chippewa treaty rights (Ch. NR 13) are promulgated under general authority to establish hunting regulations in s. 29.014 Stats. and these rules are the department's interpretation of how laws must be interpreted or limited in order to comply with the general limitations on state regulatory authority expressed in *Lac Courte Oreilles v. State of Wisconsin*, 668 F. Supp. 1233 (W.D. Wis. 1987) and the specific limitations expressed in the regulatory phase of the Voigt litigation. (See e.g., *Lac Courte Oreilles v. State of Wisconsin*, 707 F. Supp. 1034 (W.D. Wis. 1989).

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that rule and program development will require the equivalent of 5 full time staff people, or 10,400 hours. This estimate includes developing new deer management programs in addition to time spent specifically on rule promulgation.

6. List with description of all entities that may be affected by the proposed rule:

White-tailed deer affect nearly every Wisconsin resident in some way. Many of these effects are significant from a recreational, economic, and/or social perspective. A wide variety of groups and individuals will be interested in this proposed rule. Some groups include: Wisconsin Conservation Congress, Great Lakes Indian Fish and Wildlife Commission, Wis Farm Bureau Federation, WI Deer Hunters Assn., The Nature Conservancy, Whitetails Unlimited, WI Bowhunters Assn., WI County Forest Association, WI Woodland Owners Assn., Quality Deer Management Association, Rocky Mountain Elk Foundation, and the Sierra Club.

Groups registered to lobby the Wisconsin legislature within the last year, many registered specifically on these rules, include: WI Bear Hunter's Assoc., White-tails of WI, Safari Club International – WI Chapters, WI~Force, WI Wildlife Federation, National Rifle Assoc. of America, and the Assoc. of WI Snowmobile Clubs.

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

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The department estimates that the economic impact of these rules will be moderate and, pursuant to 2011 Executive Order 50, will facilitate a 30 day period for comment on a draft economic impact analysis. The comment period will be held in late summer, 2013.

These rules will significantly modify rules that establish the department's habitat and deer harvest management strategies. Examples of the types of changes that could be made include; increased emphasis of habitat management on private land, use of different methods of measuring and estimating deer populations, and new ways to define and achieve desired deer populations or population trends. These rules will result in moderate revisions to regulations that apply to individual deer hunters. Examples of the types of changes that could be made include; eliminating or creating new deer management units, simplified harvest registration procedures, different deer hunting regulations on private versus public lands, and different uses and changes in the availability of antlerless deer harvest permits.

Deer population, harvest, and habitat management affect many entities in this state. A broad description of affected industries includes agriculture, forestry, tourism, and retail. Governments may be impacted by these rules because many do have programs to manage nuisance deer locally. Many non-profit groups are focused on natural resource conservation, wildlife resources, or deer in particular, and may be affected by these rules.

The department anticipates there may be moderate effects on the financial health of industries, governments, and groups. The department anticipates there will be moderate effects of these regulations for individual hunters and landowners. The longer comment period will allow 30 days for affected industries, governments, and groups to prepare comments that will be useful for preparation of the final economic impact analysis.

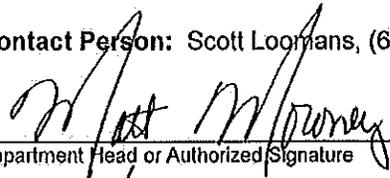
Affected entities are likely to base their evaluations of economic impact on their opinions of whether-or-not the rules will result in deer population increases, stabilization, or decreases. For instance, agriculture and forest-products interests may benefit from low deer populations and resulting low levels of crop and tree damage. The tourism and retail industries may benefit from high deer populations that result in greater enthusiasm and participation in deer hunting. This rule package will be designed to balance competing interests with a different approach than current rules.

It may be important to note that the department is statutorily prohibited from managing deer populations with regulations that require a hunter to first harvest an antlerless deer before harvesting a buck. The department also lacks rulemaking authority for certain deer hunting season frameworks. These changes to the department's regulatory authority result from recently enacted statutes and they will not be considered as part of an economic analysis prepared for these rules. While deer may have significant positive or negative impacts to different entities, removal of these harvest regulations likely moderates the economic impact of this rule package.

The department anticipates that there will be no or very few implementation and compliance costs for the affected entities. These rules will not establish reporting or compliance requirements or other regulations for small business. A possible outcome of these rules is the elimination of deer registration stations at local businesses throughout the state. The department will summarize the value of registration fees paid by the department to businesses, and related impacts of this voluntary program, in the economic impact analysis.

This is not a complete estimate of economic impacts but, rather, a summary which indicates that these rules could have moderate economic effects and that a longer period to gather information from affected entities is warranted. The final economic analysis for these rules may include descriptions of specific impacts of deer and deer hunting in this state based on surveys and research done by the department, other state and federal agencies, and affected industries. However, even though significant research exists, the impact of wild deer on the environment and to people under various conditions cannot be anticipated with exact precision. The final analysis will also include significant narrative descriptions of anticipated economic impacts.

Contact Person: Scott Loomans, (608) 267-2452

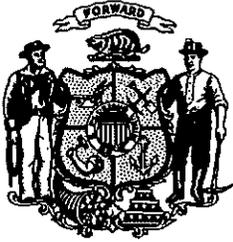


Department Head or Authorized Signature

2/20/13

Date Submitted

02/11/2013 SDL



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 13, 2013

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Scope Statement for WM-11-13 relating to deer management, hunting and implementation of the 2012 White-tailed Deer Trustee's report.

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on February 22, 2013, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule WM-11-13. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor