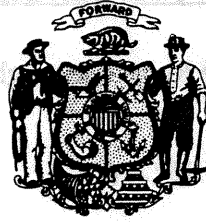


WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

Richard Sweet
Assistant Director
(608) 266-2982

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 94-180

AN ORDER to amend NR 1.15 (2) (a); and to repeal and recreate NR 10.104 and 10.28, relating to deer hunting permits.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

- 10-06-94 RECEIVED BY LEGISLATIVE COUNCIL.
- 11-03-94 REPORT SENT TO AGENCY.

RNS:GAA:kjf:jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached

YES

NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

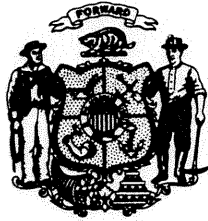
NO

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CLEARINGHOUSE RULE 94-180

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. Section NR 10.104 (2) (intro.) is incorrectly drafted as introductory material since it does not end with a colon and lead into pars. (a) and (b). [See s. 1.03 (8), Manual.] Therefore, sub. (2) (intro.) should be redrafted as a par. (a); pars. (a) and (b) would then become pars. (b) and (c).

b. In the third line of s. NR 10.104 (7) (c), "such" should be deleted. [See s. 1.01 (9) (c), Manual.]

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

SECTION 1 of the rule refers to "population goals." SECTION 2, in s. NR 10.104 (1) (b) and (c) refers to "deer population management goals" and to "annual harvest quotas." Also, s. NR 10.104 (4) (b) refers to "overwinter population goals." In s. NR 104.04 (5) (a), reference is made to "an overwinter deer population estimate"; sub. (5) (b) refers to "the overwinter population estimate" and the "unit population goal in sub. (4)." Because of inconsistent use of terms, the rule is unclear on precisely how the annual antlerless deer kill quota is to be calculated. The rule should be revised for purposes of clarity.

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

The Wisconsin Natural Resources Board proposes an order to repeal and recreate NR 1.15(2) (a), 10.104 and 10.28 of the Wisconsin Administrative Code relating to deer hunting permits.

WM-49-94

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.107, 29.174(3), 227.11(2) (a) Stats.

Statutes interpreted: ss. 29.107 and 29.174 (1) and (2), Stats.

The proposed rules:

1. Describe the department's method for developing deer management unit size and configuration.
2. Describe how the department will monitor deer population size.
3. Require the department to manage deer populations with consideration for ecological and social impacts.
4. Establish a three year period between reviews of overwinter goals and unit boundaries.
5. Establish overwinter goals and unit boundaries.

SECTION 1. NR 1.15(2) (a) is repealed and recreated to read:

NR 1.15 (2) (a) Deer population goals. The department shall seek to maintain a deer herd in balance with its range and at deer population goals reasonably compatible with social, economic and ecosystem management objectives for each deer management unit. Deer population goals are to be based on (1) carrying capacity as determined by unit population responses to habitat quality and historical records of winter severity, (2) the demand for deer hunting and viewing opportunities, (3) ecological and economic impacts of deer browsing, (4) disease transmission, (5) concern for deer-vehicle collisions, and (6) Chippewa treaty harvest.

SECTION 2. NR 10.104 is repealed and recreated to read:

NR 10.104 DEER POPULATION MANAGEMENT. (1) DEER MANAGEMENT SYSTEM. The department shall manage the state deer population by:

- (a) Establishing deer management unit boundaries within the state;
- (b) Establishing deer population goals for each deer management unit;
- (c) Monitoring the performance of the deer population within each deer management unit; and
- (d) Establishing deer hunting seasons and annual harvest quotas with the objective of maintaining deer populations at the established deer population goals for each deer management unit.

(2) DEER MANAGEMENT UNITS. (a) The deer management unit boundaries are as described in s. NR 10.28.

(b) Management unit size and configuration. Deer management unit boundaries shall be established to encompass areas of similar land use, soils and vegetative cover, and be of sufficient size to permit accurate monitoring of herds.

(c) Unit boundaries. Unit boundaries shall be readily identifiable features of the landscape such as roads and rivers. When road boundaries are used, the department shall give priority to use of numbered and lettered highways.

(3) THREE YEAR REVIEWS. The department shall review, and seek public comment, regarding the need to modify the boundaries or population goals for all deer management units every 3 years. For deer management units in the

ceded territory as defined by s. NR 13.02(1), the department shall also consult with the Wisconsin Chippewa Bands in a government to government manner.

(4) **DEER POPULATION GOALS.** (a) Deer range. The department will calculate the area of deer range in each unit based on estimates of the amount of wetland, woodland at least 10 acres in size, and cropland within 330 feet of woodlands.

(b) Unit goals. The deer population goals for each deer management unit described in s. NR 10.28 shall be expressed as the number of deer per square mile of deer range in January and are as follows:

Management Unit	Deer Goal	Management Unit	Deer Goal
1	20	49A	25
2	18	49B	25
3	10	50	20
4	10	51A	25
5	18	51B	25
6	12	52	20
7	12	53	30
8	20	54A	30
9	20	54B	25
10	25	54C	25
11	20	55	25
12	17	56	30
13	15	57	22
14	14	57A	30
15	25	57B	25
16	25	57C	30
17	15	58	25
18	20	59A	20
19	20	59B	15
20	18	59C	25
21	25	59D	20
22	20	59M	10
22A	20	60A	20
23	20	60B	20
24	20	60M	10
25	20	61	15
26	20	62A	28
27	20	62B	30
28	11	63A	30
29A	10	63B	25
29B	10	64	20
30	15	64M	10
31	19	65A	30
32	21	65B	30
33	20	66	30
34	17	67A	35
35	20	67B	35
36	25	68A	30
37	25	68B	30
38	20	69A	20
39	20	69B	15
40	20	70	30
41	25	70A	25
42	20	70B	35
43	15	70E	35
44	15	70G	30
45	20	71	20
46	25	72	20
47	25	73	20
48	20	73B	20

73C	25
74A	15
74B	15
75	20
75A	15
76	20
76A	20
76M	10
77A	20
77B	10
77C	10
77M	10
78	25
80A	15
80B	20
81	15

(5) ANNUAL ANTLERLESS DEER KILL QUOTAS. (a) Annual population estimate. The department shall annually calculate an estimate of the overwinter deer population for each deer management unit using the sex-age-kill method for calculating deer densities. The sex-age-kill method uses the following quantitative data for each deer management unit: proportion of yearling bucks in the harvest, proportion of yearling does in the harvest, proportion of males and females at birth, the number of fawns seen per doe during the summer, the proportion of total buck mortality due to hunting harvest, and the harvest by sex as registered during the hunting seasons.

(b) Quota objective. Using the overwinter deer population estimate established under par. (a), expected fawn production and overwinter mortality, the expected archery harvest of antlerless deer excluding those harvested under authority of hunter's choice and antlerless deer hunting permits, and the deer population goal in sub. (4), the department shall annually calculate an antlerless deer kill quota for each unit with the objective of maintaining the deer herd at the established deer population goal.

(c) Quota adjustment in ceded territory units. For deer management units in the ceded territory as defined in s. NR 13.02(1), expected tribal harvest shall be deducted from the antlerless deer kill quota established in Sub. (5) (b).

(6) ANTLERLESS DEER PERMITS (a) Purpose. The department shall issue deer hunting permits in sufficient numbers to achieve the state quota determined under sub. (5).

(b) Permit formula. In each deer management unit, the number of permits issued by the department shall be determined by the following formula:
 Permit number =
$$\frac{\text{State Quota}}{\text{Predicted hunter success rate}}$$

(c) Success rate prediction. The predicted hunter success rate used by the department to compute the number of permits for each deer management unit shall be based upon the percentage of permitted hunters harvesting an antlerless deer in that unit during previous seasons. In new deer management units or units with significant boundary changes the predicted hunter success rate shall be based upon the harvest history of similar units.

(7) ANTLERLESS DEER PERMIT APPLICATION PROCEDURES. All applications shall be on department forms and no person may submit more than one application.

(a) Application deadline. All applications shall be postmarked no later than the deadline dates indicated on the form or received by the department license section no later than 4:30 p.m. on those dates to be considered for selection. The department may not establish the annual application deadline to be earlier than July 1.

Note: The department conducts extensive publicity on the application deadlines beginning several months prior to any deadline. Application deadline dates are published in news releases, license outlet handouts, and pertinent regulation pamphlets. The license section address is 101 South Webster, Box 7926, Madison, WI 53707.

(b) Group applications. Group applications up to and including 4 hunters will be honored for deer hunting established in s. NR 10.01(3)(e)3. provided each applicant completes the application form and all forms are submitted in one envelope marked "group application" on the outside.

(8) PERMIT ISSUANCE. Upon receipt of proper application, the department shall issue permits in the following manner:

(a) Preference system. If the number of qualified applicants for antlerless deer permits and hunter's choice permits in a deer management unit exceeds the number of permits available, the department shall issue those antlerless deer permits and hunter's choice permits for that deer management unit according to the preference system established under s. 29.107(5), Stats.

(b) Initial permit. Successful applicants for deer hunting permits shall be determined by random selection from all eligible applications received for each deer management unit.

(c) Additional permits. If the number of deer hunting permits in any management unit exceeds the number of applications for the permits, the department may issue the remaining permits available for that unit as antlerless deer hunting permits to its initial deer hunting permit applicants. Permittees to be issued the second permit shall be randomly selected in accordance with any statutorily established landowner preference permit issuance system.

(d) Unallotted permits. The department may issue any remaining antlerless deer permits to interested permit applicants on a first-come, first-served basis who possess a valid deer hunting license.

(9) PERMIT AUTHORITY. No person may hunt antlerless deer in deer management units described as such in s. NR 10.01(3)(e) unless he or she possesses a current validated deer hunting permit.

(10) BAG LIMIT. Each issued deer hunting permit shall authorize the use of the holder's current valid Wisconsin deer hunting license, back tag and carcass tag for the killing of one deer in the deer management unit designated on the permit as follows:

(a) Hunter's choice deer hunting permit. Valid for the taking of one deer of either sex, except on Chambers island in Door county where the bag limit shall be one antlerless deer or one buck deer with a forked antler as indicated on the permit and except during the archery season where the permit authorizes the taking of an antlerless deer only under the authority of an archery hunting license.

(b) Antlerless deer hunting permit. Valid for the taking of one antlerless deer only.

The foregoing rules are approved and adopted by the Natural Resources Board on March 27, 1996.

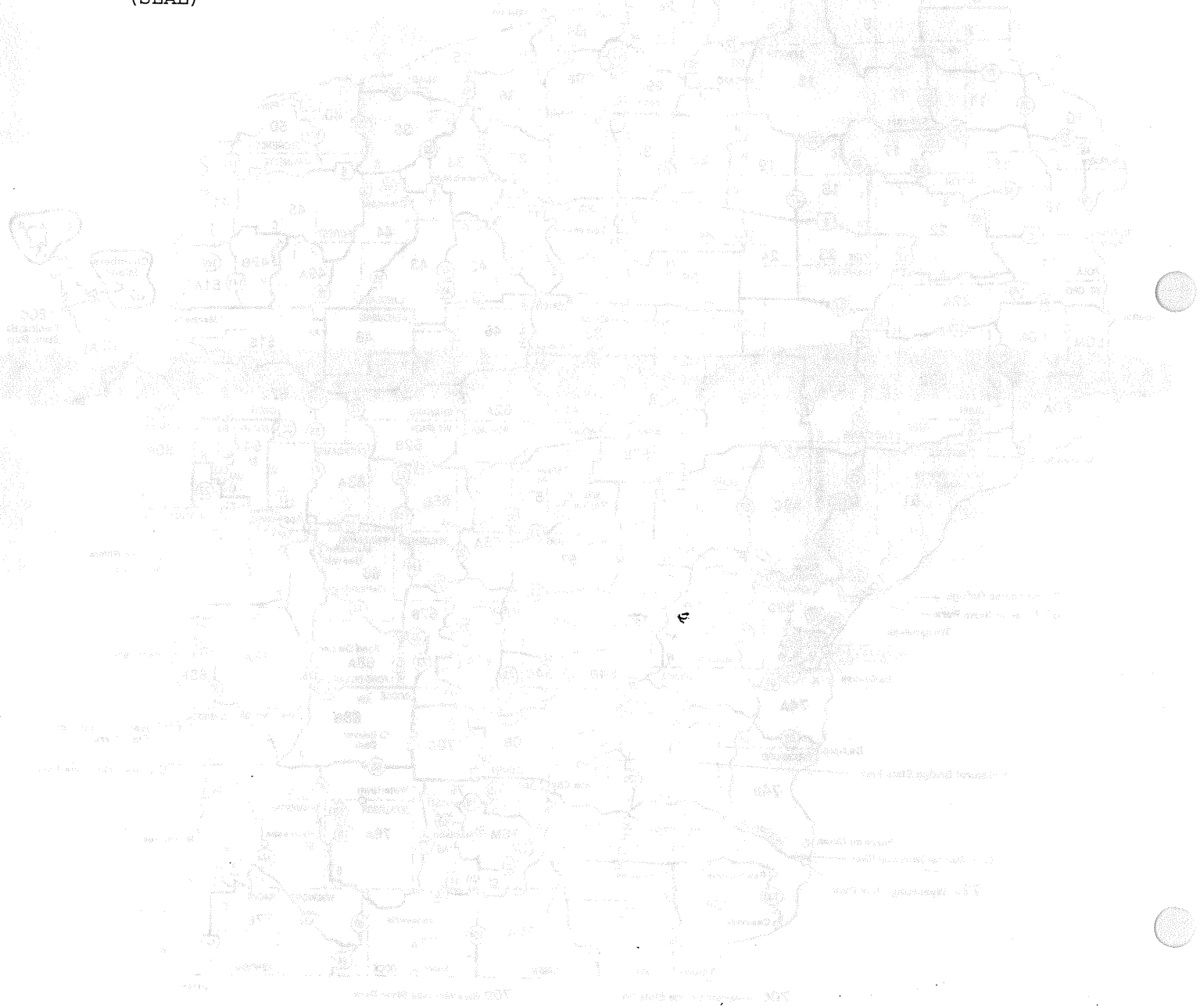
The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)



REPORT TO LEGISLATURE

NR 1 & 10, Wis. Adm. Code
Deer management goals, quotas and units

Board Order No. WM-49-94
Clearinghouse Rule No. 94-180

Statement of Need

The proposed rule describes the Department's method for developing deer management unit size and configuration; describes how the Department will monitor deer populations; requires the Department to manage deer populations with consideration for ecological and socio-economic parameters; requires the Department to seek public and tribal comment regarding deer population goals; establishes a three-year period between reviews of overwinter goals and unit boundaries; and establishes overwinter deer population goals and unit boundaries.

Wisconsin's 122 deer management units and associated population management goals are the backbone of the deer management system. Once units and population goals are set, wildlife managers use the annual "tools of the trade", namely S-A-K population estimates, antlerless deer quotas and permits to maintain herds near legally-established goals.

The primary effect of this rule order is modification of deer management unit goals and boundaries. Overwinter deer population goals are proposed to be increased in 8 units and decreased in 15 units. Two new metro units and one new state forest unit are proposed to be created.

Many ongoing Department procedures are codified and clarified without substantial effect on Department direction, protocol or operations. These include descriptions of procedures used for configuring units, calculating deer range, estimating deer population size, determining quotas and setting permit levels. The effect of tribal harvest declarations on state quotas in ceded territory units is also clarified.

Section NR 1.15 is reworded to more clearly indicate which factors are considered in setting population goals throughout the state. This section clarifies that ecological effects, such as forest regeneration and habitat quality, as well as socio-economic effects and tribal harvest needs are considered in goal setting.

This rule codifies a deer management unit review interval of 3 years corresponding to the time frame desired by the public and the stipulation in the Voigt court decision on Chippewa treaty rights.

Modifications as a Result of Public Hearing

Status quo deer management unit goals and boundaries were taken to public hearing for public reaction. Overwinter goals were increased in 8 units and decreased in 15 units. Two new metro units and one new state forest unit are created.

Appearances at the Public Hearings and Their Position

Rhineland, WI

In support - none
In opposition - none

As interest may appear:

Jack Martinson, N899 Hwy G, Reeseville, WI 53579
John Aschenbrenner, P.O. Box 196, Laona, WI 54541

Spoooner, WI

In support - none
In opposition - none

As interest may appear:

Dave Ferris, Burnett Co. Land Conservation Dept., 7410 Co. Rd. K, #109, Siren, WI 54872
Ted Zaborowski, 22945 County Road W, Grantsburg, WI 54840
Dick Larson, Wis. Farm Bureau, 1448 210th Street, St. Croix Falls, WI 54024
Jeffrey Stafford, P.O. Box 174, Spooner, WI 54801
Dale Case, P.O. Box 187, Rice Lake, WI 54868
Lee B. King, Route 1, Box 1322A, Trego, WI

Milwaukee, WI

In support:

Donald M. Reed, SEWRPC, 148 South James St., Waukesha, WI 53186

In opposition:

Paul Daugherty, N10188 Gulig Road, Malone, WI 53049

As interest may appear:

Kevin Ebertz, N9101 Pine Road, St. Cloud, WI 53079
Joseph A. Buelig, W435 Chickadee Drive, St. Cloud, WI 53079
Ted Lind, 4434 N. 52nd Street, Milwaukee, WI 53218
Larry Thoma, N10166 Gulig Road, Malone, WI 53049
Leonard Wiesniski, N64 W20020 Mill Road, Menomonee Falls, WI

Green Bay, WI

In support:

Mike Magolski, 3530 N. Mason Street, Appleton, WI 54915
Al Hofacker, P.O. Box 85, Athelstane, WI 54104
Reginald Robillard, 2760 Bay Road, Brussels, WI

Appearances at the Public Hearings and Their Position

Rhineland, WI

In support - none

In opposition - none

As interest may appear:

Jack Martinson, N899 Hwy G, Reeseville, WI 53579

John Aschenbrenner, P.O. Box 196, Laona, WI 54541

Spooner, WI

In support - none

In opposition - none

As interest may appear:

Dave Ferris, Burnett Co. Land Conservation Dept., 7410 Co. Rd. K, #109, Siren, WI 54872

Ted Zaborowski, 22945 County Road W, Grantsburg, WI 54840

Dick Larson, Wis. Farm Bureau, 1448 210th Street, St. Croix Falls, WI 54024

Jeffrey Stafford, P.O. Box 174, Spooner, WI 54801

Dale Case, P.O. Box 187, Rice Lake, WI 54868

Lee B. King, Route 1, Box 1322A, Trego, WI

Milwaukee, WI

In support:

Donald M. Reed, SEWRPC, 148 South James St., Waukesha, WI 53186

In opposition:

Paul Daugherty, N10188 Gulig Road, Malone, WI 53049

As interest may appear:

Kevin Ebertz, N9101 Pine Road, St. Cloud, WI 53079

Joseph A. Buelig, W435 Chickadee Drive, St. Cloud, WI 53079

Ted Lind, 4434 N. 52nd Street, Milwaukee, WI 53218

Larry Thoma, N10166 Gulig Road, Malone, WI 53049

Leonard Wiesniski, N64 W20020 Mill Road, Menomonee Falls, WI

Green Bay, WI

In support:

Mike Magolski, 3530 N. Mason Street, Appleton, WI 54915

Al Hofacker, P.O. Box 85, Athelstane, WI 54104

Reginald Robillard, 2760 Bay Road, Brussels, WI

In opposition:

Tom Sweeney, Door County Conservationist, Courthouse, 421 Nebraska St., Sturgeon Bay, WI
Charles G. Jarman, Door Co. Land Conservation Commission, 5100 Matley Road, Sturgeon Bay, WI

As interest may appear:

Arlyn Splitt, N9050 Bell Corners Road, Clintonville, WI 54929
Lee Rasmussen, 5174 W. Breezewood Lane, Winneconne, WI 54986
Robert E. Schmitz, 1736 Carroll Avenue, Green Bay, WI 54304
Francis J. Sagert, 1344 Day Street, Green Bay, WI 54302
Mark Nelson, 634 Nero Lane, Sobieski, WI 54171
Junior Reed, Route 3, Berlin, WI 54923
Jon Bechle, 2539 Robinson Avenue, Green Bay, WI 54311
Kurt L. Vanden Heuvel, N9274 Hwy. X, Black Creek, WI 54106
Paul Klose, 421 Nebraska Street, Sturgeon Bay, WI 54235
Jean Wilken, 708 West Cook, New London, WI 54961
Lois Reed, Route 3, Box 302, Berlin, WI 54923

Madison, WI

In support:

Larrie D. Hazen, 13405 Irish Ridge Road, Mount Hope, WI 54816

In opposition - none

As interest may appear:

Donald M. Waller, Botany - 430 Lincoln Drive, Madison, WI 53706
Robert M. Wersland, 513 Kriedeman Drive, Stoughton, WI 53589
Bob Ellingson, Vice-Chair, Wis. Conservation Congress, 5001 Woodburn Dr., Madison, WI 53711
Phil Oren, 2391 Highway AB, McFarland, WI 53558
Hans A. Sulzer, W4661 Sulzer Road, Monroe, WI 53566
Thomas Liebe, Rep. DuWayne Johnsrud's Office, 323 North, State Capitol

Eau Claire, WI -- 8 people commented, no appearance slips filed

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

The proposed rule does not regulate small businesses; therefore, a final regulatory flexibility analysis is not required.

1993 Session

LRB or Bill No./Acm. Rule No.
WM-49-94 & WM-50-94E

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 (R 11/90)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject
Deer Management Unit Review

Fiscal Effect

State: No State Fiscal Effect

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

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

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

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

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

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Regulation Change

Fiscal Impact

Unit Boundary Changes

\$300 Map Revision

Over Winter Goal Changes

\$250 Map Revision

Long-Range Fiscal Implications

Continued need for Law Enforcement compliance checks.

Agency/Prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

Natural Resources

Joe Palack

6-2794

07/11/94

Todd Peterson 267-2968

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R 11/90)
 Subject

1993 SESSION

ORIGINAL
 CORRECTED
 UPDATED
 SUPPLEMENTAL

LRB of Bill No./Adm. Rule No.
 WM-49-94 & WM-50-94E

Amendment No.

Deer Management Unit Review

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):
 \$550.00 Map Revisions

II. 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		\$	\$ -
III. State Revenues-	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fees, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$ 0	\$ - 0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)
 Natural Resources
 Todd Peterson 267-2948

Authorized Signature/Telephone No. 6-2794

Date 07/11/94

Todd Peterson
 6