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(FORM UPDATED: 08/11/2010)

# WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

## 2009-10

(session year)

### Joint

(Assembly, Senate or Joint)

## Committee for Review of Administrative Rules ...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

**State of Wisconsin  
Department of Natural Resources**

**NOTICE TO PRESIDING OFFICERS  
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Board Order No.: WM-16-09

Clearinghouse Number: CR 09-053

Subject of Rules: Deer management unit population goals

Date of Transmittal: October 22, 2009

**Send a copy of any correspondence or notices pertaining to the rule to:**

**DNR Bureau of Wildlife Management Rules Coordinator  
Scott Loomans, DNR, GEF-2, WM/6, 101 South Webster  
[scott.loomans@wisconsin.gov](mailto:scott.loomans@wisconsin.gov)**

**An electronic copy of the proposed rules submittal may be obtained by contacting Scott Loomans.**

## REPORT TO LEGISLATURE

NR 10, Wis. Adm. Code  
Deer management unit population goals  
Board Order No. WM-16-09  
Clearinghouse Rule No. 09-053

### Basis and Purpose of the Proposed Rule

Deer unit boundaries and goals are reviewed every 3 years according to s. NR 10.104 (3), Wis. Adm. Code and Voigt case stipulations (Chippewa treaty rights). There are currently 131 deer management units (DMUs) with individual over winter population goals and a statewide over winter population goal of approximately 737,000 deer. Over winter population goals and DMUs serve as the foundation for managing the deer herd and determining deer hunting season structures. All goals referred to in this rule are the over winter deer population goal for a DMU. The hunting season population will generally be substantially larger than the over winter population goal.

The Department is proposing raising deer population goals in 13 management units and lowering the goal in two.

Deer Management Unit	Current Goal Density	Proposed Goal Density
6	12	15
14	14	18
49A	25	20
57	22	25
59B	15	20
59M	10	15
60A	20	25
60B	20	25
60M	10	15
64	20	25
64M	10	15
68B	30	25
77C	15	20
77M	10	15
80B	20	25

These changes are recommended to provide hunters with more deer hunting opportunities in instances where goals are proposed for increases and to alleviate agricultural damage in the instances where the goals have been recommended for a decrease. The department does not anticipate significant ecological, agricultural or forestry impacts because of the proposed goal increases. However, there is a concern that a higher goal with low hunter densities will mean continuous herd control seasons.

Summary of Public Comments

Hearings were held in West Bend, LaCrosse, Wausau, Green Bay, Ashland, Rhinelander, and Menomonie and were attended by over 200 people. Sixty-one comments were received via a website comment form and we receive dozens of written comments via letters and email. Hearing attendance was generally light and appearances and registrations were in support of the proposed changes. The exception to this was at Green Bay where there was a well organized push to increase goals and debate the definition of deer range.

A summary of comments received is characterized by the following comments, "goal in DMU 62B should be increased to 35"; "9-day season is enough"; "need to increase goals more"; "too many timber wolves"; "definitely need a 16-day gun season"; "raise goal in DMU 37"; "goal in DMU 39 should be 15"; "need to protect farming and the environment"; "don't see very many deer"; "adjacent landowner of 30-40 acres doesn't allow anyone to hunt"; "if DMU 69 went to EAB, would think seriously about not hunting"; "over-hunting herd - fewer antlerless tags should be given"; "baiting of deer should be banned (why deer sightings have dropped off)"; "allowing significant gun hunting in Oct. or earlier in Nov. would seriously disrupt the bow season"; "EAB should be eliminated"; "deer harvest does not have a direct correlation to deer population".

Public Hearing Appearance Forms Summary							
	# testified	Total Attendance	As interest may appear	In support	In opposition	No position indicated	Total forms completed
8/13/09, West Bend	2	7	0	0	2	0	2
8/18/09, Wausau	6	48	5	7	1	16	29
8/18/09, Rhinelander	1	2	0	0	1	1	2
8/19/09, Green Bay	16	85	13	3	46	23	85
8/19/09, La Crosse							
8/27/09, Ashland	4	7	2	0	1	3	6
8/31/09, Menomonie	1	4	1	2	0	1	4
	30	207	22	16	51	53	142

Modifications Made

The department initially recommended that the goal in DMU 3 be reduced to 15 deer per square mile of deer range (dsm) due to concerns for forest regeneration and composition. There was some public input to support this decrease, however due to the public input received at hearings and through comments, input from local wildlife biologists, and input received through the tribal consultation process (the Voigt Task Force recommends a goal between 16 and 21 dsm), the department now recommends no change to the goal in DMU 3.

Appearances at the Public Hearing

Statewide attendance was 207.

Changes to Rule Analysis and Fiscal Estimate

The rule analysis and fiscal estimate were revised to reflect the recommendation that the goal in DMU 3 not be changed.

Response to Legislative Council Rules Clearinghouse Report

The recommendations have been incorporated into the rule.

Final Regulatory Flexibility Analysis

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.

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

The Wisconsin Natural Resources Board proposes an order to amend NR 10.104(4)(b) relating to deer management unit population goals.

WM-16-09

Analysis Prepared by the Department of Natural Resources

**Statutory Authority and Explanation:** Statutes that authorize the promulgation of this rule order include sections 29.014, and 227.11, Stats. These sections grant rule making authority to the department to establish seasons and bag limits for hunting that ensure the citizens of the state continued opportunities for good hunting and that all rules promulgated under this authority are subject to review under ch. 227, Stats.

**Statutes Interpreted and Explanation:** In promulgating this rule s. 29.014 and 29.889(12) Stats. have been interpreted as allowing the department the authority to establish deer population goals to assure the health and vigor of the deer herd and to prevent overabundant populations of deer that can lead to agricultural, environmental and property damage.

**Related Statute or Rule:** Deer unit boundaries and goals are reviewed every 3 years according to s. NR 10.104 (3), Wis. Adm. Code and Voigt case stipulations (Chippewa treaty rights).

**Plain Language Rule Analysis:** There are currently 131 deer management units (DMUs) with individual over winter populations goals and a statewide over winter population goal of approximately 737,000 deer. Over winter population goals and DMUs serve as the foundation for managing the deer herd and determining deer hunting season structures. All goals referred to in this rule are the over winter deer population goal for a DMU. The hunting season population will generally be substantially larger than the over winter population goal.

The Department is proposing raising deer population goals in 13 management units and lowering the goal in two.

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80B	20	25

These changes are recommended to provide hunters with more deer hunting opportunities in instances where goals are proposed for increases and to alleviate agricultural damage in the instances where the goals have been recommended

for a decrease. The department does not anticipate significant ecological, agricultural or forestry impacts because of the proposed goal increases. However, there is a concern that a higher goal with low hunter densities will mean continuous herd control seasons.

**Federal Regulatory Analysis:** Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of 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 the states in 50 CFR 10.

**State Regulatory Analysis:** All of Wisconsin's neighboring states have established management units for the purpose of managing deer populations. By using units with identifiable boundaries, deer populations can be monitored and kept at various population levels to more effectively control the deer herd and to address regional differences in habitat, population (human and deer) and to reduce conflict with other land uses such as residential, agricultural or forested.

**Summary of Factual Data and Analytical Methodologies:** The Department has evaluated the need for deer population goal reviews based on the following criteria: 1) Intolerable level of agricultural damage when at goal; 2) Ability of hunters to harvest enough deer to keep the population at the goal level; 3) Hunter demand for antlerless permits; 4) Vehicle-deer accident rate; and 5) Hunter buck harvest success rate. In addition, an Environmental Assessment was prepared in 1995. Copies of *Deer Population Goals and Harvest Management Environmental Assessment* are available from the department upon request.

**Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report:** These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses.

**Effects on Small Businesses:** These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

**Agency Contact People:** Keith Warnke, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. (608) 264-6023, [keith.warnke@wisconsin.gov](mailto:keith.warnke@wisconsin.gov) or Scott Loomans, 101 S. Webster St., PO Box 7921, Madison, WI 53707-7921. (608)267-2452, [scott.loomans@wisconsin.gov](mailto:scott.loomans@wisconsin.gov)

**Deadline for Written Comments:** The deadline for written comments was August 31, 2009.

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Section 1. NR 10.104(4)(b) is amended to read:

NR 10.104(4)(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:

<u>Management Unit</u>	<u>Deer</u>	<u>Management Unit</u>	<u>Deer</u>	<u>Management Unit</u>	<u>Deer</u>
<b>Goal</b>		<b>Goal</b>		<b>Goal</b>	
1.....	20	37.....	25	62B.....	25
1M.....	10	38.....	20	63A.....	25
2.....	18	39.....	20	63B.....	25
3.....	16	40.....	20	64.....	<del>20</del> 25
4.....	15	41.....	25	64M.....	<del>10</del> 15
5.....	20	42.....	20	65A.....	30
6.....	<del>12</del> 15	43.....	15	65B.....	30
7.....	15	44.....	17	66.....	25
8.....	20	45.....	20	67A.....	25
9.....	20	46.....	25	67B.....	25
10.....	25	47.....	25	68A.....	30
11.....	20	48.....	20	68B.....	<del>30</del> 25
12.....	17	49A.....	<del>25</del> 20	69.....	25
13.....	15	49B.....	25	70.....	25
14.....	<del>14</del> 18	50.....	20	70A.....	25
15.....	22	51A.....	25	70B.....	25
16.....	25	51B.....	25	70E.....	25
17.....	15	52.....	20	70G.....	30
18.....	20	53.....	25	71.....	25
19.....	20	54A.....	25	72.....	20
20.....	18	54B.....	25	73B.....	20
21.....	25	54C.....	25	73D.....	20
22.....	20	55.....	25	73E.....	22
22A.....	20	56.....	30	74A.....	20
23.....	20	57.....	<del>22</del> 25	74B.....	20
24.....	20	57A.....	25	75A.....	20
25.....	20	57B.....	25	75C.....	20
26.....	20	57C.....	30	75D.....	20
27.....	20	58.....	25	76.....	20
28.....	15	59A.....	20	76A.....	25
29A.....	15	59B.....	<del>15</del> 20	76M.....	10
29B.....	12	59C.....	25	77A.....	20
30.....	15	59D.....	20	77B.....	15
31.....	20	59M.....	<del>10</del> 15	77C.....	<del>15</del> 20
32.....	21	60A.....	<del>20</del> 25	77M.....	<del>10</del> 15
33.....	20	60B.....	<del>20</del> 25	78.....	15
34.....	17	60M.....	<del>10</del> 15	80A.....	15
35.....	20	61.....	20	80B.....	<del>20</del> 25
36.....	25	62A.....	25	81.....	15

**Section 2. Effective Date.** This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

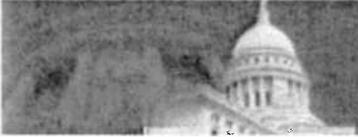
**Section 3. Board Adoption.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on October 21, 2009.

Dated at Madison, Wisconsin \_\_\_\_\_.

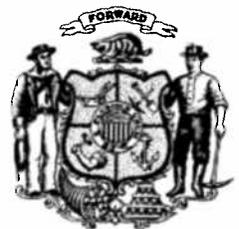
STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Matthew J. Frank, Secretary

(SEAL)



# WISCONSIN STATE LEGISLATURE





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

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

### 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 **09-053**

AN ORDER to amend NR 10.104 (4) (b), relating to deer management unit population goals.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

07-15-2009 RECEIVED BY LEGISLATIVE COUNCIL.

07-28-2009 REPORT SENT TO AGENCY.

RS:DWS

**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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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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*Clearinghouse Director*

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*Clearinghouse Assistant Director*

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*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 09-053

#### 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.]**

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

- a. In the plain language analysis, the first use of “deer management units” should be followed in parentheses by the acronym “DMVs” to which they are referred later in the section.
- b. In the plain language analysis, the word “overwinter” should be replaced by the phrase “over winter” in order to be consistent with the use of the term in the remainder of the first paragraph.
- c. In the summary of factual data and analytical methodologies, the word “for” should be deleted after the word “ability.”