

Report From Agency

REPORT TO LEGISLATURE

NR 10 and 19, Wis. Adm. Code
The 2009 Annual Housekeeping Rule relating to hunting, trapping and wildlife rehabilitation.
Board Order No. WM-03-09
Clearinghouse Rule No. 09-024

Basis and Purpose of the Proposed Rule

Annually, the department submits rule change proposals relating to hunting, trapping and game management that 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. The policy issues affected by this rule are ones which have already been addressed by previous rulemaking or legislation. The proposed rules will:

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

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

Section 3 clarifies that access permits are required of deer hunters at Lake Wissota state park.

Sections 4 and 5 clarify that the harvest of deer of either sex is allowed by archery and gun hunters who possess disabled hunting permits, making this regulation consistent with the law that applies to disabled hunters during firearm seasons.

Section 6 allows hunting by 10 and 11 year olds during the youth deer hunting season and allows participation by youth who have not completed a hunter safety course. This section also clarifies that a qualified mentor may only supervise one person who is either 10 or 11, or who has not completed a hunter safety course and requires that the mentor be within arms reach of the hunter they are supervising.

Section 7 clarifies that, where it is legal to place bait for hunting deer, bait may be placed on the day before the archery season as is currently allowed on the day before the gun seasons.

Section 8 removes the prohibition of hunting deer with full metal jacketed, nonexpanding type bullets so that only nonexpanding type bullets are prohibited.

Section 9 establishes that the prohibition of hunting and firearm discharge on the day before the firearm deer season applies only to the traditional nine-day deer season.

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

Section 11 incorporates by reference the definitions for a section of federal regulations that are already incorporated into Wisconsin code related to baiting migratory game birds.

Section 12 eliminates an unnecessary cross reference.

Section 13 eliminates confusing and unnecessary language and clarifies that, where body-gripping type traps from 60 to 75 square inches in size are prohibited, larger traps are also prohibited.

Section 14 eliminates an unnecessary gear requirement; relaxing mechanical locks are not needed on snares.

Section 15 eliminates a limit on participation by disabled hunters during turkey seasons that is no longer needed with only seven turkey management zones.

Section 16 corrects an omission in the name of a deer management unit.

Section 17 Includes trapping as an educational outdoor skills activity for which certain exemptions are available so that this rule language will be consistent with statute.

Section 18 clarifies that volunteer wildlife rehabilitators may only serve in a limited capacity on wildlife rehabilitation activities.

Section 19 corrects the number of a subdivision.

Section 20 updates wildlife rehabilitation code language so that it is consistent with proposed changes to the list of threatened and endangered species.

Summary of Public Comments

The department held a hearing in Madison on May 11, 2009. One person appeared at the hearing and made a general statement of support on behalf of Whitetails of WI, WI Commercial Deer & Elk Farmers, WI Game Preserve Association and the Blind Hunters & Sportsmen Coalition.

Deer Carcass Transportation

As initially proposed, the rule would have clarified that velvet antlers may be possessed in a CWD zone and clarified that antlers being transported out of a CWD zone must be free of brain tissue only. One written comment was received from a representative of the Wisconsin Taxidermist Association. The association requested that the department expand a provision of the initial rule proposal so that deer carcasses or parts of deer can be transported out of the CWD Management Zone directly to a licensed taxidermist.

Modifications Made

Deer Carcass Transportation

The department agrees with the Wisconsin Taxidermist Association's suggestion to allow the transport of deer carcasses or parts from the CWD Management Zone directly to a licensed taxidermist because of the likelihood that taxidermists will dispose of carcasses in ways that do not present a danger of spreading CWD. It is unlikely, however, that this rule would be in effect prior to the 2009 firearm deer season. This rule change will not be in effect prior to publication of hunting regulations pamphlets.

The department proposes instead to remove from this rule its original proposed modification to carcass transportation requirements. The department will address its original housekeeping proposal and the concerns of the WTA in future rulemaking for the 2010 hunting season. Additionally, the department will consider allowing anyone who shoots a deer in the CWD Management Zone to transport that carcass directly to any licensed meat processor. Licensed meat processors are subject to carcass disposal regulations administered by the Dept. of Agriculture, Trade & Consumer Protection which may be sufficient to prevent the spread of disease.

The department agrees that there are ways to ease the burden of carcass transportation restrictions while still preventing the spread of infection agents through disposed animal parts. Modifications of this nature represent a significant change to carcass transportation rules that may be more appropriately addressed in comprehensive rulemaking than in this housekeeping rule package.

Wildlife Rehabilitation

As initially proposed, this rule would have clarified that volunteer wildlife rehabilitators can serve only in limited roles in part by establishing that each animal taken in to a rehabilitation center needs to be examined by a person who holds an advanced license prior to being placed in care. The department is no longer recommending this provision. Operators of larger rehabilitation facilities expressed concern that examination of each animal prior to initiating basic care would be a significant workload challenge for the license holder. An advanced license holder may not be present at a facility at all times when an animal is brought to a center. Volunteers help by increasing the time that a facility is open and currently accept and stabilize animals that can be

evaluated by a license holder at a later time. Wildlife rehabilitation volunteers will still need to be on record with the license holder, possess a copy of the advance license holder's license, and the license holder is responsible for any violations of ch. 169, Stats. or s. NR 19.77 Wis. Admin. Code. Language explaining that volunteers may act only in a "limited capacity" is still contained in this rule proposal.

Changes to Rule Analysis and Fiscal Estimate

The rule analysis has been revised to reflect modifications made. None of the modifications will have a fiscal impact.

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.

