

The statement of scope for this rule, SS 074-24, was approved by the Governor on July 11, 2024, published in Register No. 823A3 on July 15, 2024, and approved by the Natural Resources Board on August 14, 2024. This rule was approved by the Governor on\_\_\_\_\_.

## **Clearinghouse Rule 24-089**

### **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 10.28 (1), (2) (c) and (h), and (4) relating to revising white-tailed deer management unit boundaries.

## **WM-12-24**

### **Analysis Prepared by the Department of Natural Resources**

#### **1. Statute Interpreted:**

In promulgating this rule, ss. 29.011(1), 29.014 and 29.889 (12), Stats., have been interpreted as authorizing the department to establish deer population objectives to manage deer herds at acceptable population sizes while ensuring public hunting and recreation opportunities. In addition, s. 29.040, Stats., grants the department the authority to implement county deer advisory councils, which originated from a recommendation contained in the Deer Trustee Report of 2012. County deer advisory councils establish deer population objective and deer management unit boundary recommendations for further consideration by the department and the Natural Resource Board.

#### **2. Statutory Authority:**

Statutes that authorize the promulgation of this rule order include ss. 29.011 (1), 29.014, 29.063 (1) and 227.11, Stats.

#### **3. Explanation of Agency Authority:**

Sections 29.014, 29.063 and 227.11, Stats., grant rule-making authority to the department to establish seasons and bag limits for hunting that ensure continued hunting opportunities for citizens of the state and are compatible with the state's chronic wasting disease (CWD) policies. All rules promulgated under this authority are subject to review under ch. 227, Stats.

#### **4. Related Statutes or Rules:**

This rule is related to WM-11-24 (E), a companion emergency rule that the department is currently developing.

#### **5. Plain Language Analysis:**

This rule proposes a return to habitat-based deer management units in the Northern Forest Zone. It also proposes to adjust a portion of the Central Forest Deer Management Zone boundary, as well as select Metropolitan Subunit boundaries. Prior to 2014, units were bounded by major roads and rivers that surrounded areas with generally similar habitat. In response to a recommendation in the Deer Trustee Report of 2012, units were adjusted to instead align with county boundaries.

#### **6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:**

States possess inherent authority to manage the wildlife resources located within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

**7. If Held, Summary of Comments Received During Preliminary Comment Period**

**and at Public Hearing on the Statement of Scope:** A preliminary public hearing on the statement of scope was not required.

**8. Comparison with Similar Rules in Adjacent States:** 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, address regional differences in habitat and population (human and deer), and reduce conflict with other land uses such as residential, agricultural or forestry. In addition, neighboring states utilize population goals, informed by hunter and public input, to keep deer populations at levels that are biologically and socially acceptable.

**9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:**

The department reviews unit boundaries every three years. Prior to 2014, units were bounded by major roads and rivers that surrounded areas with generally similar habitat. In response to a recommendation in the Deer Trustee Report of 2012, units were adjusted to instead align with county boundaries. County deer advisory councils were also established in 2014. Previous council meetings and unit boundary reviews, as well as input gathered in connection with this present review, have indicated a strong interest in returning to habitat-based units in the Northern Forest Deer Management Zone.

Prior to the Department's implementation of county-based units, an external expert analysis of the habitat-based units in place at that time was performed. The analysis suggested these units were too small to provide sufficient datasets for statistically sound population monitoring. As a result, the present review sought to develop larger units while still retaining the benefit of historical deer harvest and population data gathered over decades by pairing adjacent units that had similar deer harvest and population metrics, as well as land cover and historical hunter densities. Data from the last five years of prior units (2009-2013) was averaged and used to inform the best pairings of adjacent units to arrive at a similar number of units that currently exist under the county-based system while configuring the units to capture more homogenous landscapes and associated deer herds.

Many northern councils have been expressing a desire to return to habitat-based units through their annual meeting minutes. Additionally, the agency conducted an online survey to gauge support from the public. On a scale of 1 being no support and 10 being strong support for the concept of returning to habitat-based units, 50% of respondents shared strong support (10) and 75% of respondents shared some level of support (6-10). 90% of respondents were neutral to supportive (5-10). Respondents who indicated an interest in the Central Forest Zone boundary or Metro Subunits also affirmed the previously documented interests of councils to adjust boundaries in their counties.

**10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:**

These rules, and the legislation which grants the department rule-making authority, do not have fiscal effects on the private sector or small businesses. No costs to the private sector or small businesses are associated with compliance with these rules.

**11. Effect on Small Business (final regulatory flexibility analysis):**

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.

**12. Agency Contact Person:** Jeff Pritzl, Deer Specialist, [Jeffrey.pritzl@wisconsin.gov](mailto:Jeffrey.pritzl@wisconsin.gov), (920) 366-3450

**13. Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearings, by regular mail, or email to:

Scott Karel

Department of Natural Resources

P.O. Box 7921 Madison, WI 53707

Scott.karel@wisconsin.gov 608-267-2452

608-267-7857 (fax)

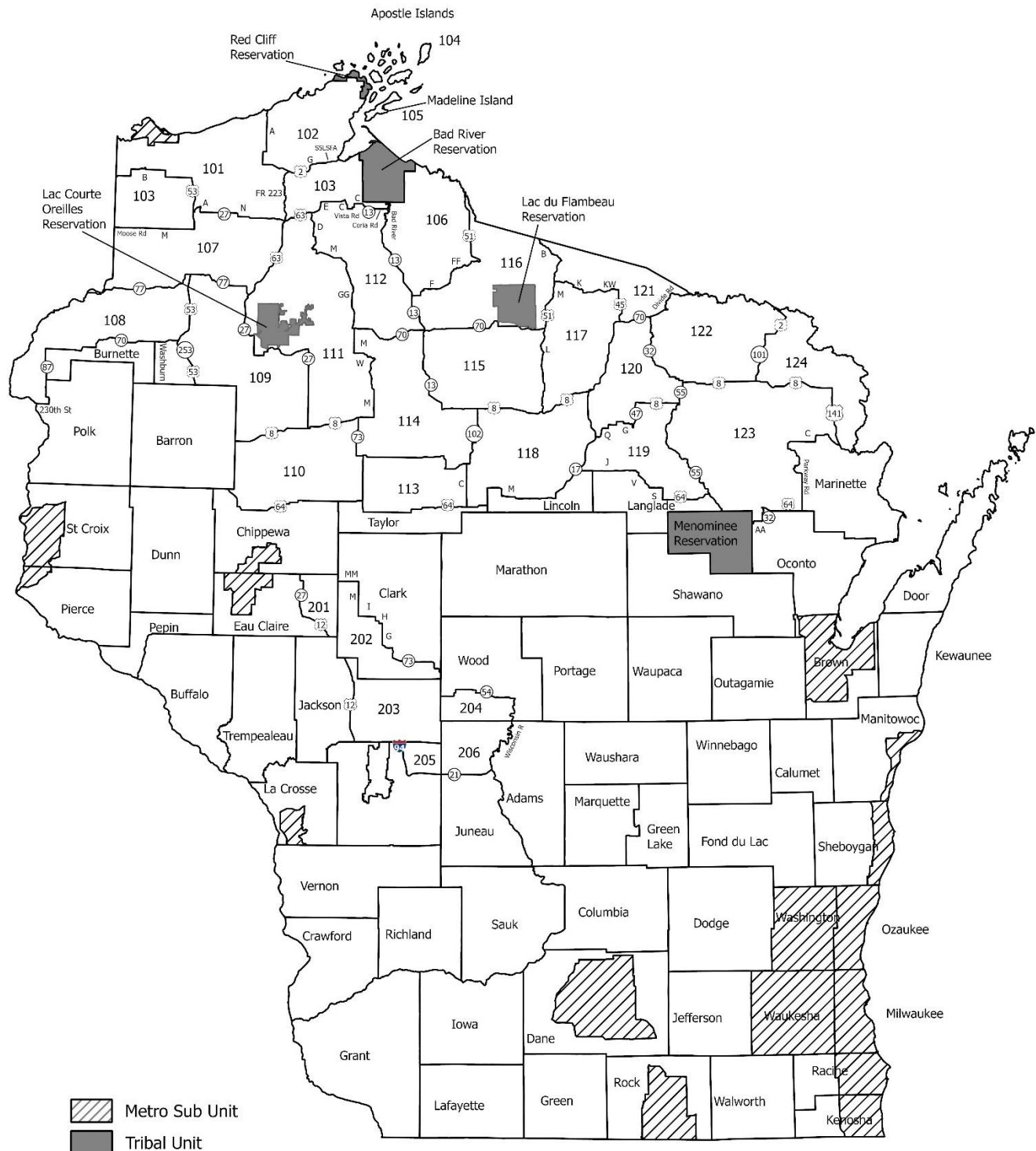
Comments may be submitted to the department contact person listed above or to DNRAdministrativeRulesComments@wisconsin.gov until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's website, at <https://dnr.wisconsin.gov/calendar/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

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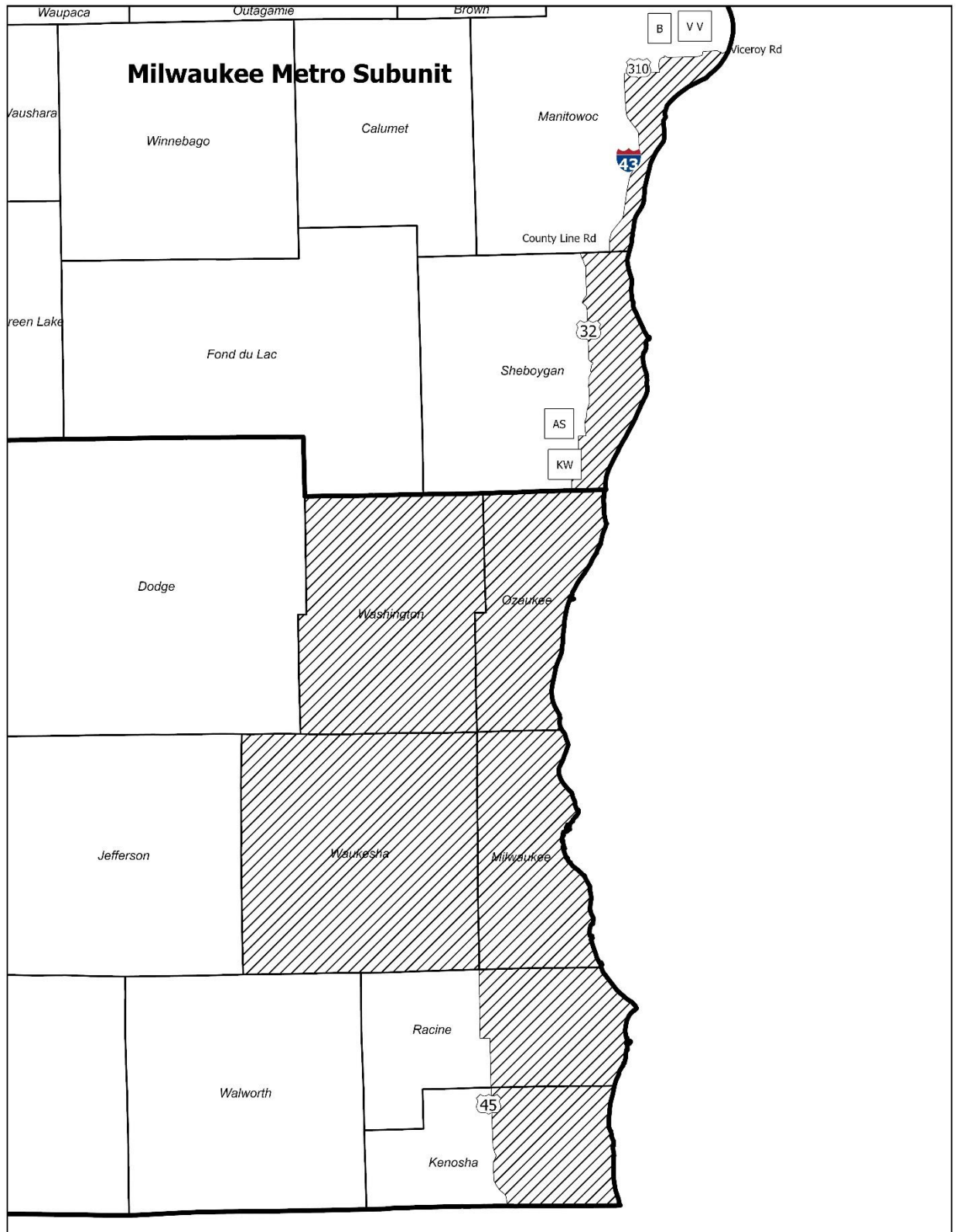
**RULE TEXT**

**SECTION 1. NR 10.28 (1), (2) (c) and (h), and (4) are repealed and recreated to read:**

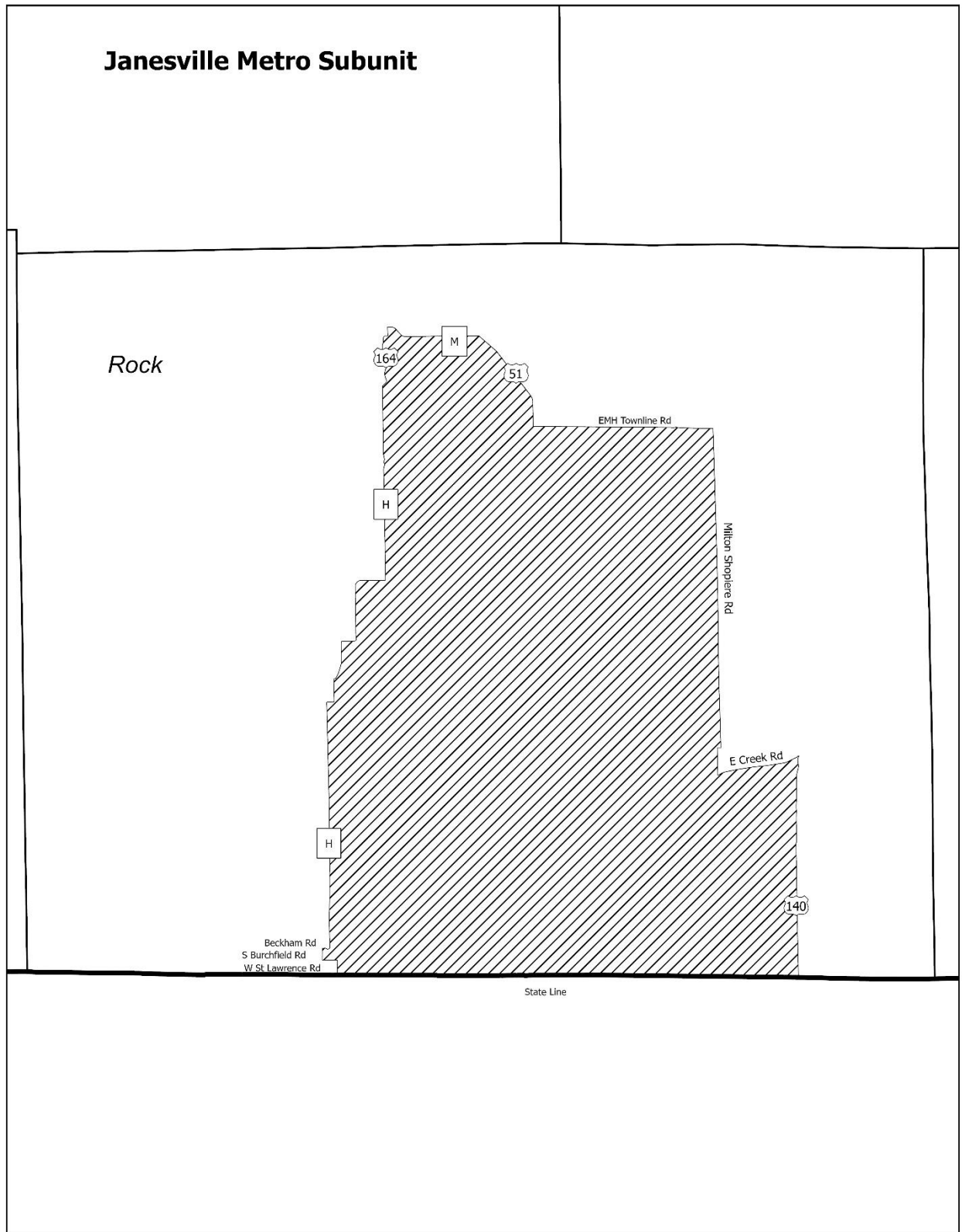
**NR 10.28 (1) STATEWIDE DEER MANAGEMENT UNITS.**



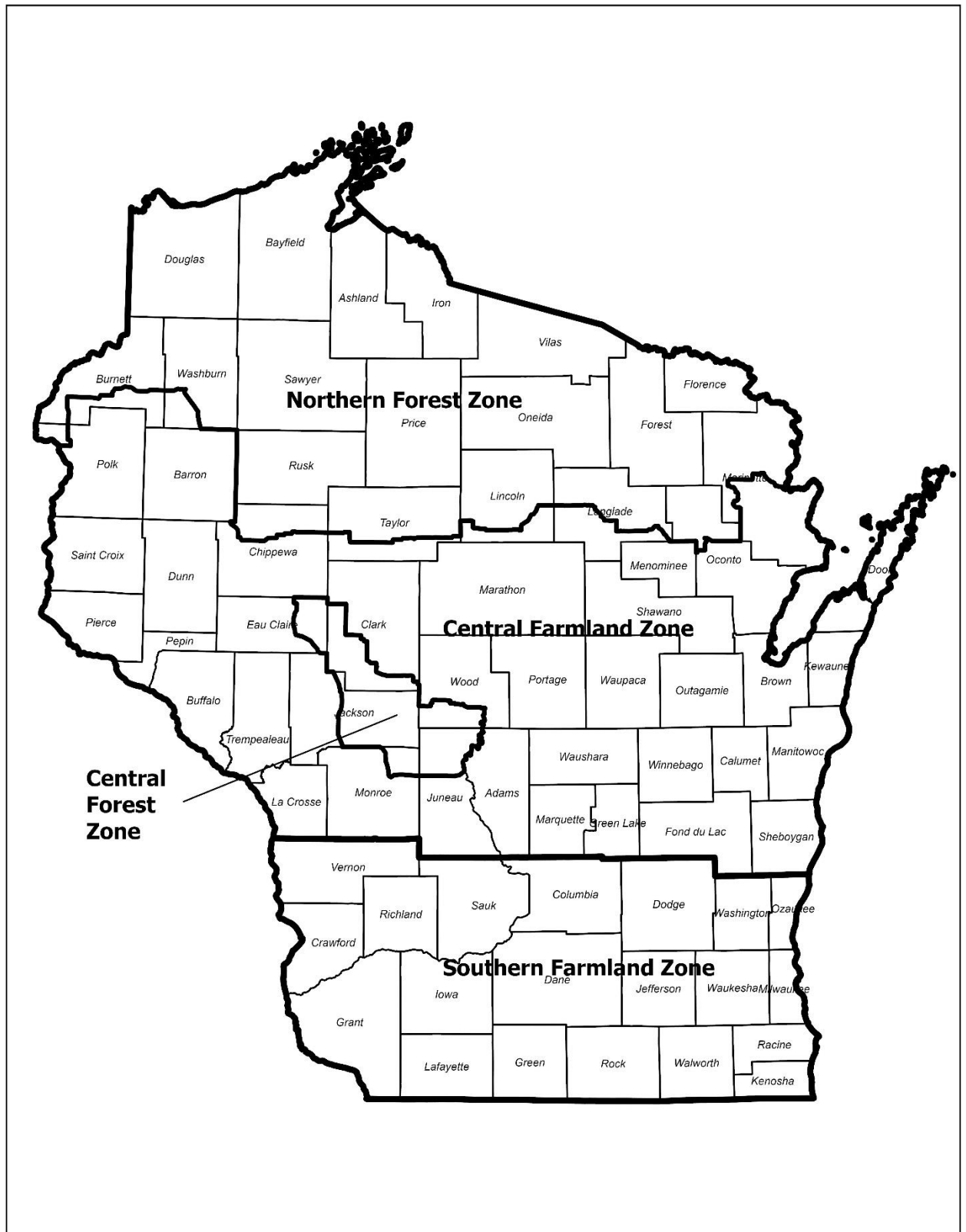
(2) (c) *Milwaukee area.*



(h) *Rock area.*



(4) DEER MANAGEMENT ZONES.



**SECTION 2. EFFECTIVE DATE.** This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

**SECTION 3. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

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

STATE OF Wisconsin DNR

DEPARTMENT OF NATURAL RESOURCES

BY \_\_\_\_\_

Steven Little, Deputy Secretary