

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

The Wisconsin Natural Resources Board proposes an order to repeal s. NR 10.01(4)(a)5. and (e)5.; to amend s. NR 10.001(17), (25e) and (29), 10.01(3)(e)6.(intro.), a. and b., (es)1., (4)(a)2. and (e)2., 10.02(1), 10.06(5) and (8)(a), 10.07(1)(b)2., 10.09(1)(a)1. and (e), 10.12(5)(a), 10.13(1)(b)5., 6., 8., 12. and 13., 12.001(5) and (8), 12.10(1)(a)4., (b)2. and (2)(b)2., 19.76(1), (4) and (4e), 19.79(3) and (5)(a), 19.795 (3)(b)1.c., 19.80(4)(a)2. and 5., 19.81(title), (1), (2)(a) and (b), (4) and (5)(a); to repeal and recreate s. NR 10.10(1)(b) and 10.13(1)(b)13. and to create s. NR 10.001(1c), (5c) and (5g), 10.01(3)(i), 10.11, 10.111, 10.13(1)(b)14., 15. and 16., 10.37 and 12.15(11)(c) relating to agricultural damage, hunting and trapping regulation changes.

WM-01-03

Analysis Prepared by the Department of Natural Resources

Statutory authority: § 23.09(2), 29.014, 29.182, and 227.11, Stats.

Statutory interpreted: § 29.182, 29.347, 29.361, 29.595, and 29.889, Stats.

In this order:

Section 1. Defines an antlerless elk.

Section 2. Defines a bull elk.

Section 3. Defines a “cable restraint”

Section 4. Amends the definition of a muzzle-loader to include muzzle-loading handguns.

Section 5. Amends the definition of a “snare”.

Section 6. Amends the definition of a “water set”.

Section 7. Modifies the statewide metro deer management unit gun season framework.

Section 8. Discontinues a muzzleloader only hunt in the state’s metro deer management units.

Section 9. Creates the elk season framework and identifies season dates and harvest limits.

Section 10. Modifies the central muskrat and mink management zones.

Section 11. Eliminates the southern muskrat and mink management zones.

Section 12. Removes elk from the list of protected wild animals.

Sections 13 and 14. Establish legal hunting hours for elk.

Sections 15. Prohibits the use of “cable restraints” as a means to capture rabbits and hares.

Section 16. Prohibits the possession of shotshell loaded with single slugs or balls during the elk season and prohibits a disabled permit holder from using a handgun loaded with shot to hunt elk.

Section 17. Modifies the bear hunting with dogs zone season boundary.

Section 18. Lists the prohibited methods for hunting elk, tagging and validation requirements, carcass transportation and registration requirements for harvested elk.

Section 19. Describes the elk population management guidelines, establishes the elk quota determination formula and the elk hunting license issuance guidelines.

Section 20. Prohibits the use of cable restraints to hunt migratory game birds.

Section 21. Defines the legal use and placement of dry land cable restraints and changes the name of “killer traps” to “body-gripping type traps” to more accurately describe the way these traps operate.

Sections 22, 23 and 24. Creates specifications for dry land cable restraints.

Section 25. Creates an incidental take exception for raccoons during the times of the year when cable restraints may be used for trapping fox and coyotes.

Section 26. Creates and identifies elk management zones.

Section 27. Identifies the elk management zones for the purposes of the agricultural damage program.

Sections 27, 31, 36, 37, 38 and 40. Generalizes the reference to “deer fence” by changing the name of the fence to a “barrier fence” since elk are included in the agricultural damage program.

Sections 29. Adds elk to the list of animals that require department approval for live-capture and relocation.

Section 30. Allows elk to be relocated to lands that are not controlled by the department.

Section 32. Defines standards for issuance of elk damage shooting permits for individuals other than the landowner.

Sections 33, 34 and 35. Adds elk to the definitions for the agricultural damage subchapter of NR 19.

Section 39. Adds elk as a species for which agricultural damage claims can be sought.

Section 1. NR 10.001(1c) is created to read:

NR 10.001(1c) “Antlerless elk” means any elk that is not a bull elk.

Section 2. NR 10.001(5c) is created to read:

NR 10.001(5c) “Bull elk” means any elk with an antler of not less than 6 inches in length.

Section 3. NR 10.001(5g) is created to read:

NR 10.001(5g) "Cable restraint" means a noose used for restraining furbearing animals in a non-water set.

Section 4. NR 10.001 (17) is amended to read:

NR 10.001(17) For the purpose of hunting deer and bear, "muzzle-loader" means any smoothbore muzzle-loading firearm of not less than .45 caliber and any rifled muzzle-loading firearm of not less than .40 caliber, discharged from the shoulder and muzzle-loading handguns not less than .44 caliber with a minimum barrel length of 7 inches measured from muzzle to breech face that fire a single projectile weighing not less than 138 grains.

Section 5. NR 10.001(25e) is amended to read:

NR 10.001(25e) "Snare" means a ~~non-spring activated~~ noose used for catching ~~furbearers~~ furbearing animals in a water set.

Section 6. NR 10.001(29) is amended to read:

NR 10.001(29) "Water set" means any trap or snare which is set or staked in such a manner as to permit the trap, snare or trapped animal to reach water ~~at any point~~ that is not frozen.

Section 7. NR 10.01(3)(e)6.(intro.), a. as amended by CR-03-016 and b. are amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
<i>(e)6. Zone "M"</i>		
a. Deer management units 59M, 60M, 64M and 77M.	Shotgun season beginning on the Saturday immediately preceding the Thanksgiving holiday and continuing for 9 <u>19</u> consecutive days.	One buck deer or as authorized by hunter's choice and antlerless deer permits issued under s. NR 10.104.
	Shotgun season beginning on the day immediately following the season described above and continuing through the second Sunday in December.	One antlerless deer per hunter's choice or antlerless deer permit issued under s. NR 10.104.
b. Deer management unit 1M.	Firearm season beginning on the Saturday immediately preceding the Thanksgiving holiday and continuing for 9 <u>19</u> consecutive days.	One buck deer or as authorized by hunter's choice and antlerless deer permits issued under s. NR 10.104.
	Firearm season beginning on the day immediately following the season described above and continuing through the second Sunday in December.	One antlerless deer per hunter's choice or antlerless deer permit issued under s. NR 10.104.

Section 8. NR 10.01(3)(es)1. as amended by CR-03-016 is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
<i>(es) Muzzleloader deer season</i>		
1. Entire state, except for the areas described in subd. 2. and par. (et), <u>and for deer management units 1M, 59M, 60M, 64M, and 77M.</u>	Beginning on the Monday immediately following the Thanksgiving holiday and continuing for 10 consecutive days.	One buck deer or as authorized by hunter's choice and antlerless deer permits issued under s. NR 10.104.

Section 9. NR 10.01(3)(i) is created to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
<i>(i) Elk (gun and bow seasons).</i>		
1. Those portions of elk management zones A and B as described in s. NR 10.37.	Beginning on the second Thursday after Labor Day and continuing for 7 consecutive days, when the department determines that the total elk population estimate for zones A and B is at least 600 elk.	One bull elk or antlerless elk as authorized by antlerless elk tag in s. NR 10.111(5)(c).
	Beginning the second Thursday in December and continuing for 9 consecutive days, when the department determines that the total elk population estimate for zones A and B is at least 200 elk.	

Section 10. NR 10.01 (4)(a)2. and (e)2. are amended to read:

Table (4)

Kind of animal and locality	Open season (all dates inclusive)	Limit
<i>(a) Muskrat trapping.</i>		
2. ‘Central South zone’ – All that part of Wisconsin south of state highway 64 and north of the line beginning at the junction of U.S. highway 18 with the western boundary of the state, then east along highway 18 to its junction with U.S. highway 51, then north along highway 51 to its junction with state highway 60, then east along highway 60 to its junction with Ozaukee county highway Q extended east to Lake Michigan east of the Burlington Northern railway, except as described in subd. subds. 3. and 4.	Beginning on the Saturday nearest October 28 and continuing through the last day of February.	None
<i>(e) Mink trapping.</i>		
2. ‘Central South zone’ – All that part of Wisconsin south of state highway 64 and north of the line beginning at the junction of U.S. highway with the western boundary of the state, then east along highway 18 to its junction with U.S. highway 51, then north along highway 51 to its junction with state highway 60, then east along highway 60 to its junction with Ozaukee county highway Q extended east to Lake Michigan east of the Burlington Northern railway, except as described in subd. subds. 3. and 4.	Beginning on the Saturday nearest October 28 and continuing through December 31.	None

Section 11. NR 10.01 (4)(a)5. and (e)5 are repealed.

Section 12. NR 10.02(1) is amended to read:

NR 10.02(1) Cougar, Canada lynx, badger, moose, ~~elk~~, wolverine and flying squirrel.

Section 13. NR 10.06(5) is amended to read:

NR 10.06(5) HUNTINGHOURS. Hunting hours for bear, bow deer, deer with firearms, elk and small game are 30 minutes before sunrise through 20 minutes after sunset. Hunting hours for migratory game birds are 30 minutes before sunrise to sunset. All waterfowl hunting starts at 12:00 noon on the first day of the duck hunting season established in s. NR 10.01 (1) (b). The department shall establish the specific opening and closing times annually in the hunting regulations pamphlets. Opening and closing times for zone A southern and northern areas shall be based on astronomical data collected by the U.S. naval observatory, Washington D.C., 20392-5420 for Sheboygan, Wisconsin and Powers, Michigan, respectively. The hunting hours for the other zones shall be obtained by adding minutes to the Zone A a.m. and p.m. columns as follows:

- | | |
|--------------------|--------------------|
| Zone – Adjustment | |
| B – Add 4 minutes | E – Add 16 minutes |
| C – Add 8 minutes | F – Add 20 minutes |
| D – Add 12 minutes | |

Section 14. NR 10.06(8)(a) is amended to read:

NR 10.06(8)(a)(title) *Bow bear ~~and~~ deer and elk seasons.* Hunting hours established in sub. (5) shall apply to archers pursuing any species during the bow bear season established in s. NR 10.01(3) (g) ~~and~~ during the bow deer season established in s. NR 10.01(3)(em) and during the elk season established in s. NR 10.01(3)(i).

Section 15. NR 10.07(1)(b)2. is amended to read:

NR 10.07(1)(b)2. Use or possess any snare, cable restraint, trap or device designed or used for the purpose of driving rabbits or hares out of their holes or dens and capturing them.

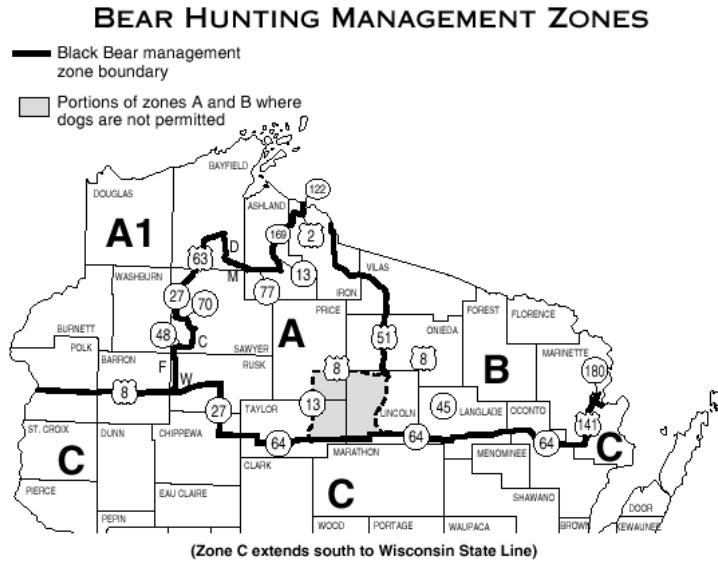
Section 16. NR 10.09(1)(a)1. and (e) are amended to read:

NR 10.09(1)(a) Shotshells.1. 'Slugs or balls.' Possess or have in control, while hunting, any shotshells loaded with single slug or ball except during the open gun season for deer, elk or bear.

(e) *Handguns.* Persons possessing a class A or C disabled permit may use handguns chambered for .410 or larger shot shells for hunting all species except deer, elk, bear, turkey and migratory game birds.

Section 17. NR 10.10(1)(b) is repealed and recreated to read:

NR 10.10(1)(b) *Dogs*. With the aid of dogs, except that dogs may be used for hunting bear during the season established in s. NR 10.01 (3) (g) 1. in that portion of Zones A, A1 and B as shown in the following map:



Section 18. NR 10.11 is created to read:

NR 10.11 Elk hunting. (1) PROHIBITED METHODS. No person may hunt elk by any of the following methods:

- (a) *Baiting*. With the use of bait.
- (b) *Dogs*. With the aid of dogs.
- (c) *Ammunition*. With ammunition loaded with full metal jacket, nonexpanding type bullets.
- (d) *Shotguns*. With a shotgun that is .410 bore shotgun or smaller and does not fire a single slug.
- (e) *Rifles*. With any .22 rim-fire, 5 mm rim-fire rifle, .17 caliber center-fire rifle, or with ammunition loaded with full metal jacket, nonexpanding type bullets.
- (f) *Handguns*. With a handgun that is loaded with a centerfire cartridge .22 caliber or smaller or has a minimum barrel length that is less than 5 ½ inches measured from the muzzle to the firing pin with the action closed.
- (g) *Muzzleloaders*. With a muzzleloader that is less than .45 caliber or a muzzle-loading handgun.
- (h) *Bows*. With a bow that has a draw weight less than 30 pounds.
- (i) *Arrow standards*. 1. Use, possess or have under control while elk hunting, any arrow with a metal broad-head blade less than seven-eighths of an inch in width. Broad-head blades shall be well-sharpened.
2. Use, possess or have under control while hunting, any poisoned or drugged arrow, arrow with explosive tips or any crossbow, unless authorized to use a crossbow under s. 29.171 (2m), (4) or 29.193(2), Stats., which authorize the use of a crossbow.

(2) TAGS. A back and carcass tag shall be issued with each hunting license. While hunting, no person may possess a validated carcass tag unless it is attached to a legally killed elk.

(3) VALIDATION. Any person who kills an elk shall immediately validate the carcass tag by slitting the marks on the carcass tag as designated by the department. Failure to completely validate the carcass tag renders possession of the elk illegal and the carcass tag invalid.

(4) CARCASS CONDITION AND TRANSPORTATION. (a) *Transportation*. No person may transport an elk from the time the elk is killed to the time it is registered under sub. (5) that is tagged with the carcass tag of another person unless accompanied by the person issued the carcass tag.

(b) *Carcass condition*. Elk may be skinned and quartered prior to registration. These animals or animal parts may not be removed from zones A and B as established in s. NR 10.37, unless exhibited, registered and tagged.

(5) EXHIBITION AND REGISTRATION. (a) *Exhibition.* Each person who has killed an elk during the open seasons for hunting elk with guns or bows shall exhibit and register the elk with the elk carcass tag attached as required by s. 29.347(2), Stats., at an authorized registration station. If the elk is skinned and quartered, all carcass parts, other than those removed by field dressing, shall be exhibited when registering the elk.

(b) *Registration.* 1. Elk shall be registered by 5:00 p.m. on the day after it was killed at the registration station designated by the department.

2. Hunters shall provide the department with information requested by the department regarding the location of the kill and the location of those carcass parts removed by field dressing.

3. Notwithstanding s. 29.347, Stats., any part of any animal harvested under s. NR 10.01(3)(i) may be collected or sampled by the department for disease testing purposes prior to registration.

(c) *Registration tagging.* Upon verification of license and elk hunting tag information, the station operator shall:

1. Complete and retain the registration form as required by the department.

2. Lock a registration tag to the carcass or part of the elk.

3. Remove the validation portion of the carcass tag.

(6) HUNTING HOURS. Legal hunting hours for elk are the same as those listed in s. NR 10.06(5).

(7) BLAZE ORANGE. Blaze orange requirements under s. 29.301 (2), Stats., apply to all hunters during an elk season established in s. NR 10.01(3)(i) except waterfowl hunters.

Section 19. NR 10.111 is created to read:

NR 10.111 Elk population management. (1) ELK MANAGEMENT SYSTEMS. (a) The department shall manage the state elk population by:

1. Establishing elk management zone boundaries within the state.

2. Establishing elk population goals for each elk management zone.

3. Monitoring the performance of the elk population within each elk management zone.

4. Establishing elk hunting seasons and annual harvest quotas with the objective of maintaining elk populations at the established elk population goals for each elk management zone.

(b) In addition to the management objectives listed under par. (a), the department may trap and relocate elk within the state to establish new elk herds and management zones.

(2) ELK MANAGEMENT UNITS. The elk management zone boundaries are described in s. NR 10.37. 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) ELK POPULATION GOALS. (a) The overwinter elk population goal for elk management zones A and B as described in s. NR 10.37 shall be expressed as the total number of elk per zone as follows:

Zone	Population Goal
A	600
B	800

(b) The department shall manage the elk population in Zone X, as described in s. NR 10.37, at a population level of zero elk. If the department determines that elk are causing agricultural damage, are a nuisance or are frequenting an area in Zone X, the department shall remove the elk in a manner determined by the department, in accordance with the procedures outlined ss. NR 12.10 and 12.15 and may include trapping and relocating, hazing, hunting or shooting.

(c) If the department determines that hunting is an appropriate removal method for elk subject to par. (b), the department may designate Zone A or B elk tags as being valid on specified properties in Zone X, during the elk season.

(4) ANNUAL ANTLERLESS ELK KILL QUOTAS. (a) *Annual population estimate.* The overwinter elk population goal shall be determined based on biological, ecological and sociological factors, including: reproductive success, winter severity, herd age and sex structure, non-hunting mortality, and agricultural damage.

(b) *Quota objectives.* Using the overwinter elk population estimate established under par. (a), the department shall annually calculate an antlerless elk kill quota for each zone with the objective of maintaining the elk herd at the established elk population goal.

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

(5) ELK LICENSES. (a) *Purpose*. The department may issue elk licenses in numbers to assure maintenance of elk populations for each zone indicated in sub. (3).

(b) *Bull elk tag formula*. The department shall determine the number of bull elk tags which shall be issued by the formula:

$$\text{Number of bull elk tags available} = \text{total elk population in Zones A and B} \times 5\%$$

(c) *Antlerless elk tag formula*. The department shall determine the number of antlerless elk tags which shall be issued at a level that will maintain the elk population goal established for each elk management zone listed in sub. (3).

(6) LICENSE ISSUANCE. (a) *License requirements*. Elk hunting licenses may only be issued to those who have earned a certificate of accomplishment under s. 29.595, Stats., and have obtained authorization for either a bull tag or antlerless elk tag. Successful applicants will be limited to one elk license per lifetime as established in s. 29.182(4m), Stats. The department may reissue an elk license if the license is returned or if the applicant fails to or cannot comply with s. 29.182, Stats. Selection shall be by random drawing.

(b) *Success rate formula*. Hunter success rates used to compute the number of elk licenses to be issued for each zone shall be those calculated by the department from annual elk season harvest reports except where no previous history of success rates exist. In establishing licenses for a zone without an adequate history of licenses, the department shall estimate an anticipated success rate. The license rate formula is:

$$\text{Hunter success rate} = \frac{\text{Number of elk harvested}}{\text{Number of licenses issued}}$$

(c) The number of elk licenses to be issued to harvest the desired number of elk shall be based on the hunter success rates from previous seasons. The license number formula is:

$$\text{License number} = \frac{\text{Elk to be harvested}}{\text{Hunter success rate}}$$

(7) APPLICATION PROCEDURE. Applications for elk licenses shall be on forms provided by the department. Applications shall be postmarked no later than April 10 or received by the department customer service and licensing bureau, 101 South Webster, P.O. Box 7924, Madison, WI 53707 no later than 4:30 p.m. on April 10.

Section 20. NR 10.12(5)(a) is amended to read:

NR 10.12(5)(a) *Guns and devices*. With a trap, snare, cable restraint, net, rifle, pistol, crossbow other than in s. 29.171, Stats., swivel gun, punt gun, battery gun, machine gun, fishhook, poison, drug, explosive, stupefying substance or shotgun of a larger bore than a no. 10 gauge.

Section 21. NR 10.13(1)(b)1., 5., 6., 8. and 12. (intro.) are amended to read:

NR 10.13(1)(b)1. 'Traps.' Set out or place traps, ~~or snares~~ or cable restraints, whether set or sprung, during the closed season.

5. (title) 'Trap ~~and snare, and cable restraint~~ placement.' Set any ~~snares or traps, snares and cable restraints~~ at any time within 15 feet of any beaver dam, except when trapping under the landowner authority established by s. 29.337, Stats., or with a commercially manufactured, enclosed trigger trap.

6. (title) 'Trap, ~~and snare, and cable restraint~~ use.' Set, place, operate or possess while on or adjacent to waters of this state, any trap other than a steel-jawed trap, live ~~traps or trap, snare other than that defined in s. NR 10.001 (25e) as defined in s. NR 10.001 (25e) or cable restraint as defined in s. NR 10.001 (5e)~~ for the purpose of taking, capturing, or killing furbearing animals. Live traps shall be constructed so that not more than one animal can be taken or captured in any single trap setting.

8.(title) ~~'Killer Body-gripping type traps and snares.'~~ a. Set, place, or operate any ~~killer type body-gripping type~~ trap of the conibear type larger than 7" x 7" ~~or any snare regardless of the size of the noose unless one-half of the set trap or set snare is located underwater at all times.~~

b. Set, place or operate any 7" x 7" ~~killer~~ body-gripping type traps, 220 conibear type, trap; as a water set unless one-half of the trap is located underwater at all times; as an elevated set unless the trap is placed at least 5 feet above the surface; as a baited and/or scented set in or on the ground unless the trap trigger is within an enclosure that provides openings no greater than 50 square inches for a 7 inch minimum recess; 8 inch height x 10 inch width opening with a 10 inch minimum recess from the enclosure openings; as an unbaited and/or unscented trail set in or on the ground unless the trap is within an enclosure that provides openings no greater than 10 inches in height and 10 inches in width and is recessed a minimum of 15 inches from the enclosure openings; or as a bottom entry enclosure set unless the entire opening of the enclosure is no more than 7 inches above the surface. The measurement to the surface is the distance to the first surface beneath the trap or opening, where the surface is ground, ice, crusted or packed snow or any other hard material. For the purposes of this paragraph, an enclosure means any device that creates a barrier to the trap allowing entry only through designated openings.

12. 'Trap placement.' (intro.) Set, place or operate any ~~killer~~ body-gripping type trap of the conibear type greater than 6" x 6" ~~or~~, any snare or cable restraint regardless of the size of the noose in the following locations:

Section 22. NR 10.13(1)(b)13. is amended to read:

NR 10.13(1)(b)13. (title) `Snare and cable restraint specifications.' Set, place or operate any snare or cable restraint unless ~~the noose cable and noose attachments~~ they conform to the following specifications:

- ~~a. Five feet or less of non-stainless steel metal cable or wire with a diameter not exceeding 1/8".~~
- ~~b. a. All snares and cable restraints shall be non-spring activated, constructed of galvanized aircraft cable and include a relaxing mechanical lock and anchor-swivel. In addition, all snares shall be tagged with a metal tag stamped or inscribed with the name and address of the owner.~~
- b. All snares and cable restraints shall be tagged with a metal tag stamped with the name and address of the operator.

Section 23. NR 10.13(1)(b)14. is created to read:

NR 10.13(1)(b)14. `Snare specifications.' Set, place or operate any snare unless the noose cable and noose attachments conform to the following specifications and as authorized under subd. 13.:

- a. Cable length shall be 5 feet or less with a diameter not exceeding 1/8".
- b. At least one-half of the set snare is located underwater at all times.

Section 24. NR 10.13(1)(b)15. is created to read:

NR 10.13(1)(b)15. `Cable restraints specifications.' Set, place or operate any cable restraint except for fox and coyotes from January 1 to February 15, dates inclusive, provided the cable restraint conforms to the following specifications in addition to those under subd. 13.:

- a. Cable length of 7 feet or less of 7 bundles comprised of 7 wires per bundle or 19 bundles comprised of 7 wires per bundle, with a diameter of 1/8 inch or 3/32 inch, respectively.

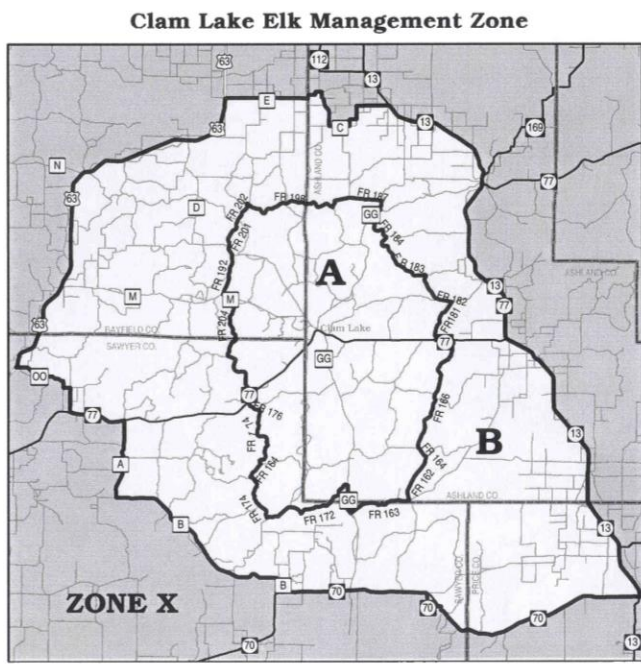
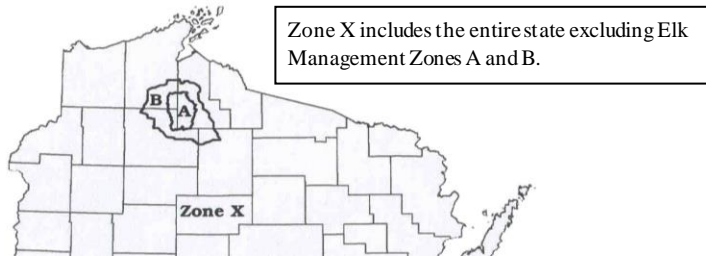
Note: 7 bundles comprised of 7 wires per bundle or 19 bundles comprised of 7 wires per bundle are also referred to as 7 x 7, or 7 x 19 construction, respectively.

- b. Cable stops shall be affixed to the cable to ensure that the portion of the cable which makes up the noose loop may not be longer than 38 inches when fully open, or less than 8 inches when fully closed.
- c. The bottom of the set restraint cable loop may not be less than 6 inches nor greater than 12 inches above the surface. The measurement to the surface is the distance to the first surface beneath the bottom of the set cable restraint where the surface is ground, ice, crusted or packed snow or any other hard material.
- d. A cable restraint shall include a breakaway device or stop rated at 285 pounds or less; a reverse-bend washer lock with a minimum outside diameter of 1 1/4 inches; and staked in a manner that does not allow the animal or the restraint device to reach any part of a fence or rooted woody vegetation greater than 1/2" in diameter.

Section 25. NR 10.13(1)(b)16. is created to read:

NR 10.13(1)(b)16. 'Incidental take of raccoons with a cable restraint.' No person may retain any raccoon taken incidentally with a cable restraint during the period when the use of cable restraints is authorized under subd. 15.a., unless it is during the open season for raccoons listed in s. NR 10.01(3)(b).

Section 26. NR 10.37 is created to read:



Section 27. NR 12.001(5) is amended to read:

NR 12.001(5) "Management unit" and "hunting zone" mean those management units established for deer in s. NR 10.28, elk in s. NR 10.37 and those management zones established in ss. NR 10.30 and 10.31 for ~~deer~~, bear and Canada geese.

Section 28. NR 12.001(8) is amended to read:

NR 12.001(8) "Permanent ~~deer~~ barrier fence" means a fence erected for year-round protection from white-tailed deer and elk that meets the specifications in s. NR 16.45(1), authorized under s. NR 16.45(4) or adopted by a county participating under s. 29.889, Stats.

Section 29. NR 12.10(1)(a)4. is amended to read:

NR 12.10(1)(a)4. Live-capture and relocate white-tailed deer, elk, black bear or any wild animal classified as endangered or threatened under s. NR 27.03.

Section 30. NR 12.10(1)(b)2. is amended to read:

NR 12.10(1)(b)2. Live-trap and relocate any wild animal, except white-tailed deer, elk, black bear or any wild animal classified as endangered or threatened under s. NR 27.03, to lands not controlled by the department.

Section 31. NR 12.10(2)(b)2. is amended to read:

NR 12.10(2)(b)2. White-tailed deer are causing damage on lands enclosed by a permanent ~~deer~~ barrier fence that has been certified to be in proper working order by either the department or the county wildlife damage program administrator; or

Section 32. NR 12.15(11)(c) is created to read:

NR 12.15(11)(c) *Elk damage shooting permits.* Participation of others under elk damage shooting permits shall be restricted to those persons who have applied for an elk hunting license under application procedures described in s. NR 10.111(2), and who have indicated on their elk hunting applications their willingness to assist farmers having elk damage problems. Unless as authorized by the department, participants shall possess a valid elk license and a valid shooting permit when engaged in elk damage shooting permit activities.

Section 33. NR 19.76(1) is amended to read:

NR 19.76(1) "Contiguous land" means lands under the ownership, lease or control of an applicant for deer, elk, bear, turkey or goose damage payments which are connected to the lands subject to a claim application or separated only by a roadway, easement, license or waterway.

Section 34. NR 19.76(4) is amended to read:

NR 19.76(4) "Lands suitable for hunting" means contiguous land where the conduct of hunting is not likely to result in a violation under s. 29.301 (1), 167.30 or 941.20 (1) (d), Stats., and shall include all areas within the contiguous land under the same ownership, lease or control except those areas identified by the county or its agent pursuant to s. NR 19.795.

Note: This definition of "land suitable for hunting" shall be used to determine hunter numbers for access to hunt species other than deer and elk.

Section 35. NR 19.76(4e) is amended to read:

NR 19.76(4e) "Land suitable for hunting deer and elk" means woodlands, wetlands or other deer or elk cover, ~~and~~ cropland within 330 feet of deer or elk cover on all contiguous land, and where the conduct of hunting is not likely to result in a violation under s. 29.301 (1), 167.30 or 941.20 (1) (d), Stats., except those areas identified by the county or its agent pursuant to s. NR 19.795.

Note: This definition of "land suitable for hunting deer or elk" shall be used to determine hunter numbers for access to hunt deer and elk.

Section 36. NR 19.79(3) is amended to read:

NR 19.79(3) Woven-wire ~~deer~~-barrier fences, for which an application has been approved by the county and department, under s. NR 19.81, shall be included in the plan for the calendar year succeeding the fence application, unless otherwise approved by the department.

Section 37. NR 19.79(5)(a) is amended to read:

NR 19.79(5)(a) *Cost-sharing*. In accordance with the WDACP technical manual, the county or its agent shall determine the actual costs of providing wildlife damage abatement assistance to provide 75% cost-sharing. For permanent damage abatement measures, the enrollee shall provide 25% of the cost of materials and installation. For the purpose of determining the total cost of temporary damage abatement measures, cooperation by the enrollee in installation, construction, operation, notification if required, or maintenance of the temporary measure shall be considered 25% of its total costs. Permanent damage abatement measures include ~~deer~~-barrier woven wire and high-profile electric fences. Temporary damage abatement measures include the use of temporary low-profile electric or barrier snow fencing, scare techniques, repellents, depredation shooting permits, trap and translocation, or other temporary methods determined by the department.

Section 38. NR 19.795(3)(b)1.c. is amended to read:

NR 19.795(3)(b)1.c.(title) Permanent ~~deer-barrier woven-wire and high-profile electric~~ fences. Land inside a permanent ~~deer-barrier~~ fence, which meets construction and maintenance standards in the WDACP technical manual, may not be considered land suitable for hunting.

Section 39. NR 19.80(4)(a)2. and 5. are amended to read:

NR 19.80(4)(a)2. The crops subject to the claim were not planted or manipulated to attract deer, elk, turkey, bear or geese.

5. If an enrollee has participated in the WDACP the previous year, and had in excess of \$1,000 of appraised deer or elk damage losses in the previous year on contiguous land or land within the same section, as documented by the enrollee's previous claims appraisal conducted by the respective county, or the county's agent, to be eligible for claims the enrollee shall implement a deer damage shooting permit that shall automatically be issued by the department to the enrollee by February 15 and shall comply with subd. 4.

Section 40. NR 19.81(title),(1), (2)(a) and (b), (4) and (5)(a) are amended to read:

NR 19.81 (title) Woven-wire and electric ~~deer~~-barrier fence construction. (1) Specific applications and funding for woven-wire and electric ~~deer~~-barrier fences shall be approved by the department and county and included in the county plan. Woven-wire and electric ~~deer~~-barrier fences are permanent, high-profile fences built to function 15 years or more.

(2)(a) Deer or elk damage has occurred or is occurring on the lands of the applicant and is likely to occur in the future; and

(b) The applicant is eligible to receive deer or elk damage claim payments.

(4) The department, exercising reasonable judgment, shall base its decision on priority under sub. (3) on the criteria listed in sub. (3) and the best interest of the state, considering the costs of constructing the ~~deer-proof barrier~~ fence, the projected amount of damages without the fence and the available funding.

(5)(a) The county and its agent shall follow permanent ~~deer~~-barrier fence project development, contracting, bidding, funding, billing, and contract term inspection procedures detailed in the WDACP technical manual.

Section 41. Effective date. The rules shall take effect on January 1, 2004, except sections 10 and 11 that shall take effect on April 1, 2004.

Section 42. Board adoption. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 25, 2003.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)