

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** WM-11-18(E) and WM-12-18

**Relating to:** Deer Carcass Transportation, Deer Farm Fencing, and Chronic Wasting Disease (chs. NR 10 & 16)

**Rule Type:** Both Permanent and Emergency

### **1. Finding/nature of emergency (Emergency Rule only):**

The department finds that an emergency rule is necessary in order to prevent the further spread of Chronic Wasting Disease (CWD) so that the state can continue the proper management of the deer population in a way that preserves the public welfare. A healthy deer herd and quality deer hunting are a critical component of Wisconsin's culture, economy and identity.

### **2. Detailed description of the objective of the proposed rule:**

The first wild deer in Wisconsin to test positive for CWD was discovered in 2002. Since then, the department has promulgated rules to seek to prevent the further spread of the disease by regulating carcass transportation, but our rules are becoming outdated as CWD positive deer are identified in additional counties. Over the recent months there have been instances where we have had CWD positive test results from wild white-tailed deer in counties that did not previously have CWD detected. This proposal would create additional restrictions on the movement of deer carcasses and certain carcass parts from deer harvested in a CWD-affected county. The department may also investigate enhanced fencing of deer farms. These restrictions will seek to help prevent the further spread of CWD.

Additional rule changes may be pursued which are reasonably related to those discussed here.

These rules may make additional updates such as correcting cross-reference citations, updating road names on maps, changes needed in order to update application forms, or revisions which are necessary for consistency with recently enacted legislation

### **3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Carcass Transportation Movement (natural or human-assisted) of infected animals is a key pathway in the spread of CWD. The infectious nature of the CWD prion contributes to an increased risk of transmission not only where live animals are concentrated, but also where dead animals are transported to if not disposed of in a proper manner. Hunter harvested deer carcasses are often moved across geographic barriers. This human assisted movement of carcasses has the potential to cause the spread of CWD where it would otherwise be much less likely through the natural movements of deer in a wild population.

Carcass movement restrictions were put into place to prevent tissues most likely to contain CWD infectious agents (prions) from being introduced to areas of the state where CWD does not yet exist. Starting September 1, 2009, regulations were put into place which only allowed movement of whole carcasses within the management zone and adjacent management units unless the carcass was brought to a licensed taxidermist or meat processor within 72 hours.

From 2002-2013, the CWD management zone consisted of south-central deer management units (DMUs). In 2014, upon implementation of new rules from the Deer Trustee recommendations, the deer management units were changed to mostly county-based units. The CWD management zone was changed to CWD-affected counties. A county was considered CWD-affected if a wild or captive cervid had tested positive for CWD in the county or is a county within 10 miles of a wild or captive positive. The new CWD-affected counties structure encompassed a much larger area than the previous CWD management zone, including areas outside the southern endemic CWD area. This change inadvertently allowed hunters to move a whole carcass to more areas of the state than previously allowed and from areas with a relatively high prevalence rate to areas where perhaps there are no positive wild or captive deer have been found, and thereby no longer aligned with the original intent of the regulations.

An advisory question which proposed further restricting the movement of whole deer carcass and certain carcass parts was placed on the 2018 annual spring fish and wildlife public hearing agenda. The question passed in fifty counties with fifty four percent of total voters approving.

Currently, department rules only require white-tailed deer farms to have a single eight-foot-high fence measured from the ground to the top horizontal wire. However, fences that were constructed and approved prior to January 1, 2003 only need to be 7'10" in height. All fences must extend all the way to the ground.

#### **4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The chapter on wild animals and plants, in s. 29.014, "rule making for this chapter", establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game.

Additionally, s. 29.063 grants the department broad authority to manage CWD in deer with subsections (3) and (4) allowing the department the ability to regulate the transportation, possession, control, storage or disposal of the carcass of a cervid in the state.

Finally, s. 90.21 (6) allows the department to promulgate rules for the fencing of deer farms that raise white-tailed deer.

#### **5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

Employees will likely spend more than 160 hours developing these rules.

#### **6. List with description of all entities that may be affected by the proposed rule :**

Deer hunters will be the group most likely impacted by the deer carcass transportation rules. More specifically, deer hunters who hunt in a CWD-affected county who need to transport their deer outside of the county of harvest will be directly affected (e.g. they will be required to quarter their deer in a way that no part of the spinal column is attached). Farmers who raised white-tailed deer will be the group impacted by rules that enhance deer farm fencing.

#### **7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

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.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The proposed carcass transportation 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.

While these rules may make it more difficult for individuals to home butcher their deer, the process will not be outright prohibited since statute allows the movement of specific parts of the deer to any area of the state.

Many of the state's deer hunters already take their deer to a licensed meat processor and current rules exempt the movement of deer out of a CWD affected county to any licensed meat processor. We anticipate any additional cost to sportsmen will be related to those who currently home butcher carcass and do not take advantage of moving carcass in parts as currently permitted.

The average cost of meat processing is estimated to be about \$150. We do not know how many sportsmen will opt to process their carcass at a licensed meat processor. Based on our preliminary analysis, we do not anticipate a significant economic impact to individuals or groups. If there were to be any economic cost resulting from this rule, we anticipate that it would be very minimal to moderate (between \$50,000 to \$370,000). The additional cost that will be attributable to additional sportsmen opting for a licensed meat processor will be a benefit transferred to meat processors within the economy.

The proposed deer farm fence enhancement rules could have a fiscal impact. We do not know the exact economic impact at this time. This will become clear as the rule is developed. We anticipate that implementation and compliance costs that would be passed along to white-tailed deer farms will be far less than \$10 million over any two-year period.

The economic impact of this rule is estimated to be a moderate impact (less than \$20 million).

**9. Anticipated number, month and locations of public hearings:**

The Department anticipates holding four public hearings on the permanent rule in the month of December 2018. Hearing cities will be: Madison, Milwaukee, Eau Claire and Appleton. One public hearing on the emergency rule will be held in Madison in July of 2018. These locations will grant the greatest opportunity for citizens to comment on these proposed rules.

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