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Effective Date: September 17, 2011 through February 13, 2012

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES
BOARD AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 10.01(3)(ed) 1. a., 10.01(3)(et)2., 10.104(7)(a)1., and 10.104(7)(b) relating to deer hunting seasons and carcass tag use.

WM- 15 -11 (E)

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: The statutes that authorize the promulgation of this rule order are s. 29.014, 29.177, and 227.24, Stats. This section grants rule making authority to the department to establish open and closed seasons for hunting and to establish other regulations for the conservation of game and to provide quality hunting. 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, 29.063 and 29.177, Stats., have been interpreted as providing the department with the authority to make modifications to deer hunting seasons and deer tag issuance.

Related Statute or Rule: There are no state rules or statutes currently under promulgation that directly relate to the provisions that are proposed in this administrative order.

Plain Language Rule Analysis: The department recommends promulgating administrative rules that modify ch. NR 10 related to the use and issuance of deer tags.

Section 1 allows the department to, upon order of the secretary, distribute antlerless deer permits for the cost of issuance in designated herd control units without holding a four-day, October antlerless firearm hunt in the same units.

Sections 2 through 4 establish that the department's existing earn-a-buck regulations for deer hunters in a CWD Management Zone do not apply to use of the archery and gun buck deer carcass tags that are issued with each archery and firearm deer hunting license.

Federal Regulatory Analysis: These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies.

Comparison with rules in Adjacent States: These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of game species that are established based on needs that are unique to that state's resources and public desires.

Illinois

The 2011 Illinois archery season in most of the state will run from October 1 - January 15 except that it is closed during the firearm deer season in some areas. Illinois has two periods for firearm deer hunting. The first firearm season in 2011 will be November 18 - 20, and the second season is December 1 - 4. The Illinois muzzleloader only season will be December 9 - 11 in 2011. Illinois will hold a youth firearm deer season on October 8 and 9. Hunters may purchase any

number of antlerless permits subject to availability in county quotas but are limited to purchasing only one prior to the beginning of random daily drawings in September.

Iowa

In 2010 Iowa had two archery hunting periods, the first October 1 - Dec. 3 and the second December 20 - January 10, 2011. Iowa also has two periods for firearm hunting, December 4 – 8 and December 11 – 19. Iowa’s two muzzleloader only hunting periods are October 16 – 24 and December 20 - January 10. Iowa also held a deer season for youth and disabled hunters from September 18 to October 3. Iowa residents may purchase multiple antlerless tags subject only to the availability in a unit, but are limited to purchasing only 1 prior to September 15.

Michigan

Michigan has two archery hunting periods, the first beginning on October 1 and continuing through November 14 and the second running December 1 – January 1. The Michigan firearm season begins on November 15 and continues through November 30. Additionally, Michigan has a 5 day early, private land only, antlerless firearm season beginning on September 16 and a 4 day youth season beginning on September 21. Michigan’s muzzleloader-only seasons vary in three zones, all occurring in December and vary from 10 to 17 days in length. Hunters may purchase additional antlerless permits up to a maximum of 5 a year in some units, however additional antlerless harvest opportunity is available in some areas.

Minnesota

Minnesota’s 2010 archery season ran from September 18 to December 31. Minnesota’s firearm season begins on November 6 and continues to November 14 or 21 depending on the zone. Additional firearm “B” seasons run from Nov. 20 – 28, Nov. 6 – 28, Oct 23 and 24, or Oct. 21 – 24 in certain areas. The muzzleloader-only season runs from November 27 to December 12. Minnesota hunters are generally limited to harvesting one buck, regardless of the number of seasons or licenses they purchase. The harvest of up to 7 antlerless deer is possible by hunting in different units and zones.

Summary of Factual Data and Analytical Methodologies: The harvest of antlerless deer is managed by the department in order to achieve overwinter goals established in s. NR 10.104 Wis. Admin. Code. In management units where the deer population is below goal, the department may restrict antlerless deer harvest or establish an antlerless quota of zero. In management units where the population is above goal, the department will issue a number of antlerless permits that are likely to result in harvest that helps reduce the population to its overwinter goal. Earn-a-buck regulations, which require that a hunter first harvest an antlerless deer before they can harvest a buck, are an additional tool that can be used in some units to encourage even greater harvest of antlerless deer.

In management units where the normal deer hunting season framework is not likely to reduce the population to within 20% of its overwinter goal a number of season framework options have already been established by rule. The first season framework option requires both the issuance of free (except for a \$2.00 issuance fee) antlerless deer tags and holding a four day October antlerless only firearm season beginning on the Thursday nearest October 15.

Under this proposal, the department could select either to issue free tags or to hold an October four day firearm season, but is not required to select both.

In the CWD management zone, whenever a management unit’s deer population is over its established goal, the department may require that a hunter first harvest an antlerless deer before harvesting a buck. This proposal exempts a hunter from earn-a-buck requirements in filling their archery or gun buck deer carcass tag. This proposal preserves the earn-a-buck regulation as it applies to special, free permits issued in the CWD management zone.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Business: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule.

Section 1. NR 10.01(3)(ed)1.a. is amended to read:

NR 10.01(3)(ed)1. a. The department may, upon making the findings in subd. 2. modify the deer permit issuance procedures as described in this paragraph ~~and~~ or implement the October hunt described in subd. 1. e. for any deer management unit to reduce the deer population nearer to the overwinter population goals established in s. NR 10.104. Under this paragraph special permits for antlerless deer under s. 29.177, Stats., may be issued free of charge at the rate of one permit per license authorizing deer hunting or 2 permits per conservation patron license. The permits may be used to hunt and tag deer during any of that year's deer seasons for the units specified under subd. 2. Additional special permits for antlerless deer shall be issued at no charge, except for a handling fee authorized under s. 29.556, Stats., and s. NR 19.02.

Section 2. NR 10.01(3)(et)2. is amended to read:

NR 10.01(3)(et)2. Earn-a-buck control measures. If the department estimates that the deer population in a deer management unit or units located in a CWD management zone is at or above the overwinter population goal in s. NR 10.41 (3), the department may require that hunters using chronic wasting disease special permits under s. NR 10.104(11) shall first tag an antlerless deer in that deer management unit or units during the archery or firearm hunts, with either a bow or a gun during any deer season or with an agricultural shooting permit, before they may tag a buck with either weapon in that deer management unit or units during the either sex hunts listed in this paragraph. One antlerless deer is required to authorize harvest of one buck in that deer management unit or units, or in state parks with gun deer seasons that are within or adjoining these units, for each archery and gun deer license. A person holding a Class A or Class C disabled permit under s. 29.193, Stats., is not required to harvest or tag an antlerless deer in that unit or units before the person may tag a buck. Deer harvested as described in this paragraph shall be transported in accordance with s. NR 10.105 (2). Earn-a-buck control measures in this section do not apply to archery buck carcass tags in s. NR 10.104(7)(a)1. or gun buck deer carcass tags under s. NR 10.104(7)(b).

Section 3. NR 10.104(7)(a)1. is amended to read:

NR 10.104(7)(a)1. Each license which authorizes the hunting of deer with a bow shall include one carcass tag that is valid for taking one buck deer in any unit statewide, except in units that are included in an earn-a-buck season under s. NR 10.01 (3) (ed) 1. b. ~~or (et)~~ when an antlerless deer must be tagged prior to the harvest of a buck.

Section 4. NR 10.104(7)(b) is amended to read:

NR 10.104(7)(b) *Gun deer carcass tag*. Each license which authorizes the hunting of deer with a firearm, shall include one carcass tag that is valid for taking one buck deer in any unit statewide, except in units that are included in an earn-a-buck season under s. NR 10.01 (3) (ed) 1. b. ~~or (et)~~ when an antlerless deer must be tagged prior to the harvest of a buck. Each license which authorizes the hunting of deer with a firearm by a person who is under 18 years of age shall also include one carcass tag that is valid for the taking of one antlerless deer in any unit statewide in place of a tag under 10.01 (3) (ed) 1. a.

Section 5. Effective dates. This rule shall take effect on September 17, 2011 as provided in s. 227.24(1)(c), Stats.

Section 6. The Statement of Emergency. The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The rule is necessary in order to foster participation by hunters and landowners so they will continue to hunt and cooperate in CWD control and deer herd management. This rule proposal balances pressing social concerns about the quality of the deer hunt with the need for effective herd control measures such as additional antlerless deer harvest in management units that are more than 20% over population goals or simply over population goals in units that are part of the CWD Management Zone. This rule will increase harvest of bucks in the CWD zone which have a higher prevalence of CWD and, because of their greater dispersal distances, have a higher likelihood of spreading CWD. However, the rule retains a herd control tool which requires that antlerless deer be harvested before additional bucks (beyond the initial one) may be taken. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control and regulate hunting of wild animals. The State of Wisconsin must provide publications describing the regulations for deer hunting to more than 630,000 deer hunters prior to the start of the season. These regulations must be approved prior to printing nearly 1 million copies of the regulations publication.

Section 6. Board adoption. This rule order was approved and adopted by the State of Wisconsin Natural Resources Board on May 25, 2011.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)