

NATURAL RESOURCES BOARD AGENDA ITEM

SUBJECT: Motion requesting modifications to WM-16-07, the 2007 Wildlife Management housekeeping rule package

FOR: DECEMBER, 2007 BOARD MEETING

TO BE PRESENTED BY: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

At its September 26 hearing the Assembly Natural Resources Committee unanimously requested modifications to WM-16-07, the Bureau of Wildlife Management's annual housekeeping rule package. The committee requested that the department place a two-year sunset on a rule that allows the use of cable restraints for bobcat in December. This expansion of the use of cable restraints is not a provision of the housekeeping rule but rather a proposal that was recently promulgated as part of this year's spring hearing rule package, WM-14-07.

The department recommends modifying the rule as requested. Department staff are confident in the research and planning that went into development of the initial rule proposal. Therefore, we anticipate that no significant problems will occur during the two-year trial and, ultimately, there will be permanent use of these devices for bobcat in December. The sunset proposal will address the concerns of some interest groups in the short term.

Should the board decide to agree with the committee's request, suggested language is included in the attached memo.

RECOMMENDATION: Adoption of the legislative motion

LIST OF ATTACHED MATERIALS:

- No Fiscal Estimate Required
- No Environmental Assessment or Impact Statement Required
- No Background Memo

- Yes Attached
- Yes Attached
- Yes Attached

APPROVED:

/s/

Bureau Director, Barb Zellmer

11/7/07

Date

/s/

Administrator, Laurie Osterndorf

11/7/07

Date

/s/

Secretary, Matt Frank

11/26/07

Date

- cc: Laurie J. Ross - AD/5
- Cons. Cong. Executive Comm. - 4 - LS/5
- GLIFWC & Tribes - 14 - WM/6
- Kurt Thiede - 6 - LS/5
- Tom Hauge - WM/6

- Randy Stark - LE/5
- Tom Van Haren - LE/5
- Diane Brookbank - CS/GEF 3
- Scott Loomans - WM/6
- Tim Andryk - LS/5

- Carol Turner - LS/5
- Reg. WM Sups. - 5 - WM/6
- Reg. LE Sups. - 5 - WM/6
- Bob Manwell - CE/8
- John Olson - WM/6

DATE: November 27, 2007

TO: Natural Resources Board Members

FROM: Matt Frank

SUBJECT: Motion requesting modifications to the 2007 Wildlife Management housekeeping rule package

Recommendation:

The department recommends adoption of a motion by the Assembly Natural Resources Committee requesting modifications to WM-16-07, a housekeeping rule package pertaining to chapters NR 10, 12 and 16 Wis. Adm. Code. The motion requests a two-year sunset on an existing administrative rule which allows the use of cable restraints in December for bobcat.

Department staff are confident in the research and planning that went into development of the initial rule proposal. Therefore, we anticipate that turning the season into a two year trial will still ultimately result in permanent use of these devices in December for bobcat while addressing the social issues raised by some interest groups in recent months.

Motion Summary:

On September 26, 2007, the Assembly Natural Resources Committee unanimously requested modifications to WM-16-07, the Bureau of Wildlife Management's annual housekeeping rule package. The committee requested that the department place a two-year sunset on a rule that allows the use of cable restraints for bobcat in December (Appendix 1). This motion would not sunset the use of cable restraints in December for coyote and fox.

This expansion of the use of cable restraints is not a provision of the housekeeping rule but rather a proposal that was recently promulgated as part of this year's spring hearing rule package, WM-14-07 (Appendix 2).

Background:

Legislative Review

The legislative committee showed interest in cable restraints when it held its July 18 hearing on the spring hearing proposal but took no formal action at that time. The chair of the committee did request that representatives of the Wisconsin Wildlife Federation, Wisconsin Bear Hunters Association, and Wisconsin Trappers Association continue discussing the use of cable restraints to address concern that there may be conflict between people who hunt with hounds and cable restraint users.

Members of groups representing sporting dog interests and trappers met in Tomah on July 26. The public participants reached a consensus agreement that the provision to expand the use of cable restraints to include bobcat and allow their use in December should sunset after two years. They agreed that it should be reauthorized on a permanent basis if the proposal does not cause conflict with people who hunt with hounds that is more significant than the current use of cable restraints for fox and coyote, which occurs from January 1 to February 15. Significant conversation about bobcat harvest which was not directly related to cable restraint devices also took place.

Department staff were not supportive of a sunset at that time because the rule was well thought out and researched, and because the proposal had strong public support. Additionally, further delay in the rule-making process at that time would have made it difficult to implement other provisions of the spring hearing rule which were scheduled to be in effect this fall.

The department did offer to evaluate the expanded use of cable restraints after one and two years and initiate the process of repealing the proposal if it proves to cause significant conflict between hound hunters and trappers that is greater than the current season and if the groups recommend a repeal (Appendix 3). Department staff also offered to re-address the proposal of a two-year sunset on the use of cable restraints in December through rule-making in 2008.

The legislative motion, however, requests that the department re-address the use of cable restraints now, through its 2007 wildlife management housekeeping rule.

Cable restraint devices

Cable restraints have been legal for use by the public for the January and February portions of the fox and coyote season for three years.

A cable restraint is a device used for restraining furbearers which consists of a non-spring activated galvanized aircraft cable which includes a relaxing mechanical lock, stops, and swivel.

The cable restraint loop is suspended in a trail or path frequented by an animal. When the animal proceeds down the path and enters the loop it will continue forward until it feels resistance as the loop closes around its neck. When the animal finds that it cannot free itself from the cable, it may try to back out. However, upon feeling any type of constriction, the animal instinctively stops pulling back and the washer lock is designed to relax, holding the animal without injuring it.

Since 2001 the department, Conservation Congress, and the Wisconsin Trappers Association have conducted studies of efficiency, studies of harvested pelts, injury scoring by both International Association of Fish & Wildlife Agency standards and by International Standards Organization standards, and investigated incidental catches. Extensive testing of this device proved it is both effective and humane.

Department staff report that there has not been significant controversy related to the use of cable restraints during the last five years. There have been three reports of the incidental catches of hunting dogs and, in those situations, the dogs were released unharmed.

Public Hearings:

This motion requests modifications to wildlife management's housekeeping rule. Cable restraint regulations were not a provision of WM-16-07, so there were no public comments at hearings conducted by the department.

At the legislative hearing on WM-16-07 that was held by the Assembly Natural Resources Committee, support for a two-year sunset on the use of cable restraints was expressed by hound hunters through the Wisconsin Bear Hunters Association and the Wisconsin Wildlife Federation. They are concerned that expanded use of these devices will result in increased incidental catch of hound dogs.

The rule addressed by the committee's motion actually results from a question asked at the 2007 spring hearings as a department proposal in board order WM-14-07. Spring hearing attendees supported the proposal to allow the use of cable restraints in December and for bobcat by 71%. The vote was 1,988 Ayes

to 824 No with 62 counties supporting, eight counties opposing, and a tie vote in two counties. Among the 23 counties where bobcat hunting and trapping occur (North of Hwy. 64), 21 supported the proposal, and Lincoln and Polk voted no. No written comments related to cable restraints were received during the public comment period.

Potential Controversy:

There may be controversy as a result of a sunset restriction being placed on a rule that received public support and which was adopted in administrative code. The proposed sunset was not part of the rule that was in the public notice or the public hearing. Chapter 227 Wis. Stats., does not specifically place a germaneness requirement on the legislative committee's request.

Suggested Language:

If the board agrees with the legislative committee's request, the following language could be adopted:

NR 10.13(1)(b)15. `Cable restraints specifications.' Set, place or operate any cable restraint except for bobcat from December 1 to December 31 and fox and coyotes from December 1 to February 15, dates inclusive, provided the cable restraint conforms to the following specifications in addition to those under subd. 13. The use of cable restraints for bobcat sunsets following the 2009 season.

Scott Gunderson



STATE REPRESENTATIVE • 83RD DISTRICT

September 27, 2007

RECEIVED

Matthew Frank, Secretary
Wisconsin Department of Natural Resources
101 South Webster Street
Inter-Departmental
GEF-2, AD/5

SEP 27 2007
OFFICE OF THE
SECRETARY
Hand delivered

Dear Secretary Frank,

On September 26, 2007 the Assembly Natural Resources Committee adopted the following motion with respect to Clearinghouse Rule 07-035, relating to hunting, nuisance wild animal removal and captive wildlife:

MOVED: that the Assembly Committee on Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 07-035, relating to hunting, nuisance wild animal removal and captive wildlife, to add a two-year sunset to the authorization in the current rules to trap bobcat with cable restraints.

This motion was adopted on a vote of Ayes, 13; Noes, 0.

If the Department of Natural Resources does not agree to consider modifications to Clearinghouse Rule 07-035, in a letter to the chair of the Assembly Committee on Natural Resources, or fails to respond in writing to this request for modification, by 5:00 p.m., September 28, 2007, the Assembly Committee on Natural Resources objects to Clearinghouse Rule 07-035 pursuant to s. 227.19 (4) (d) 6., Stats., on the grounds that the proposed rule is arbitrary and capricious, and imposes an undue hardship.

Thank you for your consideration of this recommendation.

Sincerely,

Representative Scott Gunderson
83rd District
Wisconsin State Assembly

State Capitol:
P.O. Box 8952
Madison, WI 53708
(608) 266-3363

Toll-Free:
(888) 534-0083



Fax:
(608) 282-3683

E-Mail:
Rep.Gunderson@
legis.wi.gov

83rd District:
P.O. Box 7
Waterford, WI
53185

(262) 534-2616

Appendix 2.

	Department of Natural Resources Spring Fish and Wildlife Rules Hearings	
Conservation Congress County Meeting	<i>and</i>	

Monday, April 16, 2007

7:00 PM

Questions 55 & 56: Expanding the times and types of cable restraints that may be used for certain furbearers and allowing their use for bobcat (2008)

Cable restraints have been legal for use on fox and coyote from January 1 to February 15 for the past four years. This experimental season has been very successful with few problems. Cables must be comprised of either 7 bundles of wire with 7 wires per bundle or 19 bundles of wire with 7 wires per bundle.

Because of the success of cable restraints, this proposal would expand the times when they may be used to include December and allow their use for bobcat. Testing by the Association of Fish and Wildlife Agencies has shown that other types of wires 3/32 inch or greater diameter meet national standards for effectiveness and humaneness. The department also proposes allowing any type of "multi-strand" wire of 3/32" or greater diameter, eliminating specific descriptions.

- **Do you favor expanding the times when cable restraints may be used to include December and allowing their use for bobcat?**

55. YES ___ NO ___

- **Do you favor eliminating specific descriptions of cables and requiring only that they be multi-strand and of 3/32 inch or greater diameter?**

56. YES ___ NO ___

Appendix 3.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

August 1, 2007

Rep. Scott Gunderson
Chair, Assembly Natural Resources Cmte.
Inter-departmental mail
State Capitol, Room 7 West

Sen. Mark Miller
Chair, Senate Committee on Natural Resources & Environment
Inter-departmental mail
State Capitol, Room 409 South

SUBJECT: Clearinghouse Rule 07-015, allowing expanded use of cable restraint devices

Dear Chairs Miller and Gunderson:

Members of groups representing sporting dog interests and trappers met in Tomah on July 26 to discuss a provision of Clearinghouse Rule 07-015 which is currently being reviewed by your committees. Public participants gathered that evening reached a consensus agreement that the provision to expand the use of cable restraints to include bobcat and allow their use in December should sunset after two years. They agreed that it could be reauthorized on a permanent basis if the proposal does not cause a conflict with people who hunt with hounds that is more significant than the current use of cable restraints for fox and coyote from January 1 to February 15.

The department did not agree to make that change. We wish to inform you, however, that we do offer to evaluate the season after one and two years and initiate the process of repealing the proposal in Clearinghouse Rule 07-015 if it proves to cause significant conflict between hound hunters and trappers that is greater than the current season and if the groups who met last week recommend a repeal.

We would have been more receptive to actually modifying the rule had the agreement been reached by the groups earlier or if we had received public comments to that effect during the public comment period and prior to approval by our board. The primary concern of the department is that, at this late stage in the rule making process, any modifications made to the rule would need to be approved by our board at its August meeting and would require additional days of legislative review. Extending the process this way would make it unlikely that other provisions of the rule could be in effect this fall as some members of the public hope.

We have also considered that the current season for the use of cable restraints has not been particularly controversial and that the proposal was supported in 62 counties and by 71 percent of the popular vote at spring hearings.

We do place great value on the input of the trappers and hound hunters who have continued working together on these issues. We will evaluate this season in part by having a conservation warden investigate all complaints, compiling incident reports, and by communicating our findings to the people who have

shown an interest in this issue. We will initiate the process of repealing the use of cable restraints in December and for bobcat if the season results in the type of conflict that the groups have discussed.

Sincerely,

Tom Hauge
Director, Bureau of Wildlife Management

A handwritten signature in cursive script that reads "Tom Hauge". The signature is written in black ink and is positioned to the right of the printed name and title.

Fiscal Estimate Worksheet — 2007 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-16-07

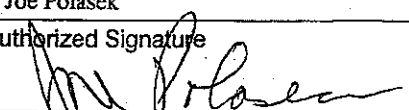
Subject
 Housekeeping rule package modifying chapters NR 10 and 12 related to hunting and nuisance wild animal removal.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes	\$	\$ -	
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-	
Local Assistance		-	
Aids to Individuals or Organizations		-	
Total State Costs by Category	\$	0	\$ - 0
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR	\$	\$ -	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
State Revenues	<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -	
GPR Earned		-	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
Total State Revenues	\$	0	\$ - 0

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 02-07-07

Fiscal Estimate — 2007 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-16-07

Subject

Housekeeping rule package modifying chapters NR 10 and 12 related to hunting and nuisance wild animal removal.

Fiscal Effect

- State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
 Decrease Costs

- Local: No Local Government Costs
 Indeterminate

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

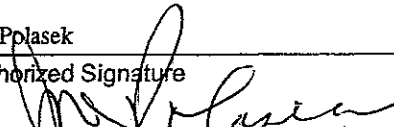
Assumptions Used in Arriving at Fiscal Estimate

These technical rule changes are minor and non-controversial in nature and should not have any fiscal impact. We are proposing changes that provide clarifications to current rules, update definitions, relax limits on bear carcass registration, and correct drafting errors. Specifically, these rules will:

- Clarify that a disabled person is a person who holds a Class A, B or C disabled permit.
- Establish that the rabbit hunting season closes on the last day in February rather than February 28.
- Correct a cross-reference in the firearm deer hunting season.
- Update the fisher zone map which is based on the recently updated Deer Management Zone Map.
- Relax bear carcass registration so that bear may be registered at stations that are adjacent to highways that form the boundary of the bear management zone in which it was killed.
- Correct drafting errors in the rule that establishes small game hunting in state parks.
- Clarify that landowners who are removing certain nuisance wild animals are not subject to hunting or trapping seasons.

Long-Range Fiscal Implications

None.

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 02-07-07

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 16.45(2)(b)2.; to amend NR 10.01(3)(c)2., (ed)1.b. and (4)(dm)1., 10.106(2)(e), 10.275(1)(b)1., (2)(b)1. and 2., 12.10(3)(intro.), 16.45(2)(a)1., (b)1. and 2., (5)(a)(intro) and, (c)4. and (6)(h); and to create NR 10.001(8e), relating to hunting, nuisance wild animal removal and captive wildlife.

WM-16-07

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation: Statutes that authorize the promulgation of this rule order include sections 29.014 and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and that all rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: In promulgating this rule, section 29.014, Stats., has been interpreted as providing the department with the authority to make these housekeeping clarifications.

Related Statute or Rule: None.

Plain Language Rule Analysis: These hunting and trapping-related rule changes are minor and non-controversial in nature. The intent of these rule changes is to provide clarification to existing rules, simplify regulations, and update administrative code language and references. Specifically, these rules will; correct management unit boundaries, relax bear carcass registration requirements, clarify nuisance animal removal requirements, clarify what is meant by the term “disabled hunter” for the purposes of assisting a bear hunter, correct cross-references and drafting errors, and update cross references and terminology so that NR 16 is current and compatible with ATCP 10.

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. Additionally, none of the proposed rules exceed the authorities granted to states in 50 CFR 10.

State Regulatory Analysis: These housekeeping rule changes do not represent policy or significant rule changes that may differ from surrounding states. All surrounding states have regulations and rules in place for the management of upland, migratory and furbearing species, however, these proposed rule changes to the Wisconsin Administrative code are not relevant to or comparable to any known similar housekeeping initiatives in surrounding states.

Summary of Factual Data and Analytical Methodologies: This rule order is based solely on the need to correct inconsistencies created through the promulgation of other rules and statutes and to serve as a vehicle to provide clarification to existing code.

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.

Agency Contact Person: Scott Loomans, 101 South Webster St., PO BOX 7921, Madison, WI 53707-7921. (608) 267-2452, scott.loomans@wisconsin.gov

Deadline for Written Comments: The deadline for written comments is May 17, 2007. Comments may also be electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>

Section 1. NR 10.001(8e) is created to read:

NR 10.001(8e) "Disabled person" for the purposes of s. 29.184(5)(b), Stats., means a person who holds a current Class A, B or C permit.

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

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(3)(c)2. Cottontail		
a. All that part of Wisconsin lying north of U. S. highway 10 from Prescott to Waupaca and state highway 54 from Waupaca to Algoma	Beginning on the Saturday nearest September 15 and continuing through <u>the last day in</u> February 28 .	Daily bag 3; possession 6
b. Governor Dodge, Mill Bluff and Mirror Lake state parks.	Nov. 1 - Dec. 15.	Daily bag 3; possession 6
c. In addition, there shall be an open season for hunting cottontails, except with the use of firearms, in Milwaukee county	All year	None
d. In all other parts of the state	Beginning on the Saturday nearest October 17 at 12:00 noon and continuing through <u>the last day in</u> February 28 .	Daily bag 3; possession 6

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

NR 10.01(3)(ed)1.b. If after 2 consecutive years, as described in subd. 1. a. or par. (ez) 1. a. and am., the department determines a third season, as described under subd. 1. a., is unlikely to reduce the deer population to within 20% of the overwinter population goal established in s. NR 10.104 for the same deer management unit or units in the subsequent year, hunters shall harvest or tag an antlerless deer in that unit or units 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 unit or units. One antlerless deer is required to authorize harvest of one buck in that 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. Deer harvested as described in this paragraph shall be transported in accordance with s. NR 10.105 ~~(3)~~ (2).

Section 4. NR 10.01(4)(dm)1. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(4)(dm)1. Management zone A-- Deer management units 1, 2, 3, 4, 5 , 8, 9, 10, 11, 12, 15, 16, 17, 22, 78 and 79 as described in s. NR 10.28	Beginning on the Saturday nearest October 17 and continuing through December 31.	The possession limit corresponds to the number of pelt tags issued.

Section 5. NR 10.106(2)(e) is amended to read:

NR 10.106(2)(e) *Bear license (bow and gun)*. Bear shall be registered within the county in which the bear was killed or adjoining county; and within the black bear management zone or at registration stations that are adjacent to highways forming the boundary of the zone in which it was killed no later than 5:00 p.m. of the day after it was killed.

Section 6. NR 10.13(1)(b)15. is amended to read:

NR 10.13(1)(b)15. *'Cable restraints specifications.'* Set, place or operate any cable restraint except for bobcat from December 1 to December 31 and fox and coyotes from December 1 to February 15, dates inclusive, provided the cable restraint conforms to the following specifications in addition to those under subd. 13. The use of cable restraints for bobcat sunsets following the 2009 season.

Section 7. NR 10.275(1)(b)1. is amended to read:

NR 10.275(1)(b) *Migratory game birds* 1. Migratory game bird hunting for the species specified in s. NR 10.01 (1) is allowed in Governor Dodge, and Mill Bluff state parks from November 1 through December 15 or until the seasons established in s. NR 10.01 (1) conclude, whichever occurs first.

Section 8. NR 10.275(2)(b) 1. and 2. are amended to read:

NR 10.275(2)(b) *Hunting hours*. 1. The hunting hours for pursuing small game at Governor Dodge, Mill Bluff, and Mirror Lake ~~and Newport~~ state parks shall be the same as the hours established in s. NR 10.06 (5) except that hunting hours will close at 12:00 noon daily.

2. The hunting hours for pursuing migratory game birds at Governor Dodge, and Mill Bluff ~~and Newport~~ state parks shall be the same as the hours established in s. NR 10.06 (5) except that hunting hours shall close at 12:00 noon daily.

Section 9. NR 12.10(3)(intro.) is amended to read:

NR 12.10(3) RULE COMPLIANCE AND PARTICIPATION BY OTHERS. (intro.) The landowner, lessee, occupant or other persons assisting in the removal of wild animals causing damage or nuisance shall comply with all hunting and trapping rules specified under ch. NR 10 or ch. 29, Stats., except the open and closed seasons established in ch. NR 10 or unless otherwise provided under this chapter, ch. 29, Stats. , or by permit. Permittees and participants who fail to comply shall be subject to the penalty applicable to the appropriate ch. NR 10 or ch. 29, Stats. , violation. Persons other than the landowner, lessee or occupant, may assist in the removal of wild animals causing damage or nuisance in accordance with this subsection.

Section 10. NR 16.45(2)(a)1. is amended to read:

NR 16.45(2)(a)1. The deer farm is enrolled in the chronic wasting disease herd ~~monitoring~~ status program established by s. ATCP ~~40.67~~ 10.53.

Section 11. NR 16.45(2)(b)1. is amended to read:

NR 16.45(2)(b)1. The deer farm is enrolled in the chronic wasting disease herd ~~monitoring~~ status program established by s. ATCP ~~40.67~~ 10.53.

Section 12. NR 16.45(2)(b)2. is repealed.

Section 13. NR 16.45(5)(a)(intro) and (b) are amended to read:

NR 16.45(5) FENCING COMPLIANCE EXTENSION. (a) *Time period to bring deer farms with perimeter fences less than 80 acres in size fences into compliance with sub. (2).* Farm-raised deer farms with white-tailed deer with perimeter fences less than 80 acres in size shall have until January 1, 2004 to enter the chronic wasting disease herd monitoring status program established by s. ATCP ~~40.67~~ 10.53 or to file a fencing plan with the department on forms supplied by the department and until June 30, 2004 to comply with the fencing plan.

Note: Forms may be obtained from the Department's Bureau of Customer Service and Licensing, P. O. Box 7924, Madison, WI 53707, Phone (608) 266-2621, Fax (608) 264-6130.

(b) *Time period to bring deer farms with perimeter fences 80 acres or greater in size fences into compliance with sub. (2).* Farm-raised deer farms with white-tailed deer with perimeter fences 80 acres or greater in size shall have until January 1, 2004 to enter the chronic wasting disease monitoring herd status program established by s. ATCP ~~40.67~~ 10.53, ~~herd surveillance program established by ch. ATCP 40,~~ or to ~~enter the file a~~ deer harvest plan established in sub. (2) (b) 3. with the department, or file a fencing plan with the department on forms supplied by the department and until December 31, 2004 to comply with the fencing plan.

Note: Forms may be obtained from the Department's Bureau of Customer Service and Licensing, P.O. Box 7924, Madison, WI 53707, Phone (608) 266-2621, Fax (608) 264-6130.

Section 14. NR 16.45(5)(c)4. is amended to read:

NR 16.45(5)(c)4. Number of fenced acres containing white-tailed deer not in the chronic wasting disease herd monitoring status program as established by s. ATCP ~~40.67, 10.53~~ surveillance program as established by ch. ATCP 40 or a deer harvest plan established in sub. (2) (b) 3.

Section 15. NR 16.45(6)(h) is amended to read:

NR 16.45(6)(h) Status of enrollment in chronic wasting disease herd monitoring status program as established by s. ATCP ~~40.67, 10.53~~ surveillance program as established by ch. ATCP 40 or a deer harvest plan established in sub. (2) (b) 3.

Section 16. Effective dates. These rules shall take effect on February 1, 2008.

Section 17. Board adoption. This rule was approved and adopted by the State of Wisconsin Natural Resources board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)