

Clearinghouse Rule 06-037

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

The Wisconsin Natural Resources Board proposes an order to amend ss. NR 10.05(1), 10.13(1)(b)2., 10.145(4)(a), and 45.09(2), and to repeal and recreate ss. NR 10.29 and 10.30, correcting management unit boundaries, clarifying trapping requirements, correcting cross-references, and update rules on the identification of tree stands on state lands.

WM-02-06

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, clarify trapping requirements, correct cross-references, and update rules on the identification of tree stands on state lands resulting from a change requested by the legislature in 2005.

Federal Regulatory Analysis: Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of 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 the 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 wild upland, migratory and trapping species, however these proposed rule changes to the Wisconsin Administrative code are not relevant to or comparable to any known similar housekeeping initiatives in our 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, nor 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 Businesses: 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.

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Deadline for Comments: May 12, 2006.

Section 1. NR 10.05(1) (note) is amended to read:

Note: The exceptions provided in s. 167.31 (4) (e), Stats., allow any person who is legally hunting small game with a muzzle-loading firearm or shotgun loaded with shotshells containing shot size BB or smaller, to hunt within 50 feet of the roadway's center, if the roadway is surfaced with anything other than concrete or blacktop. Additionally, Class A and B disabled hunting permit holders may also hunt within 50 feet of certain roadways under conditions listed in s. ~~167.34~~ 167.31(4)(cg), Stats.

Section 2. NR 10.13(1)(b)2. is amended to read:

NR 10.13(1)(b)2. 'Bait or scent.' Set out or place any bait or scent for attracting furbearing animals during the closed season. During the open season, no person may use sight exposed bait consisting of feathers, animal flesh, fur, hide or entrails within 25 feet of any trap, snare or cable restraint.

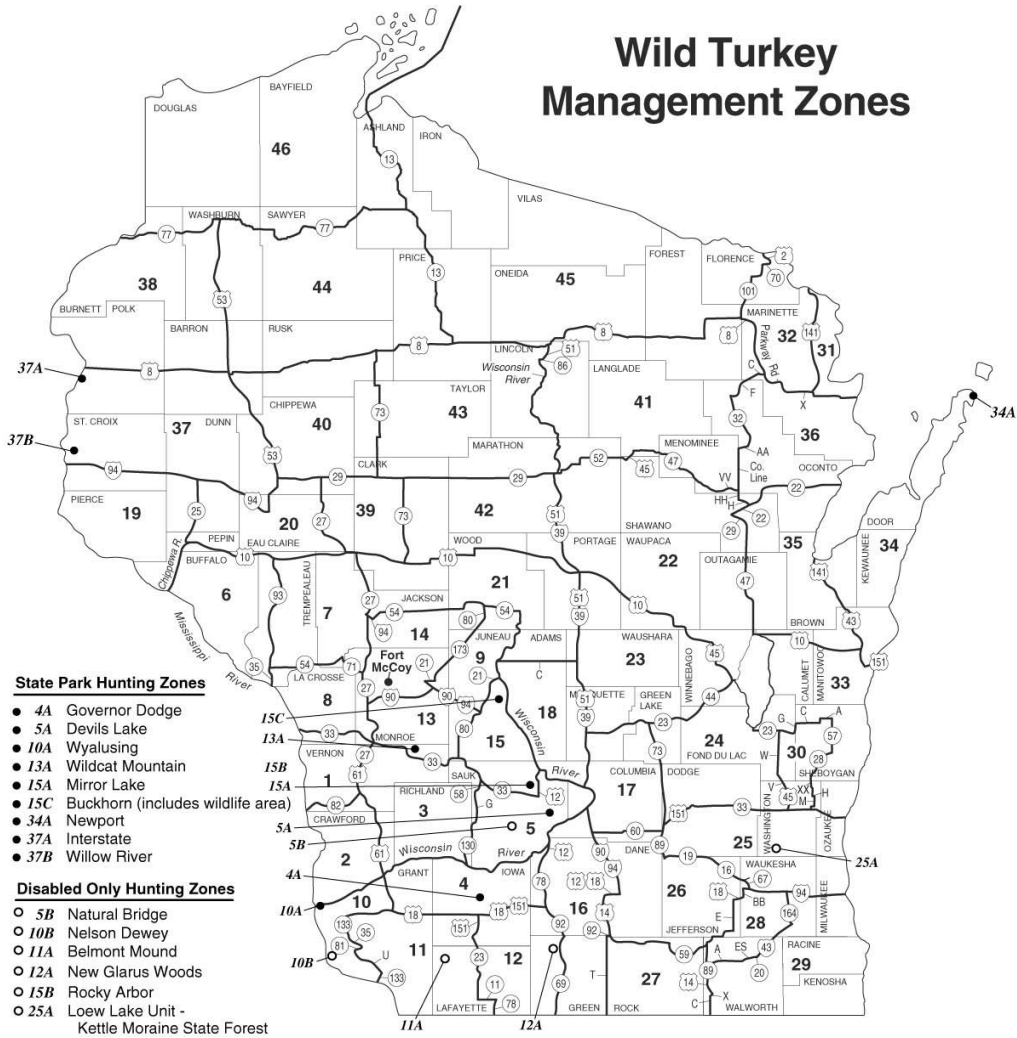
Section 3. NR 10.145(4)(a) is amended to read:

NR 10.145(4) TAGGING REQUIREMENTS. (a) *Field tagging.* When a bobcat, fisher or otter is killed and before it is carried by hand or transported in any manner, the ~~permittee~~ person who trapped or killed the bobcat, fisher or otter shall immediately validate ~~the~~ their pelt tag by slitting, tearing or punching the pelt tag in the manner indicated by the department and attach and seal the pelt tag to the animal in the manner indicated by the department. Failure to validate and attach and seal the pelt tag invalidates the permit. No person may tag a bobcat, fisher or otter that was trapped or killed by another.

Section 4. NR 10.29 is repealed and recreated to read:

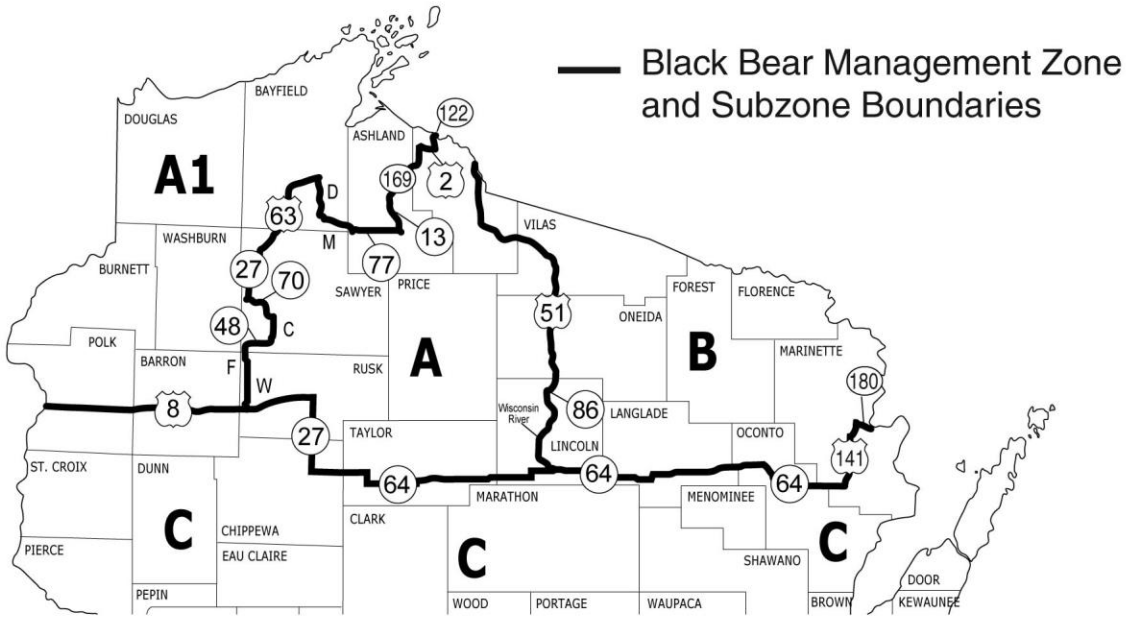
NR 10.29 Wild turkey hunting zones.

Wild Turkey Management Zones



Section 5. NR 10.30 is repealed and recreated to read:

NR 10.30 Black bear hunting zones. Black bear hunting zones are established as designated on the following map:



(Zone C extends to the Wisconsin State Line)

Section 6. NR 45.09(2) is amended to read:

NR 45.09(2) Except for blinds used exclusively for waterfowl hunting as provided in s. 29.327 (2), Stats., no person may construct, occupy or use any elevated or ground blind or other elevated device except that portable tree stands and blinds may be used provided they are removed from the property each day at the close of hunting hours. ~~Tree Unoccupied tree~~ stands shall have the owner's ~~name and address or~~ department customer identification number ~~or their name and address~~, written in the English language attached to the tree stand in a manner so it is clearly visible to a person standing on the ground, and kept legible at all times. No person may cause damage to trees by the placement or erection of portable tree stands or by any other manner while climbing or hunting from a tree. This subsection does not apply to the use of blinds constructed entirely of dead vegetation found on the property.

Section 7. Effective date. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 8. 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)