



CR 91-42

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) ss

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. LE-9-91 was duly approved and adopted by this Department on June 27, 1991. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 3rd
day of September, 1991.

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Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

11-1-91

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

IN THE MATTER of amending ss. NR 10.001(10) and (23m), 10.103(1), 10.13(1)(b)8., '12, and 13.b.; repealing and recreating ss. NR 20.07(1)(b), 21.11(1)(n) and (o); and creating ss. NR 10.12(10), 20.015(6) and 20.07(1)(g) of the Wisconsin Administrative Code pertaining to miscellaneous hunting and fishing enforcement regulations

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Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.174(3) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.102(1) and 29.174(2), Stats.

During the firearm season for bear, the code inadvertently allows the use of a shotgun loaded with fine shot to take bear. A definition of a "firearm season" and "shotgun" are currently found in the code pertaining to deer which precludes the use of fine shot. Modifying these definitions to also include bear hunting will correct this oversight. Current law requires that a deer hunter keep the tag intact until the hunter kills a deer. Instances have occurred in the field where some hunters are reusing the deer tag. The proposed rule change clarifies the prohibition. Currently state waterfowl hunting stamps do not need to be signed by the hunter. Federal waterfowl hunting stamps must be signed. Other state stamps such as the trout, turkey, or Great Lakes trout and salmon, must be signed and also affixed to the license. This change clarifies the rules to be consistent with other stamp rules regarding signing and affixing.

A word that is irrelevant and confusing to trappers has been removed from the snare requirements describing mechanical locks. There has been some confusion regarding the use of snares where some are interpreting the rule to mean that snares smaller than 7" by 7" may be used on dry land. The 7" by 7" measurement only applies to conibear traps. All snares on dry land are prohibited. In a related section, confusion exists on the use of snares near woven wire fences if they are smaller than 6 inches in diameter. The references to size only applies to conibear traps. All snares near woven wire fences are prohibited.

The term 'unattended line' has been considered by courts and prosecutors as vague. In instances in the past the vagueness has resulted in unnecessary litigation. The purpose for defining this term is to provide sufficient clarification so that both the judicial system and the public can understand the purpose of the rule. The definition is consistent with past enforcement practices. The rule concerning the use of commercial gear and gill nets on the Mississippi River has been corrected due to discrepancies in the descriptions (i.e. Bank Slough is called Bluff Slough on the USFWS Pool 8 map and the City Engineer's Map; Shelby Street does not exist in La Crosse rather it is called 7th Street; the Chicago, Milwaukee, St. Paul railroad bridge has

been renamed the Soo Line railroad bridge; French lake is more accurately described than being just opposite of the City of La Crosse).

SECTION 1. NR 10.001(10) and (23m) are amended to read.

NR 10.001(10) "Firearm season" means an open season for hunting with any of the following firearms loaded with a single slug or ball: rifle, muzzle-loader, shotgun or handgun for deer or bear hunting described in s. NR 10.09(1)(c)1.c.

NR 10.001(23m) "Shotgun" means a smoothbore barrelled firearm designed to shoot pellets. Rifled shotgun barrels of at least 18" in length are considered to be shotguns for the purpose of hunting deer or bear if they fire a single projectile and are of the following gauges: 10, 12, 16, 20, 28.

SECTION 2. NR 10.103(1) is amended to read.

NR 10.103(1) TAGS. A one-piece back and carcass tag shall be issued with each hunting license and shall remain intact until the hunter kills a deer while hunting. While hunting, no person may possess a validated carcass tag unless it is attached to a legally killed deer.

SECTION 3. NR 10.12(10) is created to read.

NR 10.12(10) WATERFOWL STAMP. No person may hunt for migratory game birds without a valid state waterfowl stamp with the signature of the licensee written in ink across its face and firmly affixed by its own adhesive to the back of a valid small game, sports or conservation patron license.

SECTION 4. NR 10.13(1)(b)8, 12, and 13.b. are amended to read.

NR 10.13(1)(b)8. Killer traps and snares. Set, place, or operate any ~~snare or~~ killer type trap of the conibear type ~~that is~~ larger than 7" X 7" or any snare regardless of the size of the noose unless one-half of the trap or snare is located underwater at all;times.

12. Trap placement. Set, place or operate any ~~snare or~~ killer trap of the conibear type greater than 6" x 6" or ~~6" in diameter~~ any snare regardless of the size of the noose in the following locations:

13.b Noose attachments. All snares shall include a ~~relaxing~~ mechanical lock, anchor swivel and stop device to prevent the mechanical lock from closing the noose loop to a diameter less than 2.5". In addition, all snares shall be tagged with a metal tag stamped or inscribed with the name and address of the owner.

SECTION 5. NR 20.015(6) is created to read.

NR 20.015(6) "Unattended line" means a line where the person using the line is not actively directing attention to it. Failure to immediately respond to a line upon indication of a bite shall be prima facia evidence that the line is unattended.

SECTION 6. NR 20.07(1)(b) is repealed and recreated to read.

NR 20.07(1)(b) No person may:

1. Fish with an unattended line in any waters.
2. Fish by snagging, fouling or attempting to hook fish other than in the mouth.
3. Keep any fish hooked other than in the mouth.

4. Fish with the aid or use of any firearm or pellet gun in any manner or by any means other than angling or trolling.

5. Use a telemetry device attached to or implanted in fish to aid in fishing.

SECTION 7. NR 20.07(1)(g) is created to read.

NR 20.07(1)(g) Landing nets 3 feet or less in diameter or a gaff may be used for the purpose of landing fish legally hooked.

SECTION 8. NR 21.11(1)(n) and (o) are repealed and recreated to read.

NR 21.11(1)(n) Commercial gear may not be used or operated in the following areas on the Mississippi river unless otherwise specified in s. NR 21.12:

1. Pool 4, between river mile 780 and 797 from March 1 through May 31.
2. In that part of Lake Onalaska, in Pool 7, east of a line extending due north from the most northern tip of French Island, from April 15 through October 30; except licensed setlines may be used during the open season described in s. NR 21.12(1)(a).
3. The Black river, in Pool 8 from the Onalaska 9-foot channel dam to the Soo Line railroad bridge which is immediately south of the Clinton Street bridge; except licensed seines may be used from October 31 through April 14.
4. French Lake, in Pool 8, from Lock and dam 7 dike south to French Slough from April 15 through October 30.
5. Bluff slough in Pool 8, from 7th Street downstream to where Bluff slough enters Running Slough from April 15 through October 30.

(o) Gill nets may not be used or operated in the following areas, of Pool 8 of the Mississippi river, unless otherwise specified:



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Secretary

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September 3, 1991

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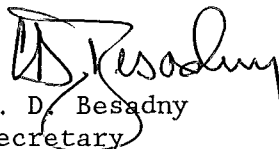
Mr. Gary L. Poulson
Assistant Revisor of Statutes
119 Martin Luther King, Jr., Blvd.

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. LE-9-91. These rules were reviewed by the Assembly Committee on Tourism and Recreation and the Senate Committee on Urban Affairs, Environmental Resources and Elections pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


C. D. Besadny
Secretary

Enc.