

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-01-21(E), WM-02-21, and WM-03-21

Relating to: Gray wolf harvest regulations, chs. NR 8,10, 12, and 19

Rule Type: Both Permanent and Emergency

1. Finding/nature of emergency:

Wis. Stats. s. 29.185 directs the department to allow the hunting and trapping of gray wolves if the wolf is not listed on the federal or state endangered and threatened species list. The same statute also directs the department to hold a single annual season for both hunting and trapping of wolves, which begins on the first Saturday in November. Non-statutory provisions in SECTION 21 of 2011 ACT 169 required the department to promulgate emergency rules necessary for implementation or interpretation of Wis. Stats. s. 29.185 but exempted the department from making a finding of emergency. An emergency rule promulgated under this SECTION remains in effect until a permanent rule is adopted.

The department promulgated EmR1210 in compliance with SECTION 21. Although that rule remains in effect, some provisions have been affected by the renumbering or repeal of the underlying code provisions, which were the subject of the rule or by statutory changes. Gray wolves were removed from the federal endangered species list on January 4, 2021. A new emergency rule is necessary in order for the department to implement a wolf season for 2021. Pursuant to SECTION 21 of 2011 ACT 169, a finding of emergency is not required for this emergency rule. Nonetheless, in order to preserve the welfare of state-licensed hunters, as well as the welfare and sustainability of wolf populations in Wisconsin, the department finds that an emergency rule is necessary to implement harvest regulations.

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

The objectives of this proposed rule are to provide regulated and managed harvest opportunities for gray wolves via hunting and trapping and to revise the administrative procedures for submission and payment of wolf depredation claims. The desired outcome of these rules is the maintenance of a healthy wolf population at an established population goal.

Wis. Stats. s. 29.185 was created by 2011 ACT 169. It directs the department to allow the hunting and trapping of wolves if the wolf is not listed on the federal or state endangered and threatened species list and to promulgate rules. In response to 2011 ACT 169, the department promulgated EmR1210 to establish harvest regulations for the administration and implementation of a wolf season. These provisions included establishing wolf hunting zones (Section 30, EmR1210); shooting hours (Section 11, EmR1210); reporting, registration, and carcass presentation requirements (Section 28, EmR1210), and regulations regarding the use of dogs (Section 19, EmR1210). The emergency rule established that harvest quotas for wolves will be based in part on the wolf population, population trends, established population goals, ecological considerations, and wolf conflict with agricultural and land uses (Section 27 EmR1210).

EmR1210 also established a wolf depredation program that is similar to the existing program that applies when wolves are listed as threatened or endangered and consistent with the wildlife damage, claims, and abatement program that is in place for other species (Sections 36-43 EmR1210).

The department plans on bringing three different rules from this scope statement.

The first rule will be an emergency rule. Since the last wolf season in 2015, many sections in code have been moved or updated, and new statutes have been put in place. The purpose of this emergency rule will be to align the regulations to reflect the subsequent changes in statute and code.

Additionally, one or more permanent rules may be promulgated from this scope statement. The purpose of this rule will be to permanently codify provisions of EmR1210 as modified by WM-01-21(E) and 2011 ACT 169.

Finally, the department will begin making updates to its wolf management plan. The department may also bring forward an additional permanent rule from this scope statement that may make any changes that result from the department's updated wolf management plan. These changes may include changes to zone structure, registration and tagging requirements, and other items related to the management of wolves that would necessitate a change in administrative code. The wolf management plan is anticipated to be completed in the spring of 2022.

These rules may make additional updates such as correcting cross-reference citations, updating road names on maps, changes needed to update application forms, revisions necessary to effectuate enforcement 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:

Policies relevant to the rule are consistent with existing policies for hunting, trapping, and wildlife damage claims payments for other species in most aspects. Also, EmR1210 which establishes regulations for method of the harvest, transportation, recording and registration of many harvested animals. These proposed rules do not differ significantly from the ones that are currently in place. Additionally, the department already administers a wolf depredation program, including investigating suspected incidents of depredation on domestic animals and payment of claims.

4. Detailed explanation of statutory authority for the rule:

The department is directed by s. 29.014, Wis. Stats. to establish regulations for the taking of game that conserve populations, including wolves, and provide opportunities for good hunting. This authorizes the department to establish rules that restrict harvest to safe levels which are established based on population estimates, population goals, and hunter and trapper success rates. This section authorizes other actions such as establishing that wolves are not small game and allows removing them from a protected species list because they will be protected under other rules.

Section 21 of 2011 Act 169 directs the department to propose any rules that are necessary to implement or interpret s. 29.185 and 29.888, Wis. Stats. Some provisions of s. 29.185 will be duplicated in administrative code because that is where people are accustomed to finding similar or identical regulatory information for other species. Rule updates on the payments of claims for damage associated with gray wolves will be similar or identical to the language found in s. 29.888.

A variety of provisions explicitly authorize the department to manage harvest to ensure sustainable populations managed in accordance with the wolf management plan. Section 29.185(1) permits the department to limit the number of harvest licenses issued and the number of wolves that may be taken under such licenses. Wolf harvesting zones are established in s. 29.185(5)(b). Section 29.185(5)(c) grants

the department the authority to close the season in a harvest zone if the harvest quota is reached. The department may also regulate how harvested wolves are properly tagged and registered, including requiring the carcass to be presented in person for registration under s. 29.185(7) and generally by s. 29.014.

The department is given authority to regulate the types of traps that may be used to harvest wolves under s. 29.185(6)(f) and generally by s. 29.014.

The department's authority with respect to forms of proof and reprints is found s. 23.47(1) and (3)(a). The department is authorized by s. 23.47(1) to designate, by rule, forms of proof of approvals and the locations and times during which those forms of proof are valid. In addition, under s. 23.47(3)(a), the department is authorized to maintain a system under which an individual may obtain a reprint of certain approvals and directed to designate, by rule, who may produce a reprint of an approval, which approvals a reprint may be produced, and the manner in which a reprint of an approval may be produced.

Restrictions on the removal of wild animals and the wildlife damage abatement and claims program are established under the authority of ss. 29.014, 29.885, and 29.888. These provisions allow the department to require written authorization for a member of the public to capture and relocate or kill wolves in damage and nuisance situations. Public hunting and trapping of certain species must be allowed for species currently covered under s. 29.885(4m).

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

The Bureau of Wildlife Management, in cooperation with endangered resources, customer & outreach services, law enforcement, and legal services, will be responsible for promulgating permanent and emergency rules that support the implementation of a wolf hunting and trapping season. It is generally estimated that the effort of various staff will amount to the equivalent of two months of a staff specialist's time, approximately 320 hours.

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

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are established in the rule.

Wisconsin's six Ojibwe tribes, which reserved hunting, fishing, and gathering rights territory ceded in the 1837 and 1842 Treaties, and the Great Lakes Indian Fish & Wildlife Commission, which provides off-reservation resource management and regulatory assistance to the Tribes, have an interest in how the department manages and regulates wolves.

A variety of organizations have expressed an interest in a wolf season during previous legislative and rulemaking efforts. It is likely that these same organizations will have a renewed interest in this topic.

The department is committed to a transparent and deliberative process in which all interested parties will be encouraged to participate, as we review our existing emergency rule and propose a permanent rule pursuant to this scope statement.

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 :

The U.S. Department of Interior announced in November 2020 that gray wolf populations across the lower 48 states have recovered and no longer require the protection of the Endangered Species Act. The U.S. Fish and Wildlife Service published a final rule in the Federal Register that removed gray wolves

across the lower 48 states from the list of endangered and threatened wildlife and plants. The rule went into effect on January 4, 2021.

Federal law requires the states to monitor wolf populations for at least five years to ensure the species continues to thrive. If it appears, at any time, that the gray wolf cannot sustain itself without the protections of the Endangered Species Act, the service can initiate the listing process, including emergency listing.

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

In the long term, it is expected that new wolf hunting and trapping opportunities, and continuing wildlife watching activity, will contribute positively to Wisconsin's existing tourism economy. Even though the total number of participants in hunting and trapping will be low, these unique opportunities will bolster Wisconsin's image as a premier destination for wildlife and outdoors-oriented activities.

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules. Re-implementing a wolf season will have a direct positive economic impact on both the department and various small businesses. During the three years, the department had the authority to conduct a wolf harvest season, an average of 17,000 people per year submitted applications for a wolf license. This brought in an average of \$247,781 in annual revenue for the department. People who hunt or trap wolves may reside anywhere in the state but are likely to hunt and trap in the northern third of the state, where most wolves are found. This will result in increased purchases of lodging services in those areas. Some hunters/trappers will need to be assisted by paid guides in order to have a high likelihood of success. The gear used for wolf hunting will be similar to that used for deer or furbearers, and that, combined with the low number of hunters, means there will be limited new retail expenditures even though this is a new opportunity. Successful hunters and trappers will contribute economically through the sales of wolf pelts or, more often, the purchase of taxidermy services. These will be minor contributions overall, but for an individual taxidermist, guide, or motel owner who receives extra work, the impact is worth noting.

This rulemaking will allow Wisconsin to manage wolves to population levels that will be lower than the current population. A lower wolf population may result in fewer wolf conflicts and reduced wolf depredation on domestic animals. Under previous requirements of the law, the department reimburses owners for the fair market value of domestic animals killed, or veterinary services, in wolf depredation incidents. A reduction in depredation will result in less time investigating damage, filling claims, and working with agency staff who administer the program. Individual producers who are concerned about livestock depredation are likely to view a hunting season as very important to them economically.

The department does not anticipate that there will be significant conflict in the field between people pursuing different outdoor recreational opportunities. It is possible that some wildlife watchers who seek wolves for viewing opportunities may be concerned about user conflict, however, and will be less active. They may initially spend less money traveling and pursuing these activities.

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