

05hr_SC-NRT_CRule_05-004_pt01



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Natural Resources and
Transportation...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

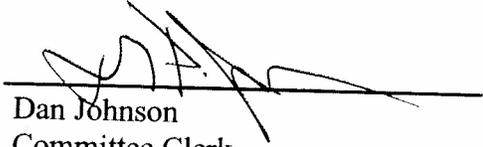
Absent: (0) None.

Moved by Senator Stepp, seconded by Senator Kapanke that **Clearinghouse Rule 05-004** be recommended for modifications requested.

Ayes: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.

Noes: (0) None.

MODIFICATIONS REQUESTED RECOMMENDED, Ayes 5,
Noes 0



Dan Johnson
Committee Clerk

Absent: (0) None.

Moved by Senator Stepp, seconded by Senator Kapanke that **Clearinghouse Rule 05-004** be recommended for modifications requested.

Ayes: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.

Noes: (0) None.

MODIFICATIONS REQUESTED RECOMMENDED, Ayes 5,
Noes 0

July 25, 2005

MODIFICATIONS RECEIVED FROM THE AGENCY, Pursuant to s. 227.19 (4)(b) 2., Wis. Stats..

August 15, 2005

No action taken

Dan Johnson
Committee Clerk

Vote Record
Committee on Natural Resources and Transportation

Date: 6/16/05

Moved by: STEPP

Seconded by: KAPANKE

AB _____ SB _____ Clearinghouse Rule OS-004
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

UNSPEC. MODIFICATIONS

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Neal Kedzie, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Cathy Stepp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dan Kapanke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roger Breske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirsch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

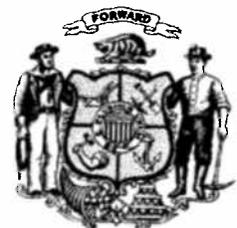
Totals: _____

Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE





CRule 05-004

Wisconsin Bear Hunters' Association, Inc.

5-14-05
To Chairman & members of
Senate Natural Resources
& Transportation committee

May 24, 2005

Tom Hanson:

For distribution to the members of the Assembly Natural Resources Committee

RE: ER-12-05, Endangered/Threatened Species and Grey Wolf Personal Property Payment Rules:

Tom:

The Department of Natural (DNR) Board at their April 2005 meeting voted to adopt the rule (s) as presented to them by the Department without any modification. The Board did consider eliminating item (4) under NR12.54 commonly referred to as the "five mile rule". The motion to eliminate that portion of the rule failed on a 3-3 tie vote with one member absent.

Our objections to portions of these rules are as follows, with explanations:

NR 12.51 APPLICABILITY: The second sentence in this rule, which reads "it is not applicable to damage caused by Grey Wolves when the department authorizes either public hunting or trapping of Grey wolves or both". This would be a violation of the statutes which make no mention of payments for damages done by Grey Wolves being stopped, changed, or transferred to a different funding source upon the occurrence of hunting and or trapping being authorized. Reimbursement for lost property must be kept in place into the foreseeable future. The mere fact that hunting and/or trapping may at some point become authorized will not stop depredation from happening and therefore must not stop payments for same.

NR12.52 DEFINITIONS: I mentioned this section only because item (5) reads "Hunting dogs means any dog used in the pursuit of **GAME ANIMALS**". I believe it may need to be clarified that **GAME ANIMALS** would include fowl and non-game species.

NR12.54 (2) AMOUNT OF PAYMENTS: The words up to a maximum of \$2500 per animal must be eliminated. The Department does not even acknowledge this as a change from present policy; however, it is a major change in as much as the Department has always maintained that if sufficient evidence of higher value was presented by the claimant, they would pay the higher amount. The fact that the Department may have

Page 2, May 24, 2005

Tom Hanson, RE: ER-12-05 Con't:

been able to settle all claims, thus far, for \$2500 or less, does not alter the fact that they would have paid more with sufficient proof of value and we would also like to see their \$2500 limit without proof of value revised periodically for the effect of inflation as was recommended by their own "wolf science committee".

NR12.54 (4): Must be eliminated. This is the provision that no dog will be paid for within a 5-mile radius of a previous wolf/dog kill for the balance of the calendar year commonly known as "the 5 mile rule". The Department kept this in rule even after comments at public hearings were by far in favor of removing it.

NR12.55: While this rule does not effect bear dogs, we do believe it is a bad thing to eliminate all other property from re-imburement for depredation done by all endangered and threatened species and wolves. An endangered or threatened species could do substantial damage to crops or other property.

Sincerely yours:



David E. Withers, Chairman Wolf Committee
Wisconsin Bear Hunter's Association
70912 Range Line Road
Iron River, WI 54847
715-372-5091, fax 5097



Wolf Committee Chair
Wisconsin

**Bear Hunters'
Association Inc.**

DAVE WITHERS

Board of Director
70912 Range Line Road
Iron River, WI 54847

Home (715)372-5091 ● Fax (715)372-5097



Wisconsin Bear Hunters' Association Inc.

5-14-05

From David Withers
Chairman Wolf Committee

70912 Range line rd Iron River WI 5484;
715-372-5091 FAX 372-5097

To Senator Neal Kedyie FAX 608-282-3551
Chairman senate Natural resources & Transportation
and committee members

Senator Cathy Stepp FAX 608-267-~~1852~~⁶⁷⁹³

Senator Dan Kapanke FAX 608-267-5173

Senator Robert W. Wirth FAX 608-267-0984

Senator Roger M. Breske FAX 608-267-0309

RE: Hearing Thursday 6-16-05
clearing House Rule 05-004

DNR Rule - payment for damages
caused by Endangered/Threatened
species and Gray wolves

Dear Honorable Senators:

Pg's 3 + 4 in correspondence sent to Tom Hanson
for distribution to the Assembly committee on
Natural resources, outlining our objections
to the above mentioned rules.

The Dept. completely ignored comments
at the public hearings as well as their
own "science committee" which recommended

the \$2500 limit on payment of dogs
be reviewed every three (3) yrs for
inflation.

All we are asking for is what we have
always had, and were promised when
we were first approached by the DNR
and gave our support for a wolf
program.

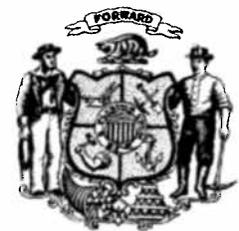
Thank you for your consideration.

Respectfully

David E. Withers
Chair wolf committee
WR & A



WISCONSIN STATE LEGISLATURE



" 05-005

Johnson, Dan (Legislature)

From: Osterndorf, Laurie J
Sent: Wednesday, June 15, 2005 4:44 PM
To: Kedzie, Neal; Stepp, Cathy; Kapanke, Dan; Wirch, Bob; Sen. Breske
Cc: Heinen, Paul H; Smith, Amber M.; Holtz, Signe L
Subject: Rules ER-12-10 and ER-11-05

Tomorrow the Natural Resources and Transportation Committee will be reviewing both ER-12-10 and ER-11-05 (payment program for agricultural damage caused by endangered and threatened species (E/T) and gray wolves and payment program for personal property damage caused by endangered and threatened species and gray wolves.)

I'd like to provide the following as background for you:

Agricultural damage*What the rule does:*

- Establishes definitions of types of depredation and livestock for rule purposes
- Claims that are confirmed or probable wolf or E/T will be reimbursed the fair market value not to exceed an established maximum for that animal type.
- Claims for veterinary expenses for injuries to livestock injured by wolf or E/T will be reimbursed.
- The maximums will be established by a 3-person panel made of experts from the DATCP, UW-Madison Extension, and Wisconsin Farm Bureau Federation.
- Also establishes a list of criteria that need to be met in order for the owner to be reimbursed for calves that are missing at the end of the season.
- Establishes response times, necessary compliance, and claim submittal requirements.

Controversies

- The rule that went to hearing proposed a \$250 deductible and a \$15,000/claimant/year maximum, which are provisions in the wildlife damage program rules (i.e., those rules that govern agricultural damage due to hunted animals). The majority of public comments did not favor these provisions. They were removed from the proposed rule before it went to the Natural Resources Board for approval.
- Some members of the agricultural community were not in favor of one of the criteria proposed to establish eligibility for reimbursement for missing calves. The Natural Resources Board modified that provision.

Other States

- No other state with wolves reimburses for missing animals.
- Minnesota reimburses for verified losses only; it does not reimburse for probable or missing. They do not reimburse for losses of guard animals.
- Michigan reimburses for verified and probable losses up to \$100,000 per year. The maximum payment is the replacement value the day the animal is killed. They do reimburse for losses of guard animals.
- Michigan and Minnesota programs are through their agriculture departments and are funded by general purposes revenue.

Personal Property damage***What the rule does:***

- Establishes definitions of types of depredation, hunting dogs, and pets for rule purposes
- Claims that are confirmed or probable wolf or E/T will be reimbursed the fair market value based on recent sale records for similar animals or pets not to exceed \$2,500.
- Claims for veterinary expenses for injuries to livestock injured by wolf or E/T will be reimbursed.
- Establishes that the Department would not reimburse for additional dogs killed by wolves within five miles of a previous dog kill site that the Department has publicly noticed.
- Provides that there will be no compensation for damage to personal property done by E/T species or wolves other than to livestock, hunting dogs, and pets.

Controversies

- The rule that went to hearing proposed a \$250 deductible and a \$15,000/claimant/year maximum, which are provisions in the wildlife damage program rules (i.e., those rules that govern agricultural damage due to hunted animals). The majority of public comments did not favor these provisions. They were removed from the proposed rule before it went to the Natural Resources Board for approval.
- Many bear hunters are not in favor of the "five-mile rule."
- More than half of the public surveyed in a Northland College study stated that reimbursing bear hunters whose dogs were killed by wolves while the dogs were pursuing bears on public lands should not be reimbursed; 32 percent thought they should be reimbursed.
- Donors to the Endangered Resources Fund do not want their donations to be used to reimburse for personal property, especially hunting dogs.

Other States

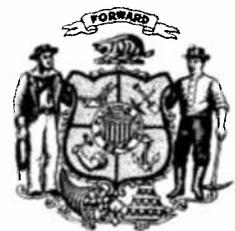
- Neither Michigan nor Minnesota (both states with wolf populations) reimburses for losses of hunting dogs or pets—by wolves or E/T species.
- Neither Illinois or Iowa reimburse owners for losses of personal property due to E/T species.

Please contact me or Signe Holtz (26-9210) with questions. Thank you.

Laurie Osterndorf
Administrator, Division of Land
(608) 267-7552
(608) 219-0643 (cell)



WISCONSIN STATE LEGISLATURE





Wisconsin Wildlife Federation

720 ST. CROIX ST., SUITE 101, PRESCOTT, WI 54021 • (715) 262-9279 • 1-800-897-4161

AFFILIATED WITH NATIONAL WILDLIFE FEDERATION

June 16, 2005

Testimony of the Wisconsin Wildlife Federation on Clearinghouse Rule 05-004 Relating to Compensation for Wolf Depredation on Hunting Dogs

Chairman Kedzie, members of the Committee on Natural Resources and Transportation, thank you very much for the opportunity to testify here today on the proposed Department of Natural Resources rule relating to compensation for wolf depredation on hunting dogs. My name is George Meyer, the Executive Director of the Wisconsin Wildlife Federation. The Federation represents one hundred and four hunting, fishing and trapping groups in the state and most relevant to this issue, several hunting dog organizations including the Wisconsin Association of Sporting Dog Clubs, the Wisconsin Association of Field Trial Clubs, the Wisconsin Coon Hunters Association and the Wisconsin Association of Beagle Clubs.

We are here today to support changes to Clearinghouse Rule 05-004.

The Wisconsin Wildlife Federation has been a long time supporter of the recovery of the gray wolf in the State of Wisconsin. It has been a successful program and in fact has exceeded its population goals. However, now we all need to continue our efforts to have the gray wolf delisted from the Federal Threatened and Endangered Species List and also adopt a fair compensation plan for depredation of both livestock and other personal property such as hunting dogs.

The testimony from citizens at the DNR's public hearings was overwhelmingly in favor of a fair compensation plan. The DNR did make some significant changes to the rules based on this testimony. However there are two remaining areas where the final proposed rules do not reflect the great majority of public comments.

First, we would request the removal of the \$2,500 cap placed on the compensation paid on killed hunting dogs. This cap is not placed on other animals depredated by wolves and as such is highly discriminatory. While it is anticipated that many of the hunting dogs killed will fall within the cap, there clearly are more highly valued dogs used for hunting in the areas habitated by the gray wolf. An individual that has acquired, bred and trained a more valuable animal should not be penalized for having done so.

5 MILE RADIUS

Secondly, we are requesting the deletion of the ten-mile diameter "no payment for hunting dogs zone" created by the proposed rule. Once again this is a discriminatory provision. There is no similar provision in any animal or crop damage program in the state.

This provision in the rule simply will not work. How will a dog owner determine exactly where the circumference of the "no-payment zone" starts? Will the "no-payment zones" be surveyed and warning signs posted at all points around the circumference of the zone? Please try to picture the actual implementation of this "no-payment" zone in the dense forests and wetlands of northern Wisconsin. Will there end up being disputes on the distance of the death of the hunting dog from ground zero of the zone? Will this become the battle of surveyors as to the location of the circumference of the ten-mile "no-payment" zone?

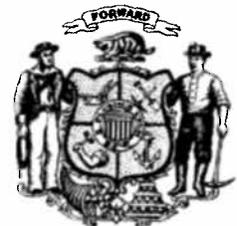
I suspect that many dog hunters, if they have another choice, will opt to move their dog hunting or training away from the areas where other dogs have been recently killed. But not all hunters will have that option because of where they live or have purchased recreational property. Also, we must keep in mind that dogs may at times unintentionally stray into the ten mile "no payment" zone.

In conclusion, the Wisconsin Wildlife Federation and the groups that we represent support the depredation compensation rules with the deletion of these two provisions. Thank you for listening to our concerns.

Submitted by George Meyer, Executive Director of the Wisconsin Wildlife Federation



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR NEAL KEDZIE

FROM: John Stolzenberg, ^{Yes} Chief of Research Services

RE: Questions on Clearinghouse Rules 05-004 and 05-005, Relating to the Payment Program for Damage Caused by Endangered and Threatened Species of Wildlife and Gray Wolves to Livestock and to Hunting Dogs and Pets

DATE: June 28, 2005

This memorandum responds to the questions you raised at the June 16, 2005 hearing held by the Senate Committee on Natural Resources and Transportation on the Department of Natural Resources' (DNR) proposed rules relating to the payment program for damage caused by endangered and threatened species of wildlife and gray wolves to livestock and to hunting dogs and pets. These rules are Clearinghouse Rules (CHR) 05-004 and 05-005. In particular, you asked the following questions:

- What are the statutes governing the payment of claims for damage caused by gray wolves?
- What is the effect of the applicability provision in both rules in proposed s. NR 12.51 if public hunting or trapping of gray wolves is authorized?

Relevant Statutory Provisions

Two statutes relate to the payment of claims for damage caused by gray wolves, ss. 20.370 (1) (fs) and 71.10 (5) (am), Stats. The text of these statutes is reproduced in the attachment to this memorandum.

Section 20.370 (1) (fs), Stats., contains an appropriation from the Conservation Fund for the DNR's endangered resources program. This program is defined via cross-references to ss. 71.10 (5) (a) 2. and 71.30 (10) (a) 2., Stats., to include the following components:

- Purchasing or improving land or habitats for any native Wisconsin or endangered or threatened species or for any nongame species.
- Conducting the Natural Heritage Inventory Program.

- Conducting wildlife and resource research and surveys and providing wildlife management services.
- Providing for wildlife damage control or the payment of claims for damage associated with endangered or threatened species.
- Repaying the General Fund for amounts expended for endangered resources from the General Fund in fiscal year 1983-84.
- Paying the Department of Revenue's expenses for administering the state's voluntary tax check-off payment system for the endangered resources program.

The last sentence in s. 20.370 (1) (fs), specifies the amount from this appropriation that shall be allocated each fiscal year for wildlife damage control and payment of claims for damage associated with endangered or threatened species. This amount is the sum of the following:

- 3% of the moneys certified by the Secretary of Revenue of the net amount, after administrative costs are deducted, for the endangered resources program from the voluntary tax check-off payments in each fiscal year.
- 3% of the fees received by the Department of Transportation for endangered resources specialty license plates in each fiscal year.

In addition, par. (fs) specifies a cap on this combined allocation of \$100,000 per fiscal year.

Section 71.10 (5) (am), Stats., states that, for purposes of the part of the endangered resources program that provides for payment of claims for damage associated with an endangered or threatened species, the gray wolf shall be considered an endangered or threatened species regardless of whether it is listed as endangered or threatened on the endangered and threatened species list created under s. 29.604 (3), Stats.

Applicability Provision

Section NR 12.51 in both rules states the following:

NR 12.51 Applicability. This subchapter applies to claims for damage caused by E/T species and gray wolves. It is not applicable to damage caused by gray wolves and the department authorizes either public hunting or trapping of gray wolves, or both.

As used in this provision, "E/T species" means any animal on the DNR's list of Wisconsin endangered species or threatened species.

During the hearing on CHR 05-004, concerns were expressed that it appeared that the second sentence in s. NR 12.51 would preclude the payment of damages caused by gray wolves if the DNR authorized public hunting of gray wolves, even though the directive for the payment of claims for wolf damage in s. 71.10 (5) (am), Stats., is not conditioned on whether gray wolves are subject to a hunt in Wisconsin.

In a subsequent phone conversation, Tim Andryk, attorney, DNR, indicated that, while the DNR presently has the authority to establish an open season for wolf hunting, the department does not have statutory authority to prescribe desirable features of a wolf hunt. Examples of these features include establishing a wolf hunting license, restricting wolf hunting to specific zones or areas within the state, and establishing a preference and lottery system to control the size of the wolf hunt. At the time that the Legislature considers the details of any wolf hunt, Mr. Andryk indicated the department would also request that the Legislature address how the state should pay for wolf damage after the hunt is established. Mr. Andryk also noted that the department's intent in including s. NR 12.51 in the rules is to "sunset" the rules in CHR 05-004 and 05-005 and to establish that the department will not use the procedures in these rules to process claims for wolf damage if the hunting of wolves is allowed.

If you have any questions on the information presented in this memorandum, please contact me directly at the Legislative Council staff offices.

JES:jal:ksm

Attachment

cc: Tim Andryk, DNR

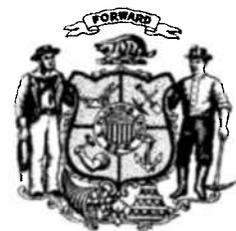
***Statutes Relating to the Payment of Claims for Damage
Caused by Gray Wolves***

20.370 (1) (fs) *Endangered resources - voluntary payments; sales, leases, and fees.* As a continuing appropriation, from moneys received as amounts designated under ss. 71.10 (5) (b) and 71.30 (10) (b), the net amounts certified under ss. 71.10 (5) (h) 4. and 71.30 (10) (h) 3., all moneys received from the sale or lease of resources derived from the land in the state natural areas system, and all moneys received from fees collected under ss. 23.27 (3) (b), 29.319 (2), 29.563 (10), and 341.14 (6r) (b) 5., for the purposes of the endangered resources program, as defined under ss. 71.10 (5) (a) 2. and 71.30 (10) (a) 2. Three percent of the moneys certified under ss. 71.10 (5) (h) 4. and 71.30 (10) (h) 3. in each fiscal year and 3% of the fees received under s. 341.14 (6r) (b) 5. in each fiscal year shall be allocated for wildlife damage control and payment of claims for damage associated with endangered or threatened species, except that this combined allocation may not exceed \$100,000 per fiscal year.

71.10 (5) (am) *Gray wolf as endangered or threatened species.* For purposes of the part of the endangered resources program that provides for wildlife damage control and the payments of claims for damage associated with endangered or threatened species, the gray wolf shall be considered an endangered or threatened species regardless of whether it is listed as endangered or threatened under s. 29.604 (3).



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR NEAL KEDZIE

FROM: John Stolzenberg, Chief of Research Services *JS*

RE: Questions on Clearinghouse Rules 05-004 and 05-005, Relating to the Payment Program for Damage Caused by Endangered and Threatened Species of Wildlife and Gray Wolves to Livestock and to Hunting Dogs and Pets

DATE: June 28, 2005 (Revised July 13, 2005)

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Relevant Statutory Provisions

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Section 20.370 (1) (fs), Stats., contains an appropriation from the Conservation Fund for the DNR's endangered resources program. This program is defined via cross-references to ss. 71.10 (5) (a) 2. and 71.30 (10) (a) 2., Stats., to include the following components:

- Purchasing or improving land or habitats for any native Wisconsin or endangered or threatened species or for any nongame species.
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- Providing for wildlife damage control or the payment of claims for damage associated with endangered or threatened species.
- Repaying the General Fund for amounts expended for endangered resources from the General Fund in fiscal year 1983-84.
- Paying the Department of Revenue's expenses for administering the state's voluntary tax check-off payment system for the endangered resources program.

The last sentence in s. 20.370 (1) (fs), specifies the amount from this appropriation that shall be allocated each fiscal year for wildlife damage control and payment of claims for damage associated with endangered or threatened species. This amount is the sum of the following:

- 3% of the moneys certified by the Secretary of Revenue of the net amount, after administrative costs are deducted, for the endangered resources program from the voluntary tax check-off payments in each fiscal year.
- 3% of the fees received by the Department of Transportation for endangered resources specialty license plates in each fiscal year.

In addition, par. (fs) specifies a cap on this combined allocation of \$100,000 per fiscal year.

Section 71.10 (5) (am), Stats., states that, for purposes of the part of the endangered resources program that provides for payment of claims for damage associated with an endangered or threatened species, the gray wolf shall be considered an endangered or threatened species regardless of whether it is listed as endangered or threatened on the endangered and threatened species list created under s. 29.604 (3), Stats.

Applicability Provision

Section NR 12.51 in both rules states the following:

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As used in this provision, "E/T species" means any animal on the DNR's list of Wisconsin endangered species or threatened species.

During the hearing on CHR 05-004, concerns were expressed that it appeared that the second sentence in s. NR 12.51 would preclude the payment of damages caused by gray wolves if the DNR authorized public hunting of gray wolves, even though the directive for the payment of claims for wolf damage in s. 71.10 (5) (am), Stats., is not conditioned on whether gray wolves are subject to a hunt in Wisconsin.

In subsequent phone conversations, Tim Andryk, attorney, DNR, indicated that, while the DNR presently has the authority to establish an open season for wolf hunting, the department does not have statutory authority to prescribe desirable features of a wolf hunt. Examples of these features include establishing a wolf hunting license, restricting wolf hunting to specific zones or areas within the state, and establishing a preference and lottery system to control the size of the wolf hunt. At the time that the Legislature considers the details of any wolf hunt, Mr. Andryk indicated the department would also request that the Legislature address how the state should pay for wolf damage after the hunt is established.

Mr. Andryk also noted that the department's intent in including s. NR 12.51 in the rules is to "sunset" the rules in CHR 05-004 and 05-005 and to establish that the department will not use the procedures in these rules to process claims for wolf damage if the hunting of wolves is allowed. Furthermore, he indicated that, if the public hunting of wolves is authorized and there is no change in the statutes governing payments for wolf damage, the department would continue to pay for wolf damage under the laws identified at the beginning of this memorandum using procedures that the department would develop at the time the hunt is authorized. These new procedures could include provisions in CHR 05-004 and 05-005.

If you have any questions on the information presented in this memorandum, please contact me directly at the Legislative Council staff offices.

JES;jal:ksm:tlu

Attachment

cc: Tim Andryk, DNR

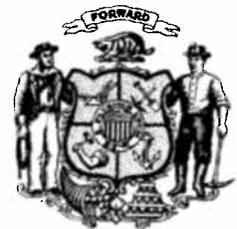
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Caused by Gray Wolves***

20.370 (1) (fs) *Endangered resources - voluntary payments; sales, leases, and fees.* As a continuing appropriation, from moneys received as amounts designated under ss. 71.10 (5) (b) and 71.30 (10) (b), the net amounts certified under ss. 71.10 (5) (h) 4. and 71.30 (10) (h) 3., all moneys received from the sale or lease of resources derived from the land in the state natural areas system, and all moneys received from fees collected under ss. 23.27 (3) (b), 29.319 (2), 29.563 (10), and 341.14 (6r) (b) 5., for the purposes of the endangered resources program, as defined under ss. 71.10 (5) (a) 2. and 71.30 (10) (a) 2. Three percent of the moneys certified under ss. 71.10 (5) (h) 4. and 71.30 (10) (h) 3. in each fiscal year and 3% of the fees received under s. 341.14 (6r) (b) 5. in each fiscal year shall be allocated for wildlife damage control and payment of claims for damage associated with endangered or threatened species, except that this combined allocation may not exceed \$100,000 per fiscal year.

71.10 (5) (am) *Gray wolf as endangered or threatened species.* For purposes of the part of the endangered resources program that provides for wildlife damage control and the payments of claims for damage associated with endangered or threatened species, the gray wolf shall be considered an endangered or threatened species regardless of whether it is listed as endangered or threatened under s. 29.604 (3).



WISCONSIN STATE LEGISLATURE





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

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July 21, 2005

Honorable Neal J. Kedzie, Chair
Senate Committee on Natural Resources and Transportation
Room 313 South
State Capitol

Honorable Scott Gunderson, Chair
Assembly Committee on Natural Resources
Room 7 West
State Capitol

Subject: Clearinghouse Rule No. 05-004
Payment program for damage caused by endangered and threatened
species of wildlife and gray wolves to hunting dogs and pets

Gentlemen:

On June 17, 2005, the Senate Committee on Natural Resources and Transportation requested the Department of Natural Resources to modify Clearinghouse Rule No. 05-004 relating to the payment program for damage caused by endangered and threatened species of wildlife and gray wolves to hunting dogs and pets. On June 29, 2005, the Assembly Committee on Natural Resources also requested modifications to the rule. At its meeting on July 21, 2005, the Natural Resources Board adopted a modification which deleted s. NR 12.54(4). That section read:

NR 12.54(4) LIMIT ON HUNTING DOG PAYMENTS. When the department verifies wolf depredation of a dog on land open to public hunting, the department shall notify hunters by public notice in a statewide news release and a local news release with copies to legislators for that area. The department shall provide other notice deemed reasonable by the department including posting of warning signs in the vicinity of the depredation. Additional dogs killed or injured by wolves within 5 miles of the depredation site, will not be eligible for payments for the remainder of the calendar year after 48 hours following the publication of the wolf depredation notice in the official state newspaper.

Under s. 227.19(4)(b)2., Stats., the Department of Natural Resources refers this modification to your Committees for an additional 10 working day review. Attached is a copy of the proposed rule with the modification incorporated. If the Department does not hear from you within 10 working days of receipt of this modification, the Department will continue processing the rule.

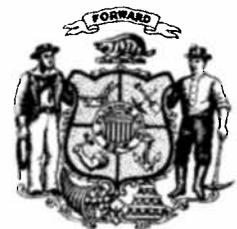
Sincerely,

Scott Hassett
Secretary

Attach.



WISCONSIN STATE LEGISLATURE



CRule 05-004

no date

ER-12-05

Good day, Chairman Kedzie and Committee Members.

My name is Signe Holtz and I am the director of the Endangered Resources Program in the Department of Natural Resources. I am here today to testify in favor of the rule that you have before you.

As I mentioned in my previous testimony, the rule before you would establish in administrative code the Endangered Resources damage program, which until now has been handled through administrative policy. Since the Endangered and Threatened Species (E/T) damage program law was revised by the legislature to cover damages done by the gray wolf even after the wolf was removed from the state Endangered and Threatened species list, the damage program has grown in size of payments, complexity, and controversy. Therefore, with this rule the Department proposes to put the program into administrative rule.

The rule you have before you does the following things:

- Establishes definitions of types of depredation verification and the definition of hunting dogs and pets for rule purposes
- Claims that are confirmed or probable wolf or E/T kills of hunting dogs and pets will be reimbursed the fair market value based on recent sale records for similar animals or pets up to \$2,500.
- Claims for veterinary expenses for injuries to hunting dogs and pets injured by wolf or E/T species will be reimbursed.
- Establishes that the Department would not reimburse for additional dogs killed by wolves within five miles of a previous dog kill site that the Department has publicly noticed.
- Provides that there will be no compensation for damage to personal property done by E/T species or wolves other than to livestock, hunting dogs, and pets. This is a change from the current practice of reimbursing for losses, for

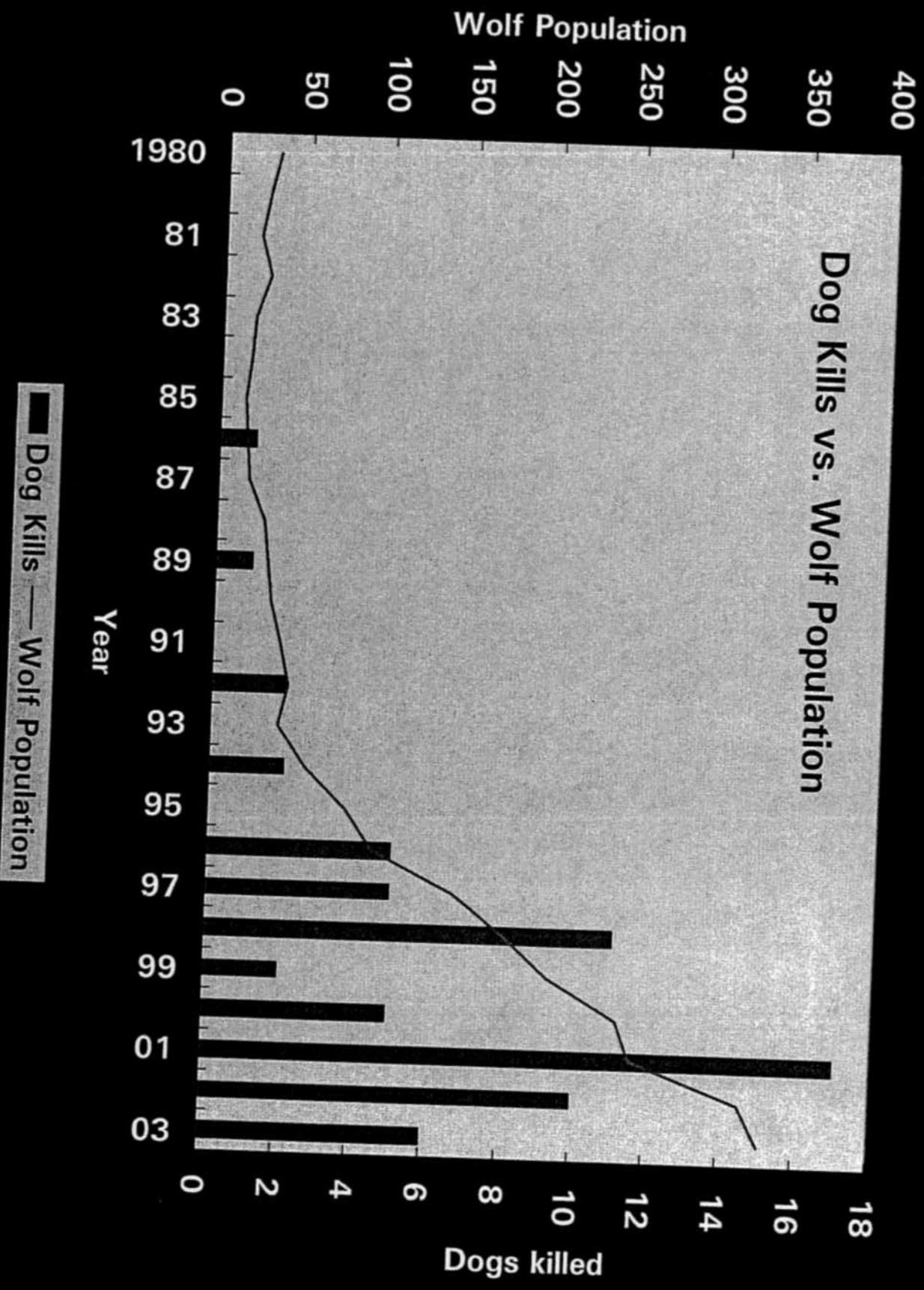
Other states handle livestock damage by wolves or E/T species differently.

- Neither Michigan nor Minnesota (both states with wolf populations) reimburse for losses of hunting dogs or pets to wolves.
- None of the four adjacent states—Illinois, Iowa, Michigan, or Minnesota--reimburse owners for losses of any type of personal property due to E/T species.
- The Wisconsin program is funded by donations to the Endangered Resources Fund through the income tax check-off and the sale of Endangered Resources license plates. These donations also cover most of the Endangered Resources program from Natural Areas conservation and management, rare and nongame species management, native plant protection and management, the implementation of the Wisconsin Endangered Species Act, the inventory and analysis of rare and declining species and natural communities across the state, and the development, maintenance, and use of the databases that house all of these data.

Given the information we received during the public comment and hearing process, the Department recommended that the Natural Resources Board approve the proposed rule with two modifications based on the public comments: both the \$250 deductible and the \$15,000/claimant/year maximum were removed and are not in the rule before you.

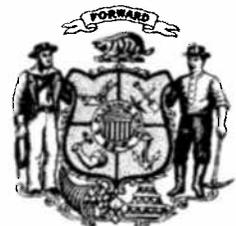
The Department has retained the 5-mile rule even though public comments at the hearings were in favor of removing it. This rule does not restrict entry to public land. What it does do is establish an area about the same size as an average wolf pack territory in which, after notification of a verified loss to that wolf pack, a person taking a dog into the area would understand the risk and take on the responsibility of that risk. The rule is to notify and protect the user at the same time it allows a user to make the decision for him/herself on whether or not to take on the monetary risk. Department law enforcement officials have indicated that this rule is enforceable on the ground. Bear hunters said in their testimony that they have "no guarantees they won't end up in that area" when pursuing a bear and that the area would be too hard to define and enforce. On the other

Dog Kills vs. Wolf Population





WISCONSIN STATE LEGISLATURE



no date

Hello, my name is Scott Meyer, and I am speaking on behalf of the Wisconsin Bear Hunter's Association. I will present concerns and opinions regarding Clearing House Rule 05-004 relating to the payment program for damage caused by endangered species of wildlife and gray wolves to hunting dogs and pets.

We as an association object to these rules based on the following:

* Historically the Department of Natural Resources has repeatedly assured us as hunters that damage caused by wolves would be compensated. This reassurance was offered in order to get support for the State Wolf Management Plan to pass the conservation congress hearings. Department personnel has repeatedly come to our board assuring us that damage done by wolves would be compensated, and that is the reason Wisconsin pays for damage compared to other states.

* We as an association do not believe the department has the statutory authority to impose the Five Mile Rule and the \$2500 cap based on several facts.

* Reasons for opposition to the Five Mile Rule include but are not limited to:

1. The area actually includes a five mile radius, which in effect amounts to 78 square miles. This in effect causes many hunting areas to be exempt from compensation, which was assured to us and put into effect by statutory rule.
2. The public announcement of the threat of a wolf in the area makes the area less desirable to any type of hunter and hurts the tradition of the State. Many bird hunters, deer hunters, and small game hunters will think twice about going into an area that may cause injury or danger to their animals and equipment, not to mention the negative effect that a known wolf in the area will do to the public belief that deer can thrive in the same habitat.
3. The Five Mile rule is in direct opposition to the statutory objective of reimbursing the public for damage caused by wolves.
4. If a Five Mile radius is posted, any private property owner who has any type of dog as a part of the family unit will be exempt from compensation after posting. This does

Who else legislative be the only one w/ authority

67 dogs killed since 1985

Scott Meyer testified - lost dog to wolf. Got reimbursement & had to pay tax on reimbursement.



not only include the hounds specially trained for bear hunting, but also dogs trained to retrieve birds, hunt for small game, assist with the needs of the blind or disabled, and dogs who are treasured as a family member. In actuality, this rule is discriminatory to any and all dog owners.

5. The cost to the department for posting and maintaining the five mile radius has not been specified, but one can surmise that it would be significant. It is my opinion that it would be better put to use to continue the compensations that were promised to us by your own representatives.

* Reasons for the \$2500 cap include but are not limited to:

1. All breeds are valued at different rates. Rare and exotic breeds such as the Wachtelhunds raised by Gary Goerke in Elcho Wisconsin may be worth more than a common breed or an untrained puppy. A dog trained for bobcat hunting may be evaluated at a different rate than that of an all-purpose hunting dog. Bird dogs may be at a different rate than a small game specialist. Seeing-eye dogs or those trained to assist disabled persons may be worth nearly \$10,000, in comparison to the ever faithful mongrel who accidentally escaped and has no chance of survival against a wolf. Each situation needs to be evaluated individually, and circumstances of the loss considered.

2. A \$2500 compensation is in actuality much less than that. Even though the money is for compensation of "property" that is damaged or lost, a 1099 is issued for each payment. A conservative estimate for tax owed on this money, which for some reason is treated as an income even though it is supposed to be used to replace lost "property", is 25%. This means that a \$2500 payment amounts to approximately \$1900 once the taxes have been paid. This is a much lower amount than the replacement value estimate, no matter what the compensation amount.

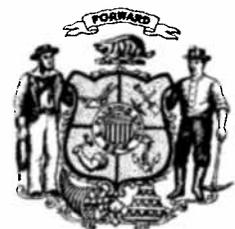
In conclusion, it appears that the Department of Natural Resources is catering to the wolves, and not the needs of the general public. It is also trying to enforce payment rules that are in direct conflict with statutory rule. Public opinion at hearings indicated out of 410

participants, only 8 are in favor of the payment proposal as set forth by the Natural Resources board. One must remember that the people who attend the hearings are the same people who have studied the impact of wolves on hunters and the general public in Wisconsin, and they are the voice who should most be heard. The voice of the public as demonstrated by the results of the hearings is simply this; the plan proposed by the Department of Natural Resources at this time does not treat people equally in the incidents of damage to live animals specifically pets and dogs, and it is in opposition of assurances and statutory rules as previously determined by the State. Without major revisions, this plan is not acceptable.

Thank you for your time.



WISCONSIN STATE LEGISLATURE



ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create NR 12 subch. III relating to the payment program for damage caused by endangered and threatened species of wildlife and gray wolves to hunting dogs and pets.

ER-12-05

Analysis Prepared by Department of Natural Resources

Statutory Authority: Statutes that authorize the promulgation of this rule include ss. 29.014 and 227.11, Stats. These sections grant rule-making authority to the Department to pay for damages done by endangered and threatened species of animals. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted: In promulgating this rule, ss. 20.370(1)(fs), 71.10(5)(am) and 29.604, Stats., have been interpreted as allowing the Department the authority to develop rules to implement a damage payment program authorized by this section.

Plain Language Rule Analysis: The program to pay for damage done by species listed as endangered or threatened in Wisconsin was established in the 1983-85 budget bill (s. 20.370(1)(fs), Stats.). Funds for these payments come from the Endangered Resources Voluntary Payments Fund. The 1999-01 budget bill added Endangered Resources License Plate funding and added that damage by gray wolves will be paid for by this fund even after wolves are delisted.

The Bureau of Endangered Resources has administered this program since 1985 without permanent rules because the species on the state's endangered and threatened list would change from year to year and there was no controversy about the program. There is now a need for permanent rules because wolf damage has been made a permanent part of the payment program and there is significant public controversy about the wolf damage payment program.

Through the end of State Fiscal Year 2003-04, the Bureau of Endangered Resources has settled 199 damage claims totaling \$381,655.08. A vast majority of these claims (164 for a total of \$341,845.29) have been paid for damage done by gray wolves. The remaining claims were for damage done by bald eagles, osprey, and great egret damage to fish farms; trumpeter swans damage to personal property; and double-crested cormorant damage to commercial whitefish fishing. Bald eagles and double-crested cormorants have been removed from the endangered and threatened species lists so damage they do is no longer eligible for reimbursement from the Department of Natural Resources.

The Wisconsin wolf population has increased from just 25 animals in 1980 to 373 in 2004. From 1985 to 1998 wolf damage payments ranged from \$200.00 to \$12,000.00 per year. Wolf damage payments from 1999 to 2004 have averaged \$43,800 per year. We can anticipate that wolf damage claims will be reduced somewhat in the future now that the Department has the authority to destroy wolves that are causing depredations to livestock. However, 37% of all wolf damage payments are paid to reimburse dog owners for killed or injured dogs. Most of these dogs are hound dogs killed or injured by wolves while the dogs are pursuing legal game animals such as bear, bobcat and coyote.

The population of gray wolves has recovered in Wisconsin to the point that the species has been removed from the state's threatened species list and managed as a protected species, according to the state's wolf management plan. The proposed payment program would continue as long as gray wolves remain on the protected animal list under s. NR 10.02(1). If wolves become a game species with a harvest season, additional administrative rules will be needed.

The Department has paid for damage done to personal property other than live animals. Specifically, two claims for lost fishing equipment in 1998 for \$75 and \$154 and one claim in 1999 for \$400 worth of camera equipment were paid when trumpeter swans tipped over the canoes that the claimants were riding in. The proposed rule would eliminate such payments in the future.

Federal Regulatory Analysis: The gray wolf was added to the federal list of endangered species in 1973. The U.S. Fish and Wildlife Service revised the status of gray wolves in Wisconsin from endangered to threatened on April 1, 2003. The federal change gave state biologists more flexibility to deal with problem wolves, including allowing government agents to destroy wolves that kill domestic animals. Since that change, the state has trapped and euthanized 39 wolves that were preying on livestock. The federal government has proposed rules to remove gray wolves from the U.S. list of threatened species. We anticipate that this rule will go into effect in 2005. The federal government does not pay for damages done by species on the federal list of endangered or threatened animals and there are no federal regulations on states paying for damages.

State Regulatory Analysis: Management of large carnivores present unique challenges to natural resource agencies. Currently Wisconsin is one of nine states in the U.S. known to have resident wolf populations. The following is a summary of the rules related to gray wolf management in the states adjacent to Wisconsin.

Illinois: Does not have an E/T damage payment program and since wolves are not a resident species Illinois does not have a wolf damage program.

Iowa: Does not have an E/T damage payment program and since wolves are not a resident species, Iowa does not have a wolf damage program.

Michigan: Wolves from Wisconsin recolonized the Upper Peninsula in the 1980's; there are now approximately 400 wolves in Michigan. Michigan Department of Agriculture has a program to pay for damage caused by wolves up to \$100,000.00 per year utilizing GPR funds. The Michigan program pays for both verified and probable livestock losses but does not pay for missing livestock. The maximum payment is the replacement value the day the animal was killed; there is no deductible. Michigan considers cattle or sheep guard dogs to be "livestock" but does not reimburse for pets or hunting dogs. Michigan does not have a program to pay for damage caused by other endangered or threatened species of wildlife.

Minnesota: Gray wolves were listed as a state threatened species in 1984 when the population was estimated to be 1,000 animals. The current population is estimated at over 2,500 wolves. Minnesota Department of Agriculture has a program to compensate ranchers for losses caused by wolves funded with GPR. The Minnesota program pays for only verified losses; they do not pay for probable or missing livestock. Minnesota does not compensate for guarding animals killed by wolves. Additionally, they do not reimburse for pets or hunting dogs killed by wolves. Minnesota does not have a program to pay for damage caused by other E/T species.

A Summary of Factual Data: Through the end of State Fiscal Year 2003-04, the Bureau of Endangered Resources has settled 199 damage claims totaling \$381,655.08. A vast majority of these claims, 164, (\$341,845.29) has been paid for damage done by gray wolves.

Anticipated Private Sector Costs: These rules 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: The proposed revision to ch. NR 12 will regulate payments for depredations to hunting dogs and pets caused by endangered and threatened species of wildlife and by gray wolves. There are no compliance or reporting requirements for small businesses nor are there any design or operational standards. However, there are requirements that must be followed by bear hunting guides if they want to receive reimbursement for their losses.

In accordance with s. 227.114, Stats., the department has considered the possible implications of these rules on small business and determined that there is no significant impact on small business in the state. The Department of Natural Resources proposes to continue to reimburse bear hunters and bear hunting guides the financial value of hound dogs that are killed or injured by gray wolves. The department has paid an average of \$23,400 per year for the past three state fiscal years for dogs killed or injured by gray wolves. Again this reimbursement is valued by the individual dog owners but is not a significant impact to the recreational industry of bear hunting in Wisconsin.

The department has considered alternatives to paying for hunting dogs but the alternatives would be contrary to the statutory objective of reimbursing the public for damage caused by Endangered and Threatened Species of wildlife and gray wolves.

Agency Contact Person: Randy Jurewicz, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. (608) 267-7507.

[Drafter's Note: The Department has proposed two rules creating subch. III of ch. NR 12 relating to endangered/threatened wildlife and gray wolf damage. Clearinghouse Rule No. 05-005 (Board Order No. ER-11-05) relates to damage caused to livestock. Clearinghouse Rule No. 05-004 (Board Order No. ER-12-05) relates to damage to hunting dogs and pets. This subchapter is being created in two separate orders because of the potential controversy of one or both of the proposed orders. Where there are differences in wording in a section that appears in both orders, the additional wording is shown in brackets.]

SECTION 1. Subchapter III of ch. NR 12 is created to read:

**NR 12 Subchapter III
Endangered/Threatened Wildlife and Gray Wolf Damage**

NR 12.50 Purpose. This subchapter is adopted to implement and administer the payment of claims for damage associated with endangered and threatened species funded under s. 20.370(1)(fs), Stats., and for damage caused by gray wolves authorized by s. 71.10(5)(am), Stats.

NR 12.51 Applicability. This subchapter applies to claims for damages caused by E/T species and gray wolves. It is not applicable to damage caused by gray wolves when the department authorizes either public hunting or trapping of gray wolves, or both.

NR 12.52 Definitions. For the purposes of this subchapter:

(1) "Confirmed depredation" means that the department has found clear evidence that wolves or E/T species were responsible for the depredation or injury, such as a carcass present with bite marks and associated hemorrhaging, tracks in the immediate vicinity or other sign.

(2) "Confirmed non-wolf or non-E/T species depredation" means that department has found conclusive evidence that something other than an E/T species or wolf killed or injured the animal.

(3) "Department " means the Wisconsin department of natural resources or agents designated by the department.

(4) "E/T species" means any animal on the Wisconsin list of endangered species under s. NR 27.02 or threatened species under s. NR 27.03.

(5) "Hunting dogs" means any dog used in the pursuit of game animals.

(7) "Pets" mean dogs and other domestic animals maintained as companion animals.

(8) "Probable depredation" means that the department did not find a carcass from a reported depredation or the damage observed on the carcass was inconclusive but there is evidence of depredation such as a kill site, blood trails, tracks or scat located in the immediate vicinity.

(9) "Unconfirmed depredation" means any depredation that is not a confirmed depredation or a probable depredation.

NR 12.53 Depredation verification procedures. (1) **RESPONSE TIME.** Any person who believes that [livestock,] pets or hunting dogs owned by the person has been injured or killed by an E/T species or a gray wolf and wishes to seek compensation under this subchapter shall contact the department within 24 hours of the depredation or within 24 hours of becoming aware of missing [livestock,] pets or hunting dogs. The complainant shall provide the location of the depredation and a description of the animals injured, killed or missing. The department shall make an onsite inspection within 48 hours of receipt of the complaint and draft a written report of the investigation, which shall include an estimate of the value of the loss.

(2) **VERIFICATION CATEGORIES.** Each complaint received under this section shall be classified by the department under one of the following:

- (a) Confirmed E/T species or wolf depredation.
- (b) Probable E/T species or wolf depredation.
- (c) Confirmed non-wolf or non-E/T species depredation.
- (d) Unconfirmed depredation.

(3) **CLAIM SUBMITTAL.** The complainant shall submit a claim for reimbursement within 14 days of the loss on forms provided by the department.

NR 12.54 Depredation reimbursement procedures. (1) **ELIGIBLE CLAIMS.** (a) *Verified claims.* Only cases classified as confirmed depredation or probable depredation by the department shall be eligible for reimbursement, except as provided in sub. (2)(c).

[Drafter's Note: NR 12.54(2)(c) as proposed in Clearinghouse Rule No. 05-005 relates to the procedure for reimbursement for missing calves.]

(2) **AMOUNT OF PAYMENTS.** (am) *Hunting dogs and pets.* The department shall reimburse the claimant the fair market value based upon recent sale records for similar animals of hunting dogs or pets killed by E/T species or wolves up to a maximum of \$2,500 per animal.

(b) *Veterinary expenses.* The department shall pay for all veterinary expenses incurred in the treatment of [livestock,] hunting dogs or pets injured by E/T species or wolves. If the animal dies from the injury, the veterinary treatment costs shall be paid in addition to the fair market value of the animal. If the animal does not die, only the veterinary treatment costs shall be paid. A detailed receipt shall be submitted to the department within 14 days of paying the veterinarian bill.

(3) **INSURANCE.** The department shall reimburse owners for losses due to E/T species or wolf depredation regardless of any other insurance the owner may have on the animals that were killed or injured.

NR 12.55 Personal property. The department may not provide compensation for damage done by E/T species or wolves to personal property other than livestock, hunting dogs and pets.

SECTION 2. EFFECTIVE DATE. The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 3. BOARD ADOPTION. The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 27, 2005 and July 21, 2005.

Dated at Madison, Wisconsin _____

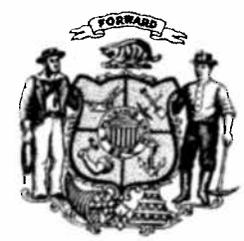
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)



WISCONSIN STATE LEGISLATURE



DNR

- Don't need bear hunting
in WA now with wolf
hunting? A. Yes

- How would general public
know if they are in
wolf country?

A. Don'ty posted trail
& PKG lists

Problems Rule Bear
Hunters
* Rule says that reimburse

rule will sunset
if wolves are allowed
to be trapped or
hunting season. NO
reimburse

* 5 mi radius

* Will reimburse for 1st

kill but none afterwards
NO
(increased) *
* sunset or payment (cap)

Geo Myer: