

Clearinghouse Rule 23-047

The statement of scope for this rule, SS 045-21 was approved by the Governor on April 30, 2021, published in Register No. 785A2 on May 10, 2021 and approved by the Natural Resources Board on June 23, 2021. This rule was approved by the Governor on insert date.

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

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 10.02 (1) (b) and (12) and 10.20; to **renumber** NR 10.085 (4) (a), (4) (b); to **renumber and amend** NR 10.02 (1) (a) and 10.086 (2); to **amend** NR 10.001 (25c), 10.02 (1) (a), 10.06 (5) and (8), 10.07 (2) (b) 2., (2m) (intro), (e) note, (f) (intro), 10.085 (4) (a) and (b) and (5), 10.13 (1) (b) 9., 15. and 16., 12.10 (intro), (1) (a), 4., and (b) 2., 12.15 (13), 12.50, 12.51, 12.52 (2), 12.53 (1) and (2) and 12.54 (2) (a), (am), (b) and (c) and (3); and to **create** NR 10.001 (21q), (23c), (23cd), (26g) and 33, 10.01 (3) (j), 10.03, 10.06 (8) (note), 10.07 (1) (c) (m), (2m) (em), (3), 10.08 (3) (b) 1.m., 10.085 (4) (c), 10.086 (2) (b), 10.13 (1) (b) 15m., 19., 10.14, 10.16 (5), 10.295, NR 12.15 (11) (f), 12.54 (4) and 12.60 to 12.65 relating to gray wolf harvest regulations.

WM-03-21

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted, Statutory Authority and Explanation, of Agency Authority: The department is directed by s. 29.014(1), Wis. Stats., to establish and maintain conditions for the taking of game, including wolves, that conserve populations and provide opportunities for continued hunting and trapping. This provision 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. Section 29.014 (1t) (a) allows the department to close the season for an animal in a specific area of the state if it determines, based on harvest registration data, that hunters and trappers are likely to exceed the quota for that animal for the open season in that area.

2011 Wis. ACT 169 created s. 29.185, Wis. Stats. Subsection (1m) which directs the department to authorize and regulate the hunting and trapping of wolves. It further provides that the department may limit the number of wolf hunters and trappers and the number of wolves that may be taken by issuing wolf harvesting licenses. Various provisions of s. 29.185, Wis. Stats., provide the department with additional authority to administer and regulate a wolf harvest season. The establishment of wolf harvesting zones is required by the s. 29.185 (5) (b), Wis. Stats. Department authority to close the season in a harvest zone is established in s. 29.185 (5) (c), Wis. Stats. Regulations on the proper use of tags and registration of harvest are authorized under s. 29.185 (7), Wis. Stats. Regulations on the types of traps that may be used to harvest wolves are authorized under s. 29.185 (6) (f), Wis. Stats.

The placement of baits for wildlife that contains poison of any type is prohibited in s. 29.088 (1), Wis. Stats., and the department has interpreted this statute to mean that substances that are poisonous to canines are illegal to use for wolf hunting baits.

Section 29.885, Wis. Stats., provides the department with the authority to remove and authorize the removal of wild animals that are causing a nuisance or damage and establishes conditions regarding such removal.

2011 Wis. Act 169 also created s. 29.888, Wis. Stats., which directs the department to administer a wolf depredation program. Under this program persons may be reimbursed for death or injury caused by wolves to livestock, hunting dogs other than those used to track or trail wolves, and pets and for management and control activities conducted by the department for the purpose of reducing damage caused by wolves.

Collectively, ss. 29.885 and 29.888, Wis. Stats., 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. This is consistent with current requirements for species such as deer, bear, and elk. Public hunting and trapping of certain species must be allowed for species currently covered under s. 29.885(4m), Stats.

Section 21 of 2011 Wis. Act 169 requires the department to promulgate rules to implement ss. 29.185 and 29.888, Wis. Stats.

4. Related Statutes or Rules: This rule is related to current emergency rule EmR1210.

5. Plain Language Analysis:

Using a regular rulemaking process, this rule proposal will achieve two primary objectives. First, it will codify provisions of an emergency rule, EmR 1210, which went into effect on August 18, 2012. Non-statutory provisions of 2011 ACT 169 state that this emergency rule remains in effect until a permanent rule takes effect. Second, it will implement recommendations from and update regulatory text in consideration of a new wolf management plan.

In response to 2011 ACT 169, the department promulgated an emergency rule, EmR1210, to establish harvest regulations for the administration and implementation of a wolf harvest season. Provisions of the emergency rule related to wolf harvest included establishing wolf hunting zones (Section 30); shooting hours (Section 11); reporting, registration, and carcass presentation requirements (Section 28); and regulations regarding the use of dogs (Section 19). 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). The emergency rule also established a wolf depredation program that is similar to the existing program that applies when wolves are listed as threatened or endangered and is consistent with the wildlife damage, claims and abatement program that is in place for other species (Sections 36-43).

Since the emergency rule was promulgated, some sections in code which relate to wolf harvest and depredations have been moved or updated and relevant statutes have been amended or newly created. This rule proposes to permanently codify provisions of EmR1210 with updates that align wolf regulations to reflect the subsequent changes in statute and code. These updates are housekeeping in nature, generally serving to update citations and relocate provisions to apply the wolf program as established by EmR1210 to the most current version of the administrative code. This rule also updates terminology as needed to enhance consistency across statutes, other provisions of administrative code, and practice. This rule does not include provisions from EmR1210 that were permanently promulgated by other rulemaking.

As examples of the alignment that these rules will achieve, s. NR 10.145 (7) and (8) established season closure rules and harvest reporting for furbearer species and were amended by EmR1210 to include provisions related to wolves. However, CR 17-061 subsequently renumbered these provisions. This rule adjusts the placement of these revisions accordingly. CR 17-061 also permanently established in code regulations for tagging and registering wolves, making the need to still address these in this rulemaking

unnecessary. Additionally, 2015 ACT 285 adjusted the opening day of the wolf harvest season from October 15 to the first Saturday in November, which in turn necessitates an identical adjustment in this rule.

In 2023 the department will finalize a new wolf management plan. These rules propose additional updates to implement recommendations from this new plan. These updates are generally consistent with policies established in the emergency rule with a few exceptions. For example, this rule will provide that the department may issue wolf harvest tags that are specific to a certain zone or zones instead of tags that are valid in any open zone statewide as was done in previous harvest seasons. This rule will reduce the time a successful hunter or trapper must register their harvest from 5 p.m. the day after harvest to within eight hours after the wolf has been recovered. This rule will provide protections for wolf dens and create a dog training season for wolves which is open only when a zone is open to wolf harvest. This rule will create an enhanced reimbursement rate for producers that have multiple confirmed livestock depredation events within the same grazing season. This rule will also update wolf management and harvesting zones, using a six-zone structure with updated boundaries which fulfill both purposes.

This rule additionally updates regulatory text in consideration of the new wolf management plan. These updates are generally consistent with policies established in the emergency rule but account for the development of management metrics, objectives and guidelines in the new plan. One example of this includes the factors which the department may use to set and allocate among the zones a wolf harvest quota and license numbers. Some of the factors that were previously enumerated in the emergency rule are now fully captured and considered in the new plan and encompassed within other factors so it is no longer necessary for them to be individually listed in administrative code.

Certain provisions of s. 29.185, Wis. Stats., will be duplicated in administrative code to clarify what is prohibited and because that is where people are accustomed to finding similar or identical regulatory information for other species. The following provisions are found in s. 29.185(5) and (6), Wis. Stats.: season dates, use of dogs, hunting hours, baiting regulations, regulations on traps, firearms, bows and crossbow use. Rule updates on the payments of claims for damage associated with gray wolves will be similar to new language created in s. 20.370(5)(fv), Wis. Stats.

SECTIONS 1 and 3 contribute to defining “reservation wolf” pack for the purposes of establishing wolf harvest quotas. SECTION 1 also defines “point of kill”, a term used to describe when a flashlight can legally be used at night while hunting species for which there are no hunting hour restrictions

SECTION 2 clarifies, in the definition, that wolves are not small game.

SECTION 3 along with SECTION 27 defines and establishes Wolf Harvesting Zones. This definition clarifies that wolf management zones are also wolf harvest zones.

SECTION 4 locates the statutorily established wolf hunting and trapping season dates in the table where other season dates are established.

SECTIONS 5, 6 AND 7 strike wolves from the list of protected species for which hunting and trapping seasons are not established and relocates a provision allowing individuals to kill nuisance animals in certain situations.

SECTIONS 8 and 9 establish normal daytime hours for hunting wolves but eliminates hunting hour restrictions for the portion of the wolf season beginning on the day following the traditional 9-day November firearm deer season each year.

SECTION 10 prohibits the use of telemetry receivers to aid in locating wolves for any purpose unless specifically authorized by the department. This SECTION also prohibits the destruction or harassment of active wolf dens.

SECTIONS 11 to 14 establish that baiting is allowed as a method of hunting wolves and the conditions under which bait may be placed for hunting wolves.

SECTION 14 establishes special regulations for hunting wolves at night including a prohibition of using dogs to track or trail wolves at night. This SECTION also establishes regulations related to dog identification and the number of dogs that may be used.

SECTIONS 15 to 17 specify attachment and retention requirements for wolf carcass tags.

SECTION 18 AND 19 change the registration timeline for a harvested wolf from 5 p.m. the day after harvest to 8 hours after recovery of the wolf.

SECTION 20 prohibits the use of steel jawed foothold traps with a jaw spread of greater than seven inches for non-water sets during the early part of the wolf trapping season to reduce the incidental capture of certain non-target species.

SECTIONS 20 and 21 establish a period during the wolf hunting and trapping season when cable restraints may be used in order to reduce the incidental capture of non-target species and create standards for the use of cable restraints placed to capture wolves.

SECTION 22 allows the possession and retention of coyotes, foxes, and bobcat captured incidentally to wolf trapping in cable restraints that are not otherwise legal to place for coyotes or bobcat, if the respective season is open and the person has a valid unfilled permit and tag, in the case of an incidental bobcat.

SECTION 23 establishes that only a firearm may be used as a method of dispatching a live wolf that has been captured in a trap or cable restraint.

SECTION 24 establishes that a wolf harvesting license is required to hunt or trap wolves and create guidelines and criteria that must be considered by the department when establishing harvest quotas and issuing permits. This SECTION also explains how applications for wolf harvesting licenses are made and successful applicants are selected. It also establishes the manner for tagging and reporting and that harvest of a wolf must be registered with the department within eight hours after recovery of the wolf. Finally, this SECTION creates language that is consistent the process for closing the wolf hunting and trapping seasons.

SECTION 25 establishes that the U.S. Fish and Wildlife Service may allow wolf hunting at the Necedah National Wildlife Refuge. This does not require the service to allow wolf hunting. Trapping furbearers such as wolves is already possible under current rules, at the service's discretion.

SECTIONS 28 to 31 re-establish that when wolves are not listed as threatened or endangered species department authorization is required to remove wolves causing damage or which constitute a nuisance and establish conditions and requirements for removal.

SECTION 30 clarifies that dogs may not be used to pursue wolves under a wolf damage shooting permit unless specifically authorized by the department, similar to permits issued in bear damage situations.

SECTION 31 establishes a wolf depredation program that is in effect only at times when wolves are not listed as a threatened or endangered species. It also clarifies that the existing program only applies when wolves are listed.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

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. In February 2022, a federal judge restored wolves to the Endangered Species List in 45 states, including Wisconsin.

7. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:

The statement of scope initially provided that the primary purpose of this rule was to permanently codify and housekeep regulations that were initially adopted on an emergency basis in 2012. A preliminary public hearing on this statement of scope was held virtually on April 23, 2021. Fourteen members of the public attended the hearing with five choosing to make a public statement. A representative from the Wisconsin chapter of the Humane Society of the United States expressed opposition to the court-ordered wolf season that occurred in February 2021 and offered suggestions for future hunts. These suggestions included reducing the time to register a harvested wolf, banning night hunting and hunting from snow machines, limiting group hunting and creating buffers around the ceded territories. A representative from the Wisconsin Farm Bureau Federation suggested that the department pause this rulemaking until the Department's wolf management plan committee and wolf harvest committee could begin their work. The Friends of the Wisconsin Wolf and Wildlife testified against a mandated wolf hunt and was opposed to this rulemaking. One individual testified against any wolf harvest while another spoke against the February season and encouraged the department to work further with tribal governments.

The department also received eleven written comments during the comment period for this preliminary public hearing. Comments from the Wisconsin Cattlemen's association mirrored the oral testimony from the Wisconsin Farm Bureau Federation. The Wisconsin Chapter of the Sierra Club offered ideas for safeguards to add to the rulemaking. These included issuing fewer licenses, requiring in-person carcass registration and preventing private property trespass violations from hound hunting. Two individuals wrote to support the wolf season and the scope statement. Seven individuals wrote comments against the wolf hunt and made suggestions that mirrored those made by the Humane Society of the United States during the public hearing.

Subsequent to this preliminary hearing, the department revised the statement of scope to allow for consideration of three specific substantive changes in addition to housekeeping measures: the issuance of tags that specify a single zone within which wolf harvest may occur, reducing the timeline for registering a harvested wolf, and making shooting hours consistent across all forms of wolf harvest.

The department held a preliminary public hearing on the revised statement of scope on Monday, June 7, 2021, at 1 p.m. virtually through Zoom. Thirty members of the public attended the hearing with five choosing to make a public comment. Three of speakers represented themselves while the other two

represented organizations, the Wisconsin Coon Hunters Association and the Humane Society of the United States. The Wisconsin Coon Hunters Association was concerned that potential restrictions on night hunting would impact other activities, including trapping and hunting coons with hounds. The Association recommended that any rules regarding night hunting be drafted very specifically to avoid impacts to these other users. This concern was shared by another individual who felt it will be difficult to determine whether a hunter is night hunting coyotes or wolves. Two individuals testified against the three additional changes proposed in the scope statement. For example, these individuals felt that restrictions on night hunting would be discriminatory against callers and that the proposal was reactionary to the court-ordered wolf harvest season that occurred in February 2021. Finally, the Humane Society of the United States was supportive of the three items added to the revised scope statement but felt additional measures should be taken, including limiting group hunting and eliminating the use of motor vehicles while hunting with hounds.

In addition to those testifying at the hearing, twenty-eight members of the public submitted written comments regarding the revised statement of scope. Sixteen individuals wrote in support of the revisions to the scope statement. However, the majority of the individuals that supported the revisions to the scope statement felt that the statement of scope should be amended further to permit the department to take additional measures to restrict the hunting of wolves. Suggestions included issuing limiting group hunting, issuing fewer licenses, restricting the use of using motor vehicles while pursuing wolves with hounds, prohibiting the use of bait, and eliminating the use of hounds while hunting. Four commentators, including the Sierra Club of Wisconsin, Animal Wellness and the Center for a Humane Economy, made similar suggestions without specifically addressing the content of the statement of scope. Two individuals expressed opposition to all wolf harvest. One individual commented that they doubted the accuracy of the department's wolf count; another specifically wrote that they wished to continue to be able to hunt wolves at night. Finally, two others expressed opposition to the revisions to the original statement of scope.

8. Comparison with Similar Rules in Adjacent States:

The only adjacent states that have established a wolf hunting and trapping season are Minnesota and Michigan. Neither are required to hold a season by statute.

Michigan held a single wolf hunting season in 2013. Wolves are only found in the Upper Peninsula of Michigan. Successful hunters were required to report their harvest on the day of the hunt.

Beginning in 2012, Minnesota allowed hunting and trapping of wolves, but not with the assistance of dogs for tracking or trailing. Minnesota required that harvested wolves be registered by 10 p.m. on the day of harvest.

Neither Minnesota nor Michigan have authorized the harvest of wolves since wolves were removed from the federal endangered species list in January 2021.

9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

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); shooting hours (Section 11); reporting, registration and carcass presentation

requirements (Section 28); and regulations regarding the use of dogs for tracking or trailing (Section 19, EmR1210). EmR1210 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 also established a wolf depredation program that is similar to the existing program that has been applied 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).

The department initially administered three wolf seasons under the emergency rule. In December 2014 a federal judge relisted the wolf on the federal list of endangered species before a permanent rule could be promulgated.

Since the emergency rules were promulgated in 2012, some sections in code which relate to wolf harvest and depredations have been moved or updated and new statutes have been put in place. This rule proposes to permanently codify provisions of EmR1210 with updates to align wolf regulations to reflect the subsequent changes in statute and code. These provisions, along with relevant data and methodologies, are discussed below.

This rule also proposes reducing the time that an individual has to register a harvested wolf to eight hours after the animal has been recovered and permitting that tags may specify the zone or zones a wolf can be harvested.

This rule proposal will ensure continuity of the department's existing wolf management program by permanently codifying program policies, harvest regulations and a wolf depredation program with which the public is already familiar. These rule proposals are consistent with management guidelines and regulations for other species that are hunted or trapped in Wisconsin.

The proposal permanently adopts a definition of "reservation wolf packs" for the purposes of establishing wolf harvest quotas. This definition has changed slightly from the previous emergency rule in response to the way the department currently monitors wolves. This rule will maintain the practice of excluding wolves living on certain tribal reservations and lands when establishing quotas.

This rule permanently adopts a definition of the term "point of kill". The definition is important because the term describes when a flashlight can legally be used at night while hunting and when a light may not be used because shining while in possession of a firearm is not legal. This definition is consistent with past department policy and rules.

This rule continues to exempt wolves from being classified as small game—something that otherwise would automatically occur any time wolves are not listed as endangered or threatened. Small game is not the appropriate designation for wolves because it will not be legal to hunt them with a license that authorizes hunting of small game, such as an archery, small game, sports, patrons or non-resident fur-bearer license.

This proposal maintains that hybridized variations of true wolves are also considered to be wolves. This broad definition resolves potential questions about the use of harvesting licenses and eligibility for the depredation program when animals that appear not to be true wolves are involved.

This rule proposal repeals previously established wolf management zones and wolf harvesting zones and replaces them with a new wolf management zone structure that serves both purposes and reflects changes recommended in the wolf management plan. The department will establish harvest quotas for each zone

and hunters and trappers are allowed to pursue wolves only in the zone or zones indicated on the carcass tag. Under the rule, the department will have the ability to list more than one zone or subzone on a carcass tag, providing flexibility for hunters if one zone they intended to hunt is closed early. Managing harvest by the use of zones allows harvest to be focused on certain locations or regions for purposes such as reducing incidents of wolf depredation or keeping populations low in areas determined not suitable for wolves. Zones can also be used to decrease harvest pressure in certain areas where it is needed to maintain or rebuild populations in suitable habitat. The ability to focus harvest pressure allows managers to safely maximize hunting opportunity. Additionally, making carcass tags specific to a certain zone or zones controls hunting and trapping pressure in a way that greatly improves the quality of the hunting or trapping experience. The quality of hunting and trapping is improved because the likelihood of early zone closure is reduced and pressure to harvest an animal on the first day or days of the season decreases.

This rule making will clarify the factors which the department may consider in setting harvest quotas and license numbers and aligns them with information and objectives in the species management plan. Harvest quotas will be based on the status of the wolf populations statewide and within each management zone in relation to management objectives as outlined in a species management plan. In reaching these determinations, the department may also consider factors including wolf-related conflict, wolf mortality outside of regulated harvest, projected impacts of a harvest quotas, outcomes of previous harvest seasons, and the off-reservation treaty rights and jurisdiction of tribal nations. The number of permits issued to reach a harvest quota will be based on several factors including in part on the trends of hunter and trapper success rates, timing of past zone closures and hunter and trapper satisfaction and opportunity.

Requiring registration of individual animals harvested by hunters and trappers is a commonly used method of gathering information for harvest management, population monitoring, and to aid in enforcing regulations. Requirements of this rule will provide the department with more timely harvest information than is possible with registration requirements for some other species because there are two required actions that a successful hunter or trapper needs to make. First, it is required that a hunter or trapper to register harvest by phone or other method authorized by the department within eight hours of recovering a harvested wolf, allowing the department to monitor harvest activity as it occurs during the season. If registration information indicates that the harvest quota for wolves has or will be met, the department will use this information to implement an early season closure to prevent exceeding the harvest quota in a particular zone. Additionally, each person who has harvested a wolf must exhibit the pelt, separated from the rest of the carcass, to an authorized department representative no later than 7 days after the month of harvest.

The department anticipates that compliance with reporting and registration requirements will be good. Wolf hunters and trappers will have significant incentive to register and certify in order to obtain the state certification seal that allows possession, transfer and sale of the wolf pelt or carcass. Possessing the attached certification seal is also necessary in order to obtain the services of a taxidermist or tannery.

Another important feature of tagging, transportation, and registration requirements are that they are a primary way of enforcing harvest regulations and preventing illegal harvest. Effective enforcement of harvest restrictions by conservation wardens and tribal wardens is intended to protect the wolf population overall and also preserves opportunities for legal harvest. Federal involvement can occur when illegally killed wolves are transported across state lines or killed on federal lands (National Park Service land, National Wildlife Refuges, National Forests, Federal military bases, or Indian reservations).

Wolves dig or otherwise establish dens during the spring of the year in order to provide protection for young pups. Dens are vacated later in the summer as pups age and become more mobile. This rule

prohibits the purposeful destruction or molestation of known wolf dens to provide adequate protection for wolf dens and associated pups during the time of year when wolf activity and pup rearing is centered around the wolf den.

This rule establishes regulated opportunity for those interested in training dogs to track and trail wolves while also considering potential biological impacts to wolves. This training season will limit the training of dogs to track or trail wolves to the same timeframe when hunting wolves with the aid of dogs is allowed. The training activities will end with the closure of the harvest season in each zone. This is meant to minimize potential impacts of training on wolves during the late winter wolf breeding season.

A number of wolves have been captured and fitted with telemetry gear by the department for research purposes. Under this rule proposal, the use of telemetry gear for locating wolves will continue to be prohibited unless specifically authorized by the department. The prohibition would apply to locating wolves for any purpose. People who hunt with the aid of dogs and train hunting dogs to pursue game also commonly use this technology for monitoring their dogs. Individuals using dogs will continue to be exempted from the prohibition of possessing telemetry gear as long as it is not used to locate wolves that are fitted with transmitters. Harvest of a collared wolf will remain legal.

This rule proposal maintains regulations on the use of bait, firearm and crossbow use, and hunting hours. Many of these regulations are similar to provisions established in statute and are reproduced in administrative code to assure enforceability of the statutory provisions and to increase ch. NR 10's usefulness to department staff and the public. Also, under this proposal, baiting for wolves will continue to be allowed beginning on the day after bear season closes until such time as the zone where the bait is being placed has been closed to harvest. Regulations for baiting in this proposal are similar in many respects to current bear baiting regulations. For hunting wolves statewide, 10 gallons of bait is allowed, and it must be covered to prevent access by deer. Additionally, it will be legal to hunt wolves over baits that were lawfully placed for hunting deer. Similar to the restrictions for hunting deer and bear, animal parts and by-products are not allowed as bait for hunting wolves.

Current statutes establish that it is illegal to use baits containing poison of any description where it might cause the destruction of wild animals. This proposal maintains a similar provision in administrative code which is specific to canine animals. Doing so locates more of the baiting regulations in one place, for convenience and rule use ability. It also recognizes that there are food substances which are known to be toxic to canines and may not be used in a way that will poison canine animals.

Hunting at night continues to be authorized under this rulemaking; however, the rule addresses safety concerns about hunting in the dark with large caliber rifles and shotguns shooting slugs or buckshot by reducing the likelihood that someone will shoot a firearm without being certain of what lies beyond their target. By requiring that a person hunt from a stationary position and prohibiting hunting with hounds at night, shooting opportunities are more likely to occur in directions where the hunter has been able to anticipate and avoid possible unsafe shooting scenarios. It is anticipated that this extra precaution will help assure public safety.

This proposal will continue to restrict the size of steel jawed traps not placed as water sets when used during the early part of the wolf season, through November 30, from a maximum jaw spread of 8 inches to a maximum of 7 inches. This is intended to prevent the incidental catch and retention of bears at times when they are normally still active. This rule would maintain regulations on the allowable times for use and the dimensions and mechanical requirements of cable restraints to capture wolves. A cable restraint is a device used for restraining furbearers without injuring them which consists of a non-spring activated galvanized aircraft cable which includes a relaxing mechanical lock, stops, and swivel set in a non-

entanglement manner. Cable restraints meeting certain specifications are currently legal for use at certain times for fox, coyote and bobcat. Under this proposal, cable restraint use for wolves continues to be restricted to times when black bears are normally not active to prevent incidental capture and retention of bears.

Hunting and trapping are currently prohibited by the department in the Necedah National Wildlife Refuge but there are a number of exceptions. As the landowner, the Fish & Wildlife Service already has the ability to allow or prohibit hunting and trapping and service staff people can enforce federal regulations. The proposed rule also allows enforcement of special closed area regulations by the department. The proposed rule does not require the service to allow wolf hunting or trapping but is necessary if the service decides to allow wolf hunting.

Wolf depredation management is an important aspect of wolf management in Wisconsin. The department is charged with protecting and maintaining a viable population of wolves, but also must protect the interests of people who suffer losses due to wolf depredation. Wolves occasionally kill livestock, poultry, and pets. Although wolf depredation does not impact a significant portion of livestock growers, poultry producers, and pet owners, it brings hardship to individuals who experience incidents of depredation. The department administered a wolf depredation program while wolves were listed on the federal endangered species list. An emergency rule promulgated in 2012, EmR1210, created a similar but more detailed wolf damage program which has been utilized during periods when were not listed. For example, in 2020 the department paid approximately \$228,694.32 in claims to owners of animals under the existing program for depredation caused by wolves. This rulemaking will continue the wolf depredation management program that was established by the emergency rule.

To remain consistent with compensation eligibility requirements for other species, this rule continues a requirement that landowners must allow access to the public for hunting and trapping wolves to be eligible for depredation compensation. Landowners could restrict the use of hunting with the aid of dogs for tracking and trailing if trespass on neighboring lands is perceived to be an issue. In order to minimize the use of lethal control, the proposal also continues a requirement that individuals seeking wolf depredation compensation must cooperate with the implementation of any recommended abatement.

These rules clarify that anyone seeking wolf depredation compensation must allow access to the department or its agent to inspect property and any abatement techniques being used. The proposal maintains that a panel of three representatives from Dept. of Agriculture, Trade and Consumer Protection, UW-Extension, and Wisconsin Farm Bureau Federal can defer the establishment of maximum payments amounts to another expert in the event the type of animal whose value is being evaluated is outside of their area of expertise. Consistent with its past administration of the wolf depredation compensation program, the department will not pay any wolf depredation claims until after December 31 of each year so that the level of program funding is known when payments are made. The department will also pro-rate claims if funds are not sufficient to pay all claims. The rule also creates an enhanced reimbursement rate for producers that have multiple confirmed livestock depredation events within the same grazing season which is a new requirement and was not found in EmR1210.

These rules will continue to allow persons with a valid hunting license of any kind to assist a person who has a wolf removal permit. For most species the appropriate license for that species is required to assist someone with a removal permit, however, because wolf harvesting licenses will be limited by a drawing, expanding the types of licenses needed to assist permittees under the damage program is needed. Individuals assisting a permittee using trapping methods would need to possess a valid Wisconsin trapping license.

Finally, this proposes a “one-for-five” rule under which producers would be eligible to receive compensation for up to 5 additional calves for every verified or probable wolf depredation. This provision is based on the department’s actual payment history for missing calves and continues to acknowledge that there is not always verifiable evidence of depredation on calves.

10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

These rules, and the legislation which grants the department rule making authority, do not have a significant economic or fiscal effect on businesses, business sectors, public utility rate payers, local government units, or the state’s economy as a whole. No significant costs are associated with compliance to these rule revisions. Implementing a wolf season will have a direct minor positive economic impact to both the department and various small businesses. During the first three years in which 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. 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 are consistent with the department’s management objectives for wolves. Wolf harvest may result in fewer wolf conflicts and reduced wolf depredation on domestic animals. Under previous requirements of 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 travelling and pursuing these activities,

11. Effect on Small Business (initial regulatory flexibility analysis): 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. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m), Stats.

12. Agency Contact Person:

Randy Johnson, Large Carnivore Specialist, 107 Sutliff Ave. Rhinelander WI 54501. (715) 499-0010. randy.johnson@wisconsin.gov
Scott Karel, Wildlife Regulation Policy Specialist, 101 South Webster St., Madison, WI 53707. (608) 267-2452. scott.karel@wisconsin.gov

13. Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the department contact person listed above or to DNRAAdministrativeRulesComments@wisconsin.gov until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's website, at <https://dnr.wi.gov/calendar/hearings/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

RULE TEXT

SECTION 1. NR 10.001(21q) (23c) and (23 cd) are created to read:

NR 10.001(21q) "Point of kill" means the location at which a flashlight is used to illuminate and kill a wild animal whose position or location is already known by the hunter, such as a tree a hound has treed an animal, for the purpose of accurately identifying the animal, safely aiming the weapon and killing the animal. It does not include shining a light on fields, forests or other areas in general for the purpose of searching for or attempting to locate wild animals for which the hunter does not already know the specific location

(23c) "Reservation" means the federally established reservation of a tribe.

(23cd) "Reservation wolf" means a wolf whose territory and activities overlaps a reservation 50% or more of the time based upon the department's population monitoring.

SECTION 2. NR 10.001 (25c) is amended to read:

NR 10.001(25c) "Small game" means all varieties of wild mammals and birds for which there is an open season, but does not include deer, moose, elk, bear, wolf, wild turkey or endangered, threatened or protected species of game. For the purpose of s. 167.31 (4) (e), Stats., small game does include wild turkeys.

SECTION 3. NR 10.001(26g) and (33) are created to read:

NR 10.001(26g) "Tribe" means a federally recognized American Indian tribe or band in this state.

(33) "Wolf Management Zone" means a zone established pursuant to s. 29.185 (5) (b), Stats., for the purpose of managing wolves and regulating wolf harvest

SECTION 4. NR 10.01(3)(j) is created to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
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<p>NR 10.01(3)(j) Wolf hunting and trapping in the wolf harvesting zone or zones established in s. NR 10.295 that are specified on the carcass tag unless such zone or zones have been closed under s. NR 10.14.</p>	<p>First Saturday in November – last day of February unless department determines that an earlier closure is necessary to effectively manage the state’s wolf population pursuant to s. 29.185(5)(c), Stats.</p>	<p>One wolf per license and wolf carcass tag issued under s. 29.1185 (7) (a) Stats..</p>
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SECTION 5. NR 10.02 (1) (a) is renumbered (1) and as renumbered is amended to read:

NR 10.02(1)(a) ~~Except as provided in par. (b), cougar, Cougar, Canada lynx, badger, moose, gray wolf, wolverine and flying squirrel.~~

SECTION 6. NR 10.02 (1) (b) and NR 10.02 (12) as amended by CR 23-013 are repealed.

SECTION 7. NR 10.03 is created to read:

NR 10.03 Threats to humans or livestock

(1) THREATS TO HUMANS. An individual may shoot and kill any wild animal that poses an immediate threat to human health and safety. Shootings shall be reported within 24 hours to a department conservation warden. The carcass of the animal shall be turned over to the department.

(2) THREATS TO LIVESTOCK. On private land, the landowner, lessee or occupant of the land, or any other person with permission of the landowner, lessee or occupant may shoot and kill any bear, wolf or cougar in the act of attacking, killing, wounding or biting a domestic animal. Shootings shall be reported within 24 hours to a department conservation warden. The carcass of the bear, wolf or cougar shall be turned over to the department. This section only applies to wolves when wolves are not on the federal or state list of endangered species.

SECTION 8. NR 10.06 (5) and (8) are amended to read:

NR 10.06(5) SHOOTING HOURS. Shooting hours for bear, bow deer, deer with firearms, elk ~~and small game~~, ~~small game~~ and wolves are 30 minutes before sunrise through 20 minutes after sunset. Shooting hours for migratory game birds are 30 minutes before sunrise to sunset except for teal during a season for hunting teal species only. The hours for shooting teal during a teal-only season shall be sunrise through 7:00 p.m. except on the first day when shooting hours begin at 9:00 a.m. Shooting hours for the first day of the pheasant hunting season established in s. NR 10.01 (2) (c) begin at 9:00 a.m. The department shall establish the specific opening and closing times annually in the hunting regulations pamphlets. Opening and closing times for zone A southern and northern areas shall be based on astronomical data collected by the U.S. naval observatory, Washington D.C., 20392–5420 for Sheboygan, Wisconsin and Powers, Michigan, respectively. The shooting hours for the other zones shall be obtained by adding minutes to the Zone A a.m. and p.m. columns as follows:

Zone Adjustment

- B ---- Add 4 minutes
- C ---- Add 8 minutes
- D ---- Add 12 minutes
- E ---- Add 16 minutes

F ----- Add 20 minutes

(8) EXCEPTIONS. There are no hunting hour restrictions for pursuing coyote, fox, raccoon and all wild animals for which no closed season is established, or for wolves beginning with the first Monday that follows the last day of the regular season established under s. NR 10.01(3) (e) that is open to hunting deer with firearms and ending on the last day of February of the following year, except that shooting hours established in sub. (5) shall apply to archers and crossbow hunters pursuing any species during the black bear season established in s. NR 10.01 (3) (g), during the archery and crossbow deer seasons established in s. NR 10.01 (3) (em) and (ep), and during the elk season established in s. NR 10.01 (3) (i).

SECTION 9. NR 10.06 (8) (note) is created to read:

Note: If hunting at night for wolves, additional requirements are established in s. NR 10.07(3).

SECTION 10. NR 10.07 (1) (c) and (m) are created to read:

NR 10.07(1) (c) *Wolf dens*. Molest or destroy a wolf den.

(m) *Telemetry devices*. Use telemetry or similar equipment to locate, pursue or hunt any wolf that has electronic transmitters attached to it unless authorized by the department. No person may hunt or pursue wolves while in possession of a radio-telemetry receiver except with the aid of dogs that are equipped with transmitters and the device is only used for the purpose of locating transmitters attached to the dogs.

SECTION 11. NR 10.07 (2) (b) 2., (2m) (title) and (e) (intro) are amended to read:

NR 10.07(2)(b)2. For the purpose of hunting deer or wolves in compliance with sub. (2m).

(2m) BEAR, WOLF AND DEER BAITING REGULATIONS.

(e) *Deer and wolf hunting*. Bait or feed may be placed and used for hunting deer or wolves outside of the counties described in par. (b), except no person may place, use or hunt over bait or feed:

SECTION 12. NR 10.07 (2m) (em) is created to read:

NR 10.07 (2m) (em) *Wolf baiting regulations*.

1. Bait or feed may be placed and used for the purpose of hunting wolves and training dogs to track or trail wolves, except no person may place, use or hunt over bait or feed:

a. Outside the period beginning on the day after the closed of the bear hunting season in s. NR 10.01(3) (g) and continuing through the close of the wolf season in the zone where the bait is placed.

b. In excess of 10 gallons of bait or feed at any feeding site.

c. Unless the bait is totally enclosed in a hollow log, a hole in the ground or stump which is capped with logs, rocks or other naturally occurring and unprocessed substances which prevents deer from accessing the material. Liquid scent does not need to be enclosed.

d. Unless, when the bait or feeding site is checked or re-baited, all bait that has been uncovered is again enclosed and made inaccessible to deer in accordance with subd. 1. c.

e. Unless the person placing the bait possesses a valid wolf harvesting license or written authorization from the holder of a valid wolf harvesting license to place and maintain a bait site for the licensee. Written authorization shall include: name, address and phone number of the wolf harvesting license holder; the name, address and phone number of the person placing or maintaining the bait site; and the County, Town and property owners name for the location where the licensee has authorized the person assisting them to place the bait.

f. Containing substances that are poisonous or toxic to canine animals.

2. Wolves may be hunted and dogs used to track or trail wolves may be trained over bait or feed lawfully placed for the purpose of hunting bear or training dogs to pursue bear in compliance with par. (d) and s. 29.184, Stats., and for deer in compliance with par. (e), provided the bait or feeding site does not contain any material listed in subd.1. f.

SECTION 13. NR 10.07 (2m) (f) (intro) is amended to read:

NR 10.07 (2m) (f) *Additional prohibitions.* For bear hunting and bear dog training, wolf hunting, and for deer hunting outside of the counties described in par. (b), no person may place, use or hunt over bait or feed that:

SECTION 14. NR 10.07 (2m) (g) 3., (3) and 10.08(3) (b) 1.m. are created to read:

NR 10.07(2m) (g) 3. Wolves without possessing a valid unused wolf harvesting license and wolf carcass tag.

(3) WOLF HUNTING. (a) Hunting at night. During the period when hunting wolves at night is allowed under s. NR 10.06(8), no person may hunt wolves from 20 minutes after sunset to 30 minutes before sunrise unless all the following apply;

1. The person hunts with the aid of predator calling techniques or when hunting over a bait site authorized under sub. (2m).
2. The person hunts from a stationary position.
3. The person hunts without the use or aid of dogs.

(b) *Dog use.* No person may use dogs for tracking or trailing wolves except for the period beginning on the first Monday that follows the last day of the regular gun deer season established in s. NR 10.01 (3) (e) 1. a. and b., and ending on the last day of February of the following year, or the date the department closes the season pursuant to s. 29.185(5)(c), Stats., whichever is earliest. Once a wolf harvest zone is closed for harvest pursuant to s. 29.185 (5) (c), Stats., then using dogs to track or trailing wolves is also closed within that zone.

(c) *Number of dogs.* No more than 6 dogs in a single pack may be used to pursue a wolf, regardless of the number of hunters assisting the holder of the wolf harvesting license and regardless of dog ownership

(d) *Dog Identification.* The dogs shall be tattooed or wear a collar with the owner's name and address attached.

NR 10.08 (3) (b) 1m. Wolf. The possession limit corresponds to the number of wolf carcass tags issued.

SECTION 15. NR 10.085 (4) (a) and (b) are amended to read:

(a) No person who kills any of the species identified in ~~this section~~ par. (1)(a) through (e) may leave the carcass unless the carcass tag has been attached to the carcass.

(b) The pelt tag shall be attached to a bobcat ~~or wolf~~ when it is killed and before it is carried by hand or transported in any manner. Failure to attach the pelt tag invalidates the permit. The pelt tag shall remain attached to the pelt until removed by a fur dresser or taxidermist at time of preparation.

SECTION 16. NR 10.085 (4) (c) is created to read:

(c) The carcass tag shall be attached to a wolf when it is killed and before it is carried by hand or transported in any manner. The carcass tag shall remain attached to the pelt following separation from the carcass until removed by a fur dresser or taxidermist at the time of preparation.

SECTION 17. NR 10.085 (5) is amended to read:

(5) REMOVAL AND RETENTION. A carcass tag attached as required in ~~this section~~ par. (4)(a) may be removed from the carcass at the time of butchering or when prepared by a taxidermist, but the person who killed or obtained the animal shall retain all tags until the meat is consumed. The validated carcass tag shall be retained by the person who possesses the carcass until it is consumed.

SECTION 18. NR 10.086(2) renumbered (2) (a), and as renumbered is amended to read:

NR 10.086 (2) REGISTRATION TIMELINE.

(a) No person who harvests any of the species identified ~~this section in~~ par. (a) to (h) may fail to register the animal, using a telephone, internet, or other registration system established by the department, before 5:00 p.m. of the day after the animal was recovered.

SECTION 19. NR 10.086 (2) (b) is created to read:

(b) No person who harvests a wolf may fail to register the wolf, using a telephone, internet, or other registration system established by the department, within 8 hours after the wolf is recovered.

SECTION 20. NR 10.13 (1) (b) 9. and 15 are amended to read:

NR 10.13 (1) (b) 9. 'Steel jawed traps.' Set, place or operate any steel jaw trap with a spread width of more than 8 inches measured from the two outside points of the jaw which are farthest apart but not diagonal, except that the maximum spread width is 7 inches during the period beginning the first Saturday in November and continuing through November 30 for sets that are not water sets.

15. 'Cable restraints specifications for bobcat, coyote and fox.' ~~Set~~ set, place or operate any cable restraint except for bobcat from the Saturday nearest October 17 to January 31 and fox and coyotes from the Saturday nearest October 17 to February 15, dates inclusive, provided the cable restraint conforms to all of the following specifications in addition to those under subd. 13.:

SECTION 21. NR 10.13 (1) (b) 15m. is created to read:

NR 10.13(1) (b) 15m. 'Cable restraints specifications for wolves.' Set, place or operate any cable restraint for wolves except from December 1 to the last day of February, dates inclusive, while in possession of a valid unfilled wolf harvesting license and pelt tag, and provided the cable restraint conforms to the following specifications in addition to those under subd. 13.:

- a. Cable length of 10 feet or less, with a diameter of 3/32 inch or larger, consisting of multiple strands of wire.
- b. Cable stops shall be affixed to the cable to ensure that the portion of the cable which makes up the noose loop may not be longer than 48 inches when fully open, or less than 8 inches when fully closed.
- c. The bottom of the set restraint cable loop may not be less than 6 inches nor greater than 14 inches above the surface. The measurement to the surface is the distance to the first surface beneath the

bottom of the set cable restraint where the surface is ground, ice, crusted or packed snow or any other hard material.

d. A cable restraint shall include a reverse-bend washer lock with a minimum outside diameter of 1 1/4 inches; and a 1500-pound swivel that acts as the maximum opening cable stop.

e. A cable restraint shall be staked in a manner that does not allow the restraint device to reach any part of a fence, rooted woody vegetation greater than 1/2"-inch diameter or any other immovable object or stake that could cause entanglement.

SECTION 22. NR 10.13 (1) (b) 16. is amended to read:

NR 10.13 (1) (b) 16. 'Incidental take of raccoons, coyote, fox, bobcat and mink.' Retain any raccoon, coyote, fox, or bobcat taken incidentally with a cable restraint during the period when the use of cable restraints is authorized under subds. 15. and 15m. ~~a-~~ unless it is during the open season for hunting or trapping raccoons, coyote, fox, or bobcat listed in s. NR 10.01 (3) (b), (d), (f), or (h), and the person has the appropriate valid unfilled license, permits and tags, if required. No person may retain any mink taken incidentally with a colony trap unless it is during the open season for mink listed in s. NR 10.01 (4) (e).

SECTION 23. NR 10.13 (1) (b) 19. is created to read:

NR 10.13 (1) (b) 19. 'Killing captured wolves.' Kill any wolf caught in a trap except humanely by the use of a firearm. A person who is prohibited from possessing a firearm under state or federal law, who has caught a wolf by trapping, may authorize a person who is accompanying them and who is allowed to possess and use a firearm to kill the trapped wolf humanely with a firearm.

Note: Wis. Stat. 167.31 imposes restrictions on the possession, use, and discharge of firearms related to roadways and highways.

SECTION 24. NR 10.14 is created to read:

NR 10.14 **Wolf.** No person may hunt or trap, or attempt to hunt or trap, any wolf unless he or she possesses a current and valid license from the department and any associated carcass tags for the area or zone in which he or she is hunting or trapping. The department shall use the following information to set harvest quotas, issue harvesting licenses, determine application and issuance procedures, and set season closures:

(1) **WOLF HARVEST QUOTAS.** The department shall establish a statewide wolf harvest quota and allocate such quota among the wolf management zones based on the status of wolf populations in relation to management objectives as outlined in a species management plan. Harvest quotas established under this section are for the purposes of hunting and trapping and are in addition to wolves killed in depredation control activities. These determinations may take into account:

- (a) Evaluation of metrics, objectives and guidelines outlined in a species management plan.
- (b) Population estimates and trends, not including reservation wolves.
- (c) Wolf-related conflict levels and trends.
- (d) The take of wolves for depredation management purposes, the impact of disease, illegal harvest, and other causes of mortality on the wolf population.

(e) The projected impacts of wolf harvest quotas on the wolf population.

(f) Outcomes of previous harvest seasons.

(g) Off-reservation treaty rights established under *Lac Courte Oreilles Indians v. State of Wis.*, 775 F. Supp. 321, 323 (W.D. Wis. 1991) and on-reservation jurisdiction of Native American tribes.

(2) WOLF HARVESTING LICENSES. The department shall determine the total number of wolf harvesting licenses to be issued and allocated to each zone. The department shall base these determinations on:

- (a) The quotas established in sub. (1).
- (b) The projected harvest and success rates of hunters and trappers.
- (c) Hunter and trapper satisfaction.
- (d) Maximization of opportunities for participation in hunting and trapping.
- (e) Timing of previous season's zone closures under sub. (4).

(3) APPLICATION AND ISSUANCE PROCEDURES. (a) *Forms*. Applications for licenses shall be made on forms provided by the department.

(b) *Deadlines*. All license applications shall be postmarked no later than the deadline dates indicated on the form or received by a department service center location on those dates to be considered for selection. The annual application deadlines may not be sooner than July 1.

(c) *Application limit*. No person may apply for more than 1 permit for each species.

(d) *Random selection*. If the number of qualified applications for wolf harvesting licenses exceeds the number of licenses that are available, the department shall issue wolf harvesting licenses in accordance with any statutorily established preference system.

(e) *Carcass tag issuance*. The department shall issue one wolf carcass tag to each person who is issued a wolf harvesting license under par. (d).

(f) *Validity*. All carcass tags are valid only in the area or areas and for the time period specified on the permit during the open season established for wolves. Wolf harvesting licenses and carcass tags are not valid and may not be used within the exterior boundaries of the Bad River, Lac Courte Oreilles, Lac du Flambeau, Menominee, and Red Cliff reservations or within the identified Stockbridge-Munsee Community Area.

(4) SEASON CLOSURE. The secretary of the department may close a portion or all of any wolf season established in s. NR 10.01, upon a finding by the department that doing so is necessary to effectively manage the state's wolf population. The department shall do all of the following to notice a closure:

(a) Wolf hunting and trapping season closure shall become effective 24 hours after posting a notice on the department's website, announcement on its telephone registration or harvest reporting system, and issuance of a press release.

(b) The department shall consider all of the following factors in closing the wolf hunting and trapping season:

1. The reported harvest relative to the harvest quota.
2. The rapidity at which the quota is being approached.
3. The anticipated harvest in coming days.
4. Other known sources of mortality that may be greater than anticipated when the department set the quotas.
5. Other information which relates to the department's ability to effectively manage the wolf population.

SECTION 25. NR 10.16 (5) is created to read:

NR 10.16(5) WOLF HUNTING SEASON. An open season for hunting wolves is established on the Necedah national wildlife refuge, and shall be concurrent with the open season for hunting wolves in s. NR 10.01(3)(j). Such open season shall be effective only in those areas on the Necedah national wildlife refuge designated by posted notices of the U.S. Fish and Wildlife Service. Hunting on the Necedah

national wildlife refuge may be restricted to only those persons authorized by the U.S. Fish and Wildlife Service.

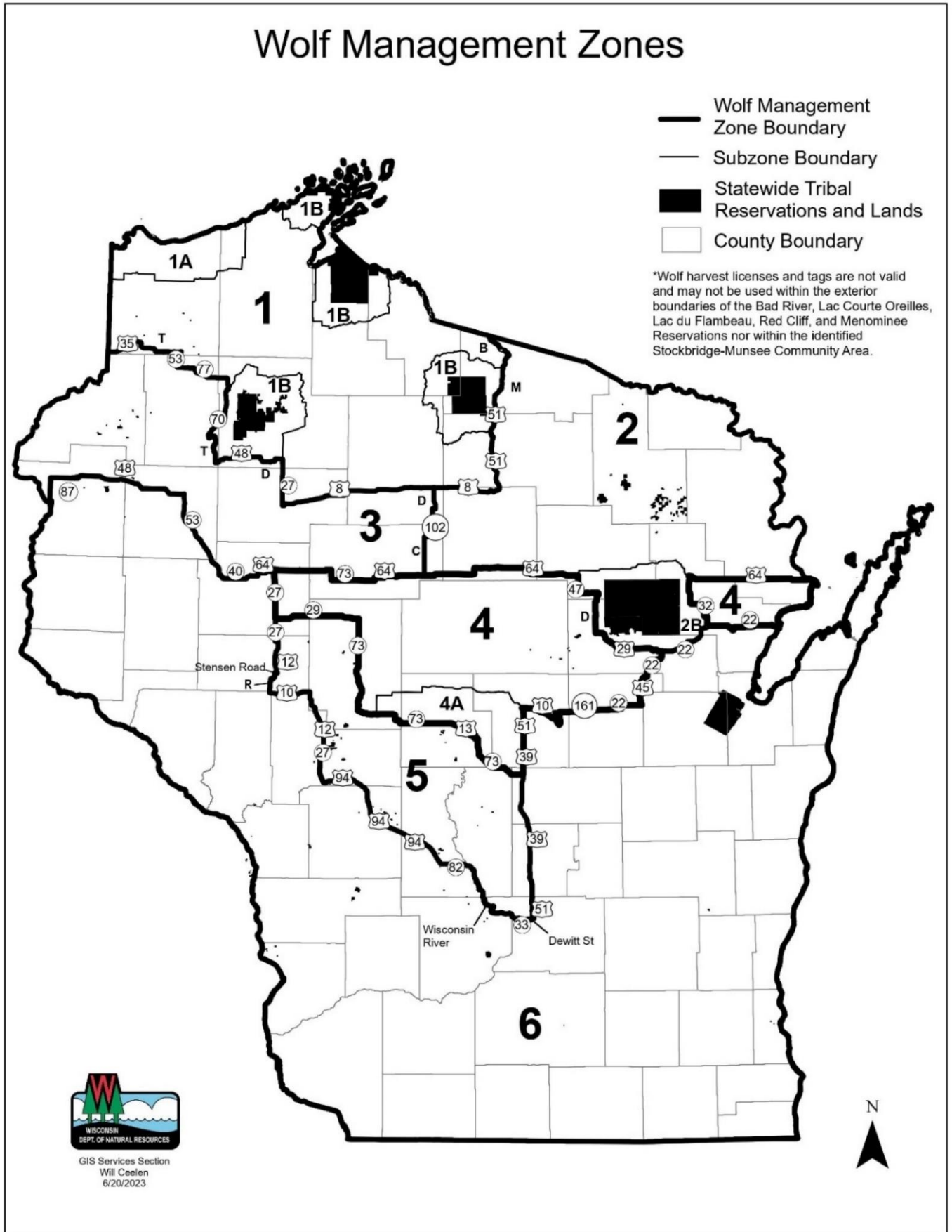
SECTION 26. NR 10.20 is repealed.

SECTION 27. NR 10.295 is created to read:

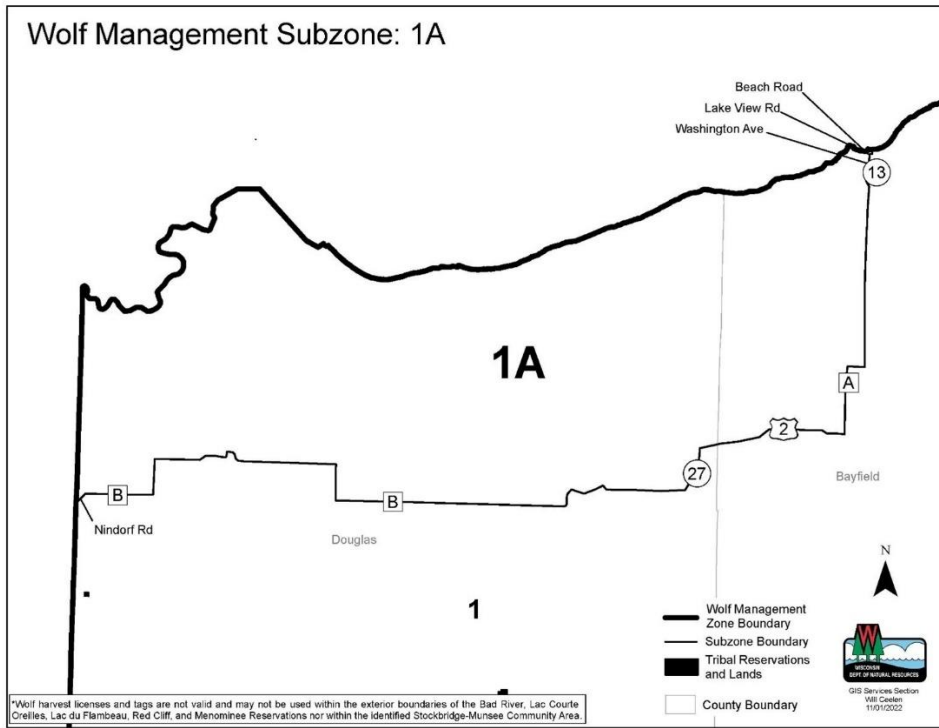
NR 10.295 **Wolf Management Zones.** Wolf population management zones are designated on the following maps:

- (1) STATEWIDE WOLF MANAGEMENT ZONES: Zone 1 includes the frozen surface of Lake Superior within this state. Zone 6 includes the frozen surface of Green Bay under the jurisdiction of Brown and Door counties, and Oconto County south of an east to west line originating at the mouth of the Oconto River, Oconto County.

Wolf Management Zones

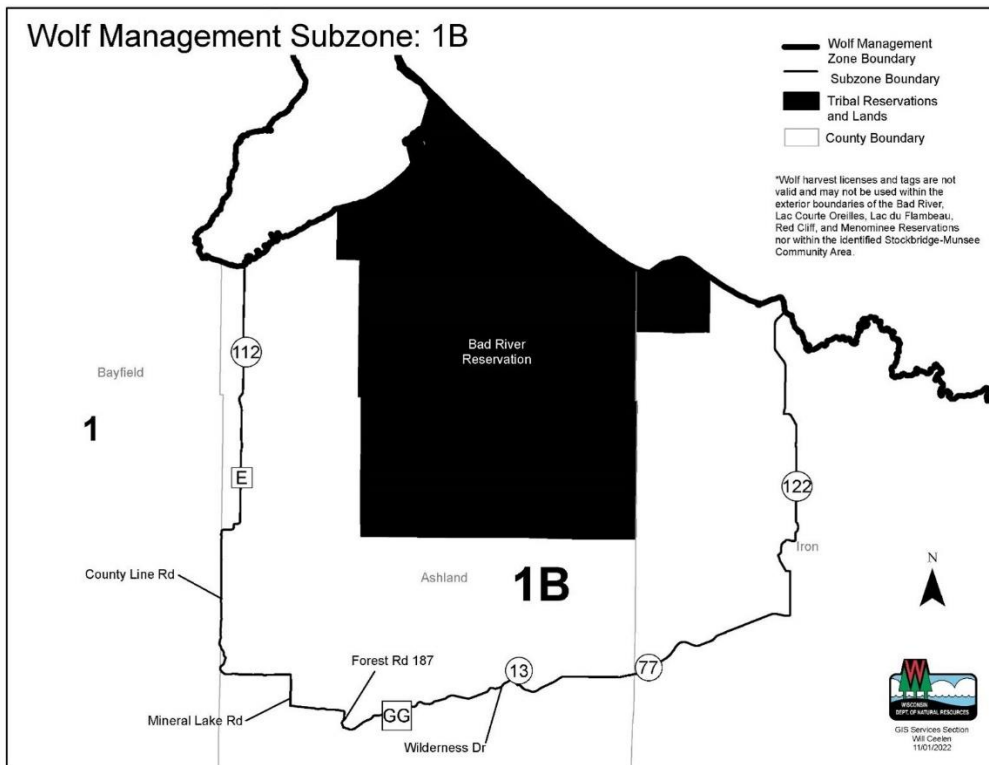


(1) WOLF MANAGEMENT SUBZONES (a) *Subzone 1A*

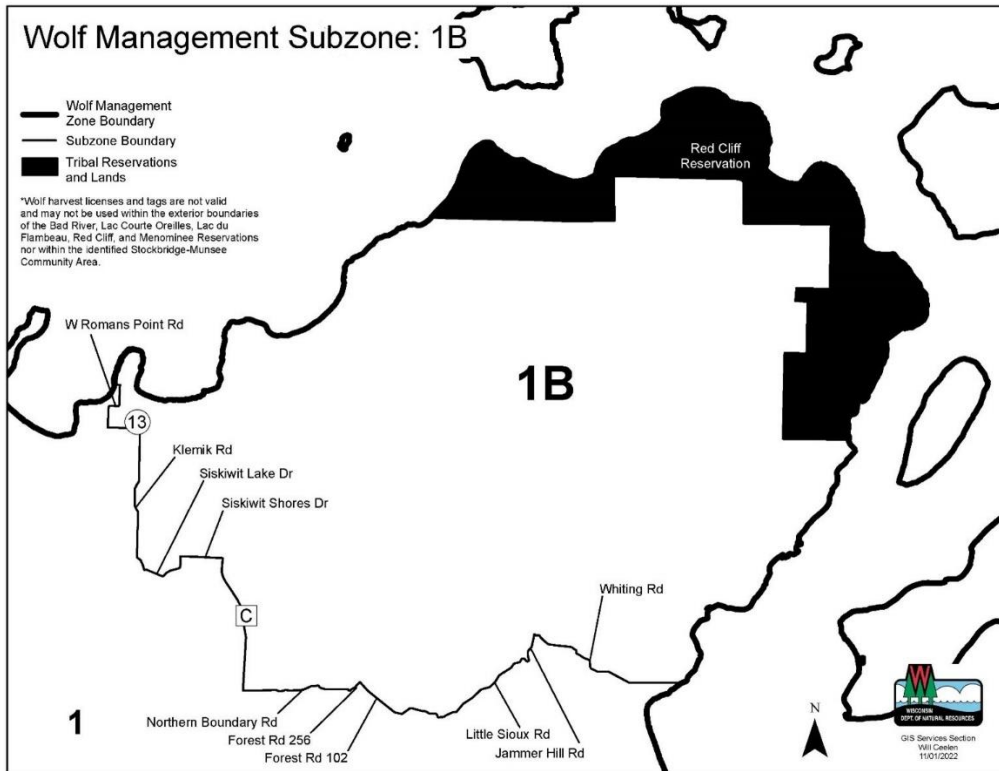


(B) *Subzone 1B*

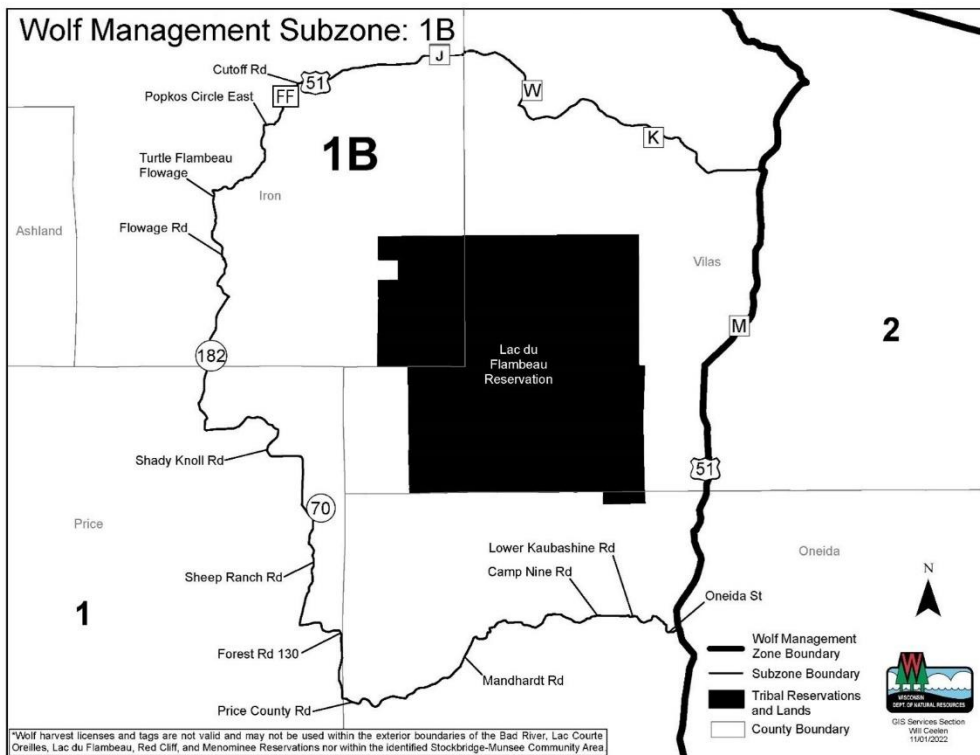
I. Ashland and Iron Counties



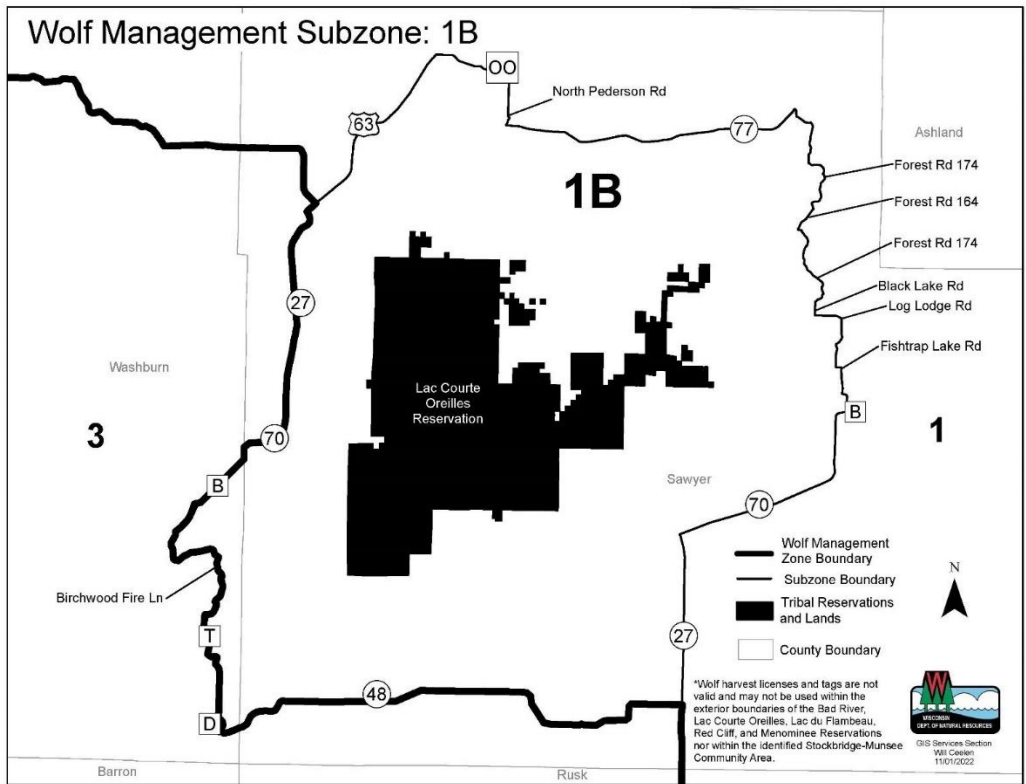
2. Bayfield County



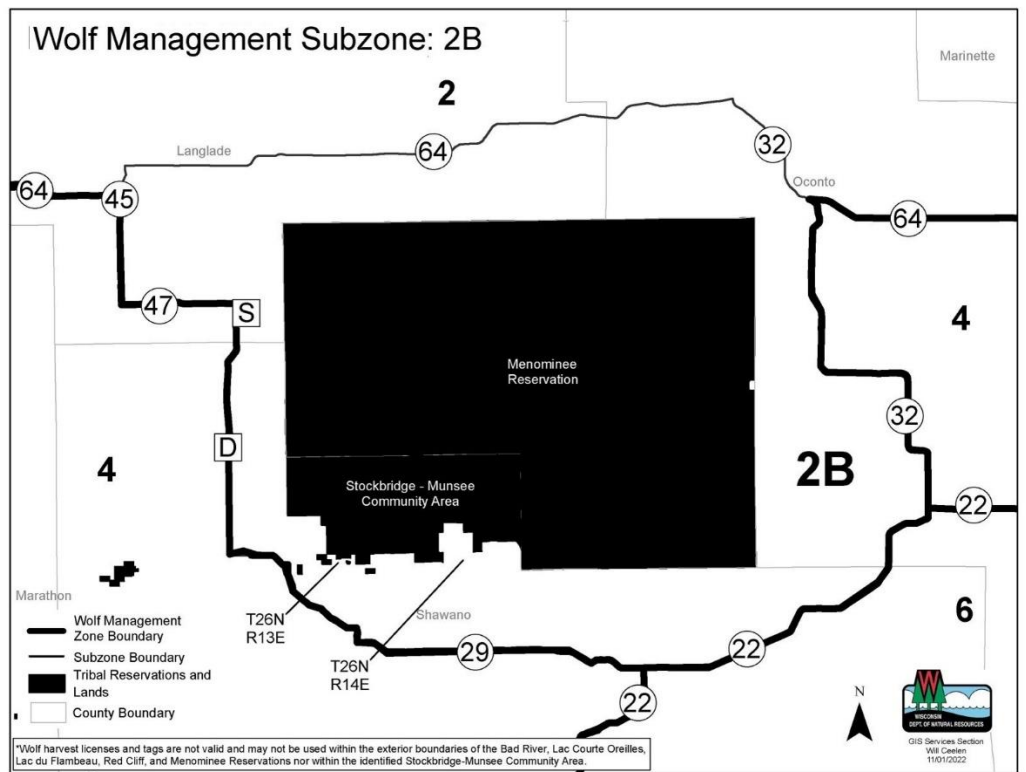
3. Vilas, Iron and Oneida Counties



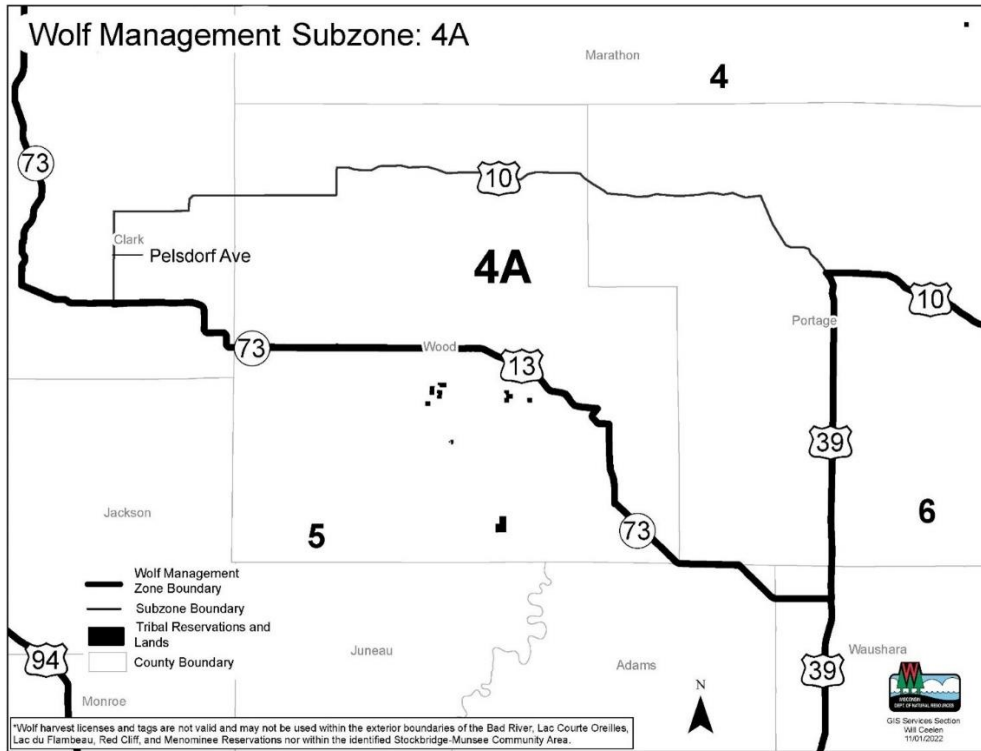
4. Sawyer and Washburn Counties



(C) Subzone 2B



(d) Subzone 4A



SECTION 28. NR 12.10 (intro.) (1) (a) (4) and (1) (b) (2) are amended to read:

NR 12.10 (intro.) **Authorization to remove wild animals causing damage or nuisance.** Landowners, lessees or occupants may remove from lands under their control wild animals and their associated structures causing damage or constituting a nuisance in accordance with ~~this section~~ s. NR 12.15 and all of the following:

(1) (a) 4. Live-capture and relocate white-tailed deer, elk, black bear, wolf, or any wild animal classified as endangered or threatened under s. NR 27.03.

(1) (b) 2. Live-trap and relocate any wild animal, except white-tailed deer, elk, black bear, wolf, or any wild animal classified as endangered or threatened under s. NR 27.03, or any animal classified as a harmful wild animal under s. NR 16.11, to open unenclosed lands not controlled by the department with the permission of the owner. Pursuit of animals released under this subdivision by dogs may not occur in an area where a wild animal has been released for a period of 2 hours after release of the animal, except dogs may be released to pursue raccoons at any time after the raccoon has reached cover by climbing a tree or pole to a height of at least 10 ~~fee~~ feet.

SECTION 29. NR 12.15 (11) (f) is created to read:

NR 12.15(11)(f) *Wolf damage removal permits.* Others participating under a wolf damage removal permit shall possess any valid license authorizing hunting with a firearm or trapping, depending on the method used, and a valid removal permit when engaged in wolf damage removal permit activities.

SECTION 30. NR 12.15 (13), 12.50, 12.51, 12.52 (2), 12.53 (1) and (2), and 12.54 (2) (a), (am), (b) and (c) are amended to read:

NR 12.15(13) USE RESTRICTIONS. Hunting bear or wolves with the aid of dogs under this chapter is prohibited, unless the department determines there are extraordinary conditions which warrant an exemption. When the department grants an exemption, permittees may restrict hunting access of bear hunters using dogs if trespass problems on adjoining private properties are likely to occur.

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 listed as endangered or threatened species under s. NR 27.03. 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 (2) “Confirmed ~~non-wolf or~~ non-E/T species depredation” means the department has found conclusive evidence that something other than an E/T species ~~or wolf~~ killed or injured the animal

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.

NR 12.54 (2) AMOUNT OF PAYMENTS. (a) *Livestock.* The department shall reimburse the claimant the fair market value, that is the feeder market value for young of the year or replacement value for adult (1+ years), of livestock killed by E/T species ~~or wolves~~ not to exceed the established maximum for that animal type. A maximum amount to be paid for each type of animal shall be established annually by the department. These maximums shall be determined each year by January 30, by a panel of 3 agriculture experts, one each from Wisconsin department of agriculture, trade and consumer protection, University of Wisconsin–Madison agricultural extension, and the Wisconsin farm bureau federation.

(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.

(c) *Missing calves.* Should wolves be listed on the endangered species list, ~~The~~ the department shall reimburse the claimant for missing calves beyond those that would be lost according to the normal mortality rate determined by U.S. department of agriculture and that research has shown to be attributed to wolf depredation at a rate of up to 5 calves for each verified loss of livestock when all of the following criteria are met:

(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.

SECTION 31. NR 12.54 (4), 12.60 to 12.65 are created to read:

(4) CLAIM PAYMENTS. If wolves are listed on the federal or state endangered species list, the department shall pay damage claims as soon as practicable after determining that the claim is eligible to be paid.

Subchapter IV – Wolf Damage

NR 12.60 **Purpose.** This subchapter is adopted to implement and administer the payment of claims for damage associated with wolves authorized by s. 29.888, Stats. In administration of the wolf depredation program the department shall assure that the funds appropriated by the legislature are used first to pay wolf damage claims and if any funds remain after paying claims, funds may be used to pay for wolf management and control activities.

NR 12.61 **Applicability.** This subchapter applies to claims for damages caused by gray wolves. It is not applicable to damage caused by gray wolves at times when the wolf is listed on the federal or the state endangered species list.

NR 12.62 **Definitions.** For the purposes of this subchapter:

(1) "Confirmed depredation" means that the department has found clear evidence that wolves 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 depredation" means the department has found conclusive evidence that something other than a wolf killed or injured the animal.

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

(4) "Hunting dogs" means any dog lawfully used in the hunting, tracking or trailing of game animals other than wolves.

(5) "Livestock" means the following farm animals: bison and other bovine animals, sheep, goats, swine other than wild hogs, farm-raised deer, equine animals, poultry, ratites, llamas, alpacas, captive game animals, guard animals for livestock, and fish.

(6) "Pets" mean dogs and other domestic animals maintained as companion animals but does not include livestock or hunting dogs.

(7) "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.

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

NR 12.63 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 a wolf and wishes to seek compensation under this subchapter shall contact the department or its agent within 24 hours of the depredation or within 24 hours of becoming aware of injured, killed or 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 or its agent 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.

Note: The Department currently contracts with the U.S. Department of Agriculture-APHIS-Wildlife Services to handle complaint contacts and response.

(2) **VERIFICATION CATEGORIES.** The department shall classify each complaint received under this section as one of the following:

- (a) Confirmed wolf depredation.
- (b) Probable wolf depredation.
- (c) Confirmed non-wolf depredation.
- (d) Unconfirmed depredation.

(3) **CLAIM SUBMITTAL.** The complainant shall submit a claim for reimbursement of a verified loss within 30 days of the loss on forms provided by the department. Missing calf claims must be submitted by December 31st of the year the loss occurred.

Note: The wolf damage loss reimbursement request form is available from by contacting the Department wildlife damage specialist.

NR 12.64 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) (d).

(b) *Compliance.* A claimant for damage payments shall meet all of the following eligibility requirements:

1. 'Carcass Disposal.' A claimant shall comply with the carcass disposal requirements of s. 95.50, Stats., for claims for livestock other than farm-raised deer and, for claims for farm-raised deer, the farm-raised deer fencing requirements of ss. 90.20 and 90.21, Stats., to be eligible for reimbursement.

Note: Section 95.50, Stats., regulates disposal of livestock carcasses and requires burning or burying the carcass when the animal is suspected of dying from highly dangerous diseases. Sections 90.20 and 90.21, Stats., specify fencing requirements for those who raise or keep farm-raised deer.

2. 'Open Hunting Access.' Unless exempted by the department, a claimant seeking compensation for wolf damages that occurred on property a claimant owns or leases must have hunting access control over all contiguous land on which they seek wildlife damage abatement assistance or claims. An enrollee shall open their land to hunting or trapping wolves during the wolf hunting and trapping seasons established in s. NR 10.01(3)(j). A claimant may not charge any fees for hunting or trapping, hunting or trapping access or any other activity that includes hunting or trapping wolves. This hunting access requirement shall also apply to an enrollee who has also been issued a wolf removal permit under s. 29.885, Stats., and this chapter. An enrollee may restrict hunting access to normal daylight hunting hours and may restrict wolf hunters using dogs if trespass on adjoining private properties is likely to occur. An enrollee may refuse hunting access for reasonable cause as defined in s. NR 12.31 (7).

3. 'Hunter Density and Registration.' The enrollee shall allow at least one trapper per enrolled property or 2 hunters per 40 acres of land suitable for hunting, as determined by the department using the criteria established in s. NR 12.36(3)(b)1. at any given time of the appropriate hunting season. The enrollee and hunting members of the immediate family that reside in the enrollee's household may be counted towards the hunter density requirement when they are actively hunting or trapping. To register for hunting and/or trapping access, a licensed hunter and/or trappers shall contact the claimant and arrange a meeting where the claimant shall describe any hunting constraints on the property, and any information necessary to promote safety and prevent trespass.

4. 'Compliance with wildlife damage abatement measures.' In order to be eligible for wolf damage claim payments for an occurrence of wolf damage, a person seeking damage claim payments shall have complied with any wolf damage abatement measures to abate that wolf damage which were recommended by the department or its agent. Recommended measures shall be consistent with normal animal husbandry practices and may not interfere significantly with other normal animal husbandry practices in use on that farm.

5. 'Entry to land.' An enrollee shall allow the department or its agent to enter and inspect, at reasonable times, any land for which a wild depredation claim has been filed or for which wolf damage abatement measures have been implemented.

(2) AMOUNT OF PAYMENTS. (a) *Livestock.* The department shall reimburse the claimant the fair market value, that is the feeder market value for young of the year or replacement value for adult (1+ years), of livestock killed by wolves not to exceed the established maximum for that animal type. . Producers with multiple confirmed livestock depredations events during the same grazing season shall be reimbursed at 1.25 times fair market value. This enhanced rate only applies to confirmed livestock depredations events that occur after the first confirmed livestock depredation event. A maximum amount to be paid for each type of animal may be established annually by the department. The department shall determine the annual maximums in consultation with a panel of agriculture experts which includes an individual from Wisconsin Department of Agriculture, Trade and Consumer Protection and the Wisconsin Farm Bureau Federation or the federation's designee.

Note: The list of maximum allowable claims will be available from the Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707-7921.

(b) *Hunting dogs and pets.* The department shall reimburse the claimant the fair market value, up to a maximum of \$2,500 per animal, for hunting dogs. Fair market value will be based upon recent sale records for similar dogs or pets, the recommendation of individuals with expertise in establishing the fair market value of dogs, and shall be approved by the department.

(c) *Veterinary expenses.* The department shall reimburse the claimant for all veterinary expenses incurred in the treatment of livestock, hunting dogs or pets injured by 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. The claimant shall submit a detailed receipt to the department within 30 days of paying the veterinarian bill.

(d) *Missing calves.* The department shall reimburse the claimant for missing calves beyond those that would be lost according to the normal mortality rate determined by U.S. department of agriculture and that research has shown to be attributed to wolf depredation at a rate of up to 5 calves for each verified loss of livestock provided all of the following criteria are met:

1. The claimant tags all calves within 2 weeks of birth and provides a list certifying to the department an exact count at the beginning of the grazing season including information on the tag number, date, and sex of all calves.

2. The claimant records and provides a list certifying to the department an exact count of all calves rounded up at the end of the grazing season and a list of all tagged calves determined to be missing.

3. The claimant provides a list certifying to the department all known deaths and losses of calves during the grazing season.

4. The department has documented that at least one livestock loss on the claimant's property within the same grazing season that is verified as a confirmed or probable wolf depredation and there is evidence that wolves continued to be present on the property during that period of time.

5. The claimant certifies that they will cooperate with any research conducted by the department to determine the amount of mortality of missing calves that is caused by wolves, if such cooperation does not impact the claimant economically in a significant manner or impose an unreasonable burden or hardship on the claimant. Disputes as to whether claimants are impacted economically in a significant manner or what is an unreasonable burden or hardship shall be resolved by the panel of 3 agricultural experts identified in par. (a).

Note: The U.S. department of agriculture calculates the normal calf mortality rate for beef cow-calf operations nationwide. In 2003 that rate was 2.3 percent. The department will conduct scientific field research in Wisconsin to determine how much mortality to missing calves can be attributed to wolves.

(3) CLAIM PAYMENTS.

1. The department shall review and act on eligible claims after December 31 of the year in which the damage occurred.

2. The department shall pay claimants the full amount of wolf damage claims if appropriations under s. 20.370(5)(fv), Stats., are sufficient to pay all wolf depredation claims in a given fiscal year.

3. If the approved claims exceed the funds available under appropriation s. 20.370(5)(fv), Stats., claims shall be paid on a prorated basis. When prorating claims, the department shall pay a percent of each eligible claim equivalent to the percent of the total approved claim amount that can be paid with the total available funds.

4. The department shall reimburse claimants for losses due to wolf depredation regardless of any other insurance the claimant may have on the animals that were killed or injured.

NR 12.65 **Personal property.** The department may not provide compensation for damage done by wolves to personal property other than livestock, hunting dogs that are not dogs used or being trained for hunting or pursuing wolves, and pets.

SECTION 40. EFFECTIVE DATE. This rule takes 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 41. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

BY _____

For Adam N. Payne, Secretary