

Natural Resources – Revises Ch. NR 10 - EmR1215

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

Filed with LRB: September 14, 2012
Publication Date: October 1, 2012
Effective Dates: October 1, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

The statement of scope for this rule, SS 038-12, was approved by the Governor on May 29, 2012, published in Register No. 678, on June 14, 2012, and approved by the Natural Resources Board on June 27, 2012. This emergency rule was approved by the Governor on August 30, 2012.

The Wisconsin Natural Resources Board proposes an order to repeal and recreate Ch. NR 10.01(3)(h)1. relating to the coyote hunting season.

WM-16-12(E)

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: Opening the coyote hunting season at times when a firearm deer season is also open is specifically authorized under 29.185(5)(d) which was created by 2011 ACT 169. Non-statutory provisions of 2011 ACT 169 exempt the department from making a finding of emergency in promulgating any rules that are necessary to implement the ACT.

Statutes Interpreted and Explanation: The department is also directed by s. 29.014, Wis. Stats. to establish regulations for the taking of game that conserve populations, including coyotes, and provide opportunities for good hunting. Additionally, ss. 29.011, 227.11 and 227.24 Stats., have been interpreted as providing the department with the authority to make this rule change.

Related Statute or Rule: The department is also working on a permanent rule that will potentially be identical to this rule, Board Order WM-15-12. Additionally, the department is working on a permanent rule package establishing hunting and trapping seasons, regulations, and a depredation management plan for wolves, WM-08-12. This proposal related to coyote hunting in wolf management zone 1 is germane to the rule order related to wolves. It is also possible that the department will recommend permanently promulgating this rule as part of WM-08-12.

Plain Language Rule Analysis: The Bureau of Wildlife Management recommends promulgating rules modifying chapter NR 10 Wis. Admin. Code related to the coyote hunting season.

SECTIONS 1 and 2 repeal the coyote hunting season closure in Wolf Management Zone 1 and create a statewide open season.

Federal Regulatory Analysis: These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies.

The department is not aware of any existing or proposed federal regulations related to coyote hunting

Comparison with rules in Adjacent States: Coyotes are an unprotected species in Minnesota and they may be hunted year-round. In Michigan, the coyote hunting season begins on July 15 and ends on April 15. The Iowa coyote season is

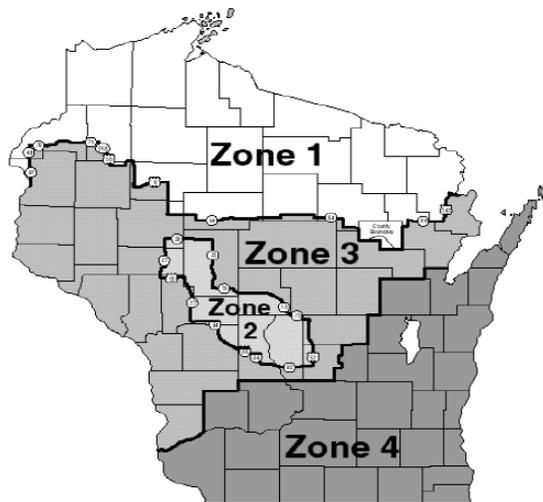
open continuously, year-round. In Illinois, the coyote season is open year-round except that, during firearm deer seasons, coyote hunters must also possess a valid, unfilled deer tag.

Summary of Factual Data and Analytical Methodologies: The coyote hunting season is currently closed at times when firearm deer seasons are open in Wolf Management Zone 1. This rule would open the coyote season.

Under this proposal, wolves would continue to be protected during the firearm deer season and harvest would only be allowed by a person who possesses a valid wolf harvesting license.

The current closure was established when wolves were listed in Wisconsin and federally as an endangered species, to prevent incidents of misidentification by people who intended to harvest coyotes. The closure is no longer needed for protection of the wolf population and this coyote hunting opportunity can be restored. The wolf population has expanded and packs are established in many areas outside of Wolf Management Zone 1, where the current coyote season closure has never been in effect. Coyote harvest has also been allowed in Wolf Management Zone 1 at times when firearm deer seasons were not open.

NR 10.20 Wolf management zones.



Policies relevant to the rule are consistent with existing policies for hunting. Coyote harvest is currently and has historically been allowed during firearm deer seasons outside of Zone 1 and this does not seem to have impacted wolf management in those areas. The department has regulations in place establishing open and closed seasons or continuous open seasons for many established species.

Coyotes are commonly harvested incidentally by people who primarily hunting deer during the firearm deer season. Expanding that opportunity to hunters in Wolf Management Zone 1 will increase opportunity for those hunters and they are the only people who are likely to be affected by the proposed rule.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no costs are associated with compliance to these rules. During the firearm deer season, hunters are primarily pursuing deer and that is what drives a person’s decision to participate. Hunters may appreciate the opportunity to harvest a coyote incidentally to their deer hunting activities, but the opportunity is not anticipated to have any impact on hunter participation or their related activities and expenditures.

Effects on Small Business: 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 a significant economic impact on a substantial number of small businesses under 227.24(3m).

SECTION 1. NR 10.01(3)(h)1.a. is repealed and recreated:

| Kind of animal and locality | Open season (all dates inclusive) | Limit |
|--|--|--------------|
| NR 10.01(3)(h) <i>Coyote</i> 1. Hunting a. | All year | None |

SECTION 2. NR 10.01(3)(h)1.c. is repealed.

SECTION 3. STATEMENT OF EMERGENCY. A non-statutory provision, SECTION 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

SECTION 4. EFFECTIVE DATE. This rule shall take effect on October 1, 2012.

SECTION 5. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on August 8, 2012.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

Final Regulatory Flexibility Analysis

Natural Resources Board Order No. WM-16-12(E)

No economic impacts are anticipated. These rules and the legislation which grants the department rule making authority do not have a significant fiscal effect on the private sector. Additionally, no costs are associated with the compliance to these rules. During the firearm season, hunters are primarily pursuing deer and that is what drives a person's decision to participate. Hunters may appreciate the opportunity to harvest a coyote incidentally to their deer hunting activities, but the opportunity is not anticipated to have any hunter participation or their related activities and expenditures.

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, 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 rule will not have a significant economic impact on a substantial number of small businesses under 227.24(em) Stats.