

Natural Resources – Revises Chs. NR 10, 12, 19 – EmR1210

Filed With LRB: August 15, 2012

Publication Date: August 18, 2012

Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

EMR1210

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES**

The statement of scope for this rule, SS 023-12, was approved by the Governor on April 12, 2012, published in Register No. 676, on April 30, 2012, and approved by the Natural Resources Board on May 23, 2012.

This emergency rule was approved by the Governor on August 10, 2010.

The Wisconsin Natural Resources Board proposes an order to amend NR 10.001(25c), 10.02(1), 10.06 (5) and (8)(intro.), 10.07(2)(b)2., 10.07(2m)(intro.) and (e)(intro.), 10.07(2m)(f)(intro.), 10.09(1), 10.13(1)(b)9., 10.13(1)(b)15., 10.13(1)(b)16., 10.145(intro), 10.145(3) to (8), 12.10(intro.), 12.10(1)(a)4., 12.10(1)(b)2., 12.15(13) and 19.25 and to create NR 10.001(22q), 10.001(23a), 10.001(23am), 10.001(23b), 10.001(26g), 10.001(33), 10.01(3)(j), 10.07(1)(m), 10.07(2m)(em), 10.07(2m)(g)3., NR 10.07(4), 10.13(1)(b)15m., 10.13(1)(b)18, 10.145(1m), (1u) and note, 10.16(5), 10.295, 12.15(11)(e), 12.60 to 12.63, 12.64(1)(a) and (b)(intro.)1., 12.64(1)(b)2. and 3., 12.64(1)(b)4. and 5., 12.64(2)(a) to (c), 12.64(2)(d), 12.64(3) and 12.65 relating to the wolf hunting and trapping season and regulations and a depredation program.

WM-09-12(E)

Analysis Prepared by the Department of Natural Resources

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

Many provisions of 2011 Wis. ACT 169 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), 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), Stats., of the ACT.

A variety of provisions explicitly authorize the department to limit wolf harvest if necessary to effectively manage the state wolf population. The department's authority to limit the number of harvest licenses issued is established in s. 29.185(1), Stats. The establishment of wolf harvesting zones is required by the s. 29.185(5)(b), Stats., of the ACT. Department authority to close the season in a harvest zone is established in s. 29.185(5)(c), Stats. Regulations on the proper use of tags and registration of harvest are authorized under s. 29.185(7), Stats., and generally by s. 29.014, Stats.

Regulations on the types of traps that may be used to harvest wolves are authorized under s. 29.185(6)(f), Stats., and generally by s. 29.014, Stats.

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

Restrictions on the removal of wild animals and the wildlife damage abatement and claims program are established under the authority of ss. 29.014 and 29.885, Stats. These provisions allow the department to require written authorization for a member of the public to capture and relocate or kill wolves in damage and nuisance situations, consistent with current requirements for species such as deer, bear, and elk. Current administrative rule and statutory requirements for preventative abatement action before killing certain wild animals will be extended to wolves. Public hunting and trapping of certain species must be allowed for species currently covered under s. 29.885 (4m), Stats. The department will extend these requirements for wolves being removed under s. 29.888, Stats., of the ACT through this rulemaking. These provisions will not affect current rules that allow a landowner, lessee or occupant of land to kill a wolf that is actually in act of killing, wounding or biting a domestic animal.

All rules promulgated under this authority are subject to review under ch. 227, Stats. Non-statutory provisions of 2011 ACT 169 require the department to submit rules necessary for implementation or interpretation and establish that the department is not required to make a finding of emergency.

Related Statute or Rule: The department is also promulgating a similar permanent rule, Board Order WM-08-12.

Plain Language Rule Analysis: The Bureau of Wildlife Management recommends promulgating rules modifying chapters NR 10, 12 and 19 Wis. Admin. Code related to the wolf hunting and trapping season and regulations and a depredation program.

SECTIONS 1, 3 to 5, and 7 contribute to defining “reservation wolf” pack for the purposes of establishing wolf harvest quotas.

SECTION 2 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 6 clarifies, in the definition, that wolves are not small game.

SECTIONS 8 and 30 define and establish Wolf Harvesting Zones.

SECTION 9 locates the statutorily established wolf hunting and trapping season dates in the table where other season dates are established.

SECTIONS 10 and 44 strike wolves from the list of protected species for which hunting and trapping seasons are not established and relocates a provision allowing landowners, lessees and occupants of lands to kill nuisance wolves in certain situations.

SECTIONS 11 and 12 establish normal daytime hours for hunting wolves but eliminate s 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 13 prohibits the use of radio telemetry receivers to aid in locating wolves for any purpose unless specifically authorized by the department.

SECTIONS 14 to 18 establish that baiting is allowed as a method of hunting wolves and the conditions under which bait may be placed for hunting wolves.

SECTION 19 establishes special regulations for hunting wolves at night including a prohibition of using dogs at night. This SECTION also establishes regulations related to dog tags, identification, and the number of dogs that may be used.

SECTION 20 updates code language for consistency with 2011 ACT 168 and 2011 ACT 169 regarding the allowed types of firearms, ammunition, and crossbow use for hunting wolves.

SECTION 21 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 22 and 23 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 24 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 an valid unfilled permit and tag, in the case of an incidental bobcat.

SECTION 25 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 26 and 27 establish 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.

SECTION 28 explains how applications for wolf harvesting licenses are made and successful applicants are selected. This SECTION also establishes the manner for tagging, reporting and registering harvested wolves with the department. Finally, this section creates language that is consistent with 2011 ACT 169 regarding a process for closing the wolf hunting and trapping seasons.

SECTION 29 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 31 to 34 re-establish, following delisting of the species, that department authorization is required to remove wolves causing damage or which constitute a nuisance and establish conditions and requirements for removal.

SECTION 35 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 for bear damage.

SECTIONS 36 to 43 establish a wolf depredation program that is in effect only at times when wolves are not listed as a threatened or endangered species.

Federal Regulatory Analysis: These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations.

Wolves are currently a state managed species. The US Department of Interior announced in December, 2011 that gray wolf populations in the Great Lakes region have recovered and no longer require the protection of the Endangered Species Act (ESA). The U.S. Fish and Wildlife Service published a final rule in the Federal Register that removed wolves in Michigan, Minnesota and Wisconsin, and in portions of adjoining states, from the list of endangered and threatened wildlife and plants. The rule went into effect on January 27, 2012.

The states of Wisconsin, Minnesota and Michigan are required to monitor wolf populations for at least five years to ensure the species continues to thrive. If it appears, at any time, that the gray wolf cannot sustain itself without the protections of the ESA, the service can initiate the listing process, including emergency listing.

Comparison with rules in Adjacent States: The only adjacent state that has established a wolf hunting and trapping season is Minnesota. Michigan is likely to allow hunting or trapping in the future but has not established a season framework that can be evaluated at this time.

Minnesota will allow hunting and trapping, but not with the assistance of dogs, for the first time in 2012. The application fee will be \$5.00 and the harvest permit will cost \$50.00. Minnesota will issue 6,000 harvest permits with the intention of harvesting a quota of 400 wolves from a population of approximately 3,000 animals. Because 2012 will be Minnesota's first wolf hunting and trapping season, they have no experience with their season framework.

Summary of Factual Data and Analytical Methodologies: This rule proposal will guide management activities by the department, establish regulations that apply to individual hunters and trappers, and establish a wolf depredation program. In all cases, these rule proposals are consistent with existing management guidelines and regulations for other species that are currently hunted or trapped in Wisconsin. The wolf depredation program is similar to and consistent with the existing program for gray wolves when they are listed as threatened or endangered and the wildlife damage, claims and abatement program.

The proposal creates a definition of "reservation wolf packs" for the purposes of establishing wolf harvest quotas. The department proposes not including wolves on tribal lands when establishing quotas.

This rule establishes 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.

With the removal of endangered and threatened species protections for wolves, they will automatically be classified as small game unless the exemption in SECTION 2 of this rule is created. 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 establishes 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 establishes wolf harvesting zones. The department will establish harvest quotas for each zone and hunters and trappers are allowed to pursue wolves only in the zone indicated on the license. Under the rule, the department will have the ability to list more than one zone or subzone on a license, providing flexibility for hunters if one zone they intended to hunt is closed early. An alternative might be to allow hunters to obtain a new license with a new zone designation when the season in a hunter's original zone choice is closed early. Managing harvest by the use of zones allows harvest to be focused in 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. However, geographically smaller zones have the disadvantages of regulatory complexity and reducing the area available to individual hunters and trappers. Larger zones reduce the amount of fine tuning of management that is possible. The wolf harvesting zones in this proposal represent a compromise that takes advantage of the opportunity to utilize zones but minimizes the number of zones.

This rule making will establish that harvest quotas for wolves will be based in part on the wolf population, population trends and established population goals. The number of permits issued to reach a harvest quota will be based in part on the trends of hunter and trapper success rates and is consistent with the department's harvest management strategy for other species. In establishing harvest permit levels, the department will also consider the likelihood of a season being open for its entire allotted number of days.

A final consideration will be managing wolf conflict with agriculture and land use in an area, and maintaining a sustainable population in core habitat areas. For wolves, a population goal at which public harvest and proactive control could occur is currently, and will continue to be, established in a species management plan prepared by the department and approved by the Natural Resources Board.

Requiring reporting or 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, this rule requires a hunter or trapper to report harvest by phone or other method authorized by the department within 24 hours of the harvest, allowing the department to monitor harvest activity as it occurs during the season. If reporting 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. Similar reporting requirements are already in place for bobcat and Canada geese, two other species for which the department possesses emergency season closure authority.

There is an additional requirement to present wolf carcasses and pelts to the department for inspection and registration purposes at a later time. At registration, the department will collect samples from carcasses that can be used to determine age and reproductive information and for health monitoring of the animals. Detailed information on the location of harvest will also be collected. The time of registration is when registration tags will be issued indicating that the animal has been registered with the department and is now the property of the hunter or trapper. Many hunters and trappers will be familiar with these requirements because they are similar or identical to other species that are currently hunted or trapped such as bear, bobcat, otter, fisher, and deer.

The department anticipates that compliance with reporting and registration requirements will be good. Wolf hunters and trappers will have significant incentive to report and register in order to obtain the state registration tag that allows possession, transfer and sale of the wolf pelt or carcass. Possessing the attached registration tag 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).

A number of wolves have been captured and fitted with radio telemetry gear by the department for research purposes. Under the proposal, the use of radio telemetry gear for locating wolves will 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 also commonly use this technology for monitoring their dogs. Individuals using dogs are specifically exempted from the prohibition of possessing radio telemetry gear as long as it is not used to locate wolves that are fitted with transmitters. Harvest of a collared wolf is legal.

This rule proposal establishes regulations on the use of bait for hunting, 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 would be allowed beginning on the day after bear season closes and continuing through the close of the wolf season in a zone. 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 on hunting deer and bear, animal parts and by-products are not allowed as bait for hunting wolves, as established in the ACT.

Current statute establishes that it is illegal to use baits containing poison of any description where it might cause the destruction of wild animals. This proposal creates a similar provision where baiting regulations are established in administrative code and 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.

Meat or other animal parts and by-products can be used as bait for trapping, as they are not prohibited by the ACT, and no rule change regarding the use of baits for trapping is required or proposed in this order. Allowing the use of meat or other animal parts and by-products as bait for trapping may be important to prevent the incidental capture of non-target species such as deer when using cable restraints. The disposal of the carcasses of domestic animals is regulated by the Department of Agriculture, Trade and Consumer Protection and they are not legal for use as bait for trapping wolves.

Hunting at night is authorized under ACT 169 and 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 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 establish 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 is 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 DNR 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 significance of current rule is that it also allows enforcement of special closed area regulations by the department. This proposal includes wolves in a way that is consistent with language for species that are currently hunted and trapped at Necedah. The proposal 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. In 2010 the department paid approximately \$204,000 in claims to owners of animals under the existing program for depredation caused by wolves. The existing program will remain in place under this proposal but will only apply at times when wolves are listed as endangered or threatened. Most aspects of the current program are recreated by this proposal in a new section that will be in effect at times when wolves are not listed as protected or threatened.

Several new features are also created that will apply only when wolves are not listed as endangered or threatened. This rule creates 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 dogs if trespass on neighboring lands is perceived to be an issue. In order to minimize the use of lethal control, the proposal creates 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 establishes that the 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. The proposal establishes that 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. These rules establish that someone with a valid hunting license of any kind can 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 WI trapping license. Finally, this proposal revises the current missing calf rules to create 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.

Anticipated Private Sector Costs and effects on Small Business: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules. The department does not have experience yet to gauge the level of public participation and interest in this new activity. 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. 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 and that, combined with the low number of hunters, means there will be limited new retail expenditures even though this is a new opportunity. Successful hunters and trappers will contribute economically through the sales of wolf pelts or, more often, the purchase of taxidermy services. These will be minor contributions overall but for an individual taxidermist, guide, or motel owner who receives extra work, the impact is worth noting.

The ACT and this rulemaking will allow Wisconsin to manage wolves to population levels that will be lower than the current population. As a result, there will likely be less wolf depredation on domestic animals. Under previous requirements of law and under the ACT, 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. In 2010, the department investigated and made damage payments for depredations of 84 cattle or missing cattle and six sheep.

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.

Agency Contact Person: Scott Loomans, 101 South Webster St., PO BOX 7921, Madison, WI 53707-7921. (608) 267-2452, scott.loomans@wisconsin.gov

SECTION 1. NR 10.001(7s) is created to read:

NR 10.001(7s) "Den site" means a specific location where wolf pups are born and raised in the spring season of the year.

SECTION 2. NR 10.001(22q) is created to read:

NR 10.001(22q) "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 in which 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.

SECTION 3. NR 10.001(23a) is created to read:

NR 10.001(23aa) "Rendezvous site" means a specific location where wolf pups are kept in the summer and early fall seasons of the year.

SECTION 4. NR 10.001(23am) is created to read:

NR 10.001(23a) "Reservation" means the federally established reservation of a tribe.

SECTION 5. NR 10.001(23b) is created to read:

NR 10.001(23b) "Reservation wolf" means a wolf or wolves that has at least 50% of its territorial range located within the boundary of a reservation or for whom 50 percent of their rendezvous sites, or a den site, are located within the boundary of a reservation.

SECTION 6. 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 7. NR 10.001(26g) is created to read:

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

SECTION 8. NR 10.001(33) is created to read:

NR 10.001(33) "Wolf Harvesting Zone" means those established in s. NR 10.295

SECTION 9. NR 10.01(3)(j) is created to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(3)(j) Wolf hunting and trapping in all wolf harvesting zones unless closed under s. NR 10.145(7)	October 15 – 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).	One per license and pelt tag issued under s. NR 10.145.

SECTION 10. NR 10.02(1) 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.~~

~~(b) 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 gray wolf or cougar in the act of killing, wounding or biting a domestic animal. Shootings shall be reported within 24 hours to a department conservation warden. The carcass of the wolf or cougar shall be turned over to the department.~~

SECTION 11. NR 10.06(5) is amended to read:

NR 10.06(5) HUNTING HOURS. Hunting 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. Hunting hours for migratory game birds are 30 minutes before sunrise to sunset. All waterfowl hunting starts at 9:00 a.m. on the first day of the duck hunting season established in s. NR 10.01 (1) (b). 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 hunting 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

SECTION 12. NR 10.06(8)(intro.) is amended to read:

NR 10.06(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 as follows:

Note: If hunting at night for wolves, additional requirements are established in s. NR 10.07(4).

Section 13. NR 10.07(1)(m) is created to read:

NR 10.07(1)(m) *Telemetry devices.* Use radio-telemetry or similar equipment to locate, pursue or hunt any wolf that has radio transmitters attached to them 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 radio transmitters and the device is only used for the purpose of locating transmitters attached to the dogs.

SECTION 14. NR 10.07(2)(b)2. is amended to read:

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

SECTION 15. NR 10.07(2m)(intro.) and (e)(intro.) are amended to read:

NR 10.07(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 16. 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, except no person may place, use or hunt over bait or feed:

a. Beginning on March 1 and continuing through the last day of the bear hunting season in s. NR 10.01(g).

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. par. c.

e. Unless the person placing the bait possesses a valid wolf harvesting license or written authorization from of 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 owner's name for the location where the licensee has authorized the person assisting them to place the bait.

f. Containing substances that are poisonous to canine animals.

2. Wolves may be hunted and wolf dogs 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 site does not contain any material listed in subd.1. f.

Note: The American Veterinary Medical Association's official website contains contact information for poison control centers that maintain lists of toxic substances.

SECTION 17. 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 18. NR 10.07(2m)(g)3. is created to read:

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

SECTION 19. NR 10.07(4) is created to read:

NR 10.07(4) 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. Hunting with the aid of predator calling techniques or when hunting over a bait site authorized under sub. (2m).

2. From a stationary position.

3. Without the use or aid of dogs.

(b) Dog use. 1. 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. 29.285(5)(c), whichever is earliest.

2. Number of dogs. No more than 6 dogs in a single pack may be used to trail or track a wolf, regardless of the number of hunters assisting the holder of the wolf harvesting license and regardless of dog ownership

3. Dog Tags. While a person is using a dog to hunt wolf, the person shall keep on his or her person any tag required for the dog under ss. 95.21 (2) (f), 174.053 (2), or 174.07 (1)(e).

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

SECTION 20. NR 10.09(1) is amended to read:

NR 10.09 (1) PROHIBITED METHODS. No person shall:

(a) Shotshells. 1. 'Slugs or balls.' Possess or have in control, while hunting any gamebird, any shotshells loaded with single slug or ball except during the open gun season for deer, elk or bear.

2. 'Size.' Possess or have in control, while hunting, shells containing shot larger than no. BB during the period commencing on June 1 and continuing through the last day of any deer season or hunt established in s. NR 10.01 (3) (e), (es), or (et), whichever season is later, except in any of the following circumstances:

a. During the open season established in s. NR 10.01 (1) (b), (c) and (g) when nontoxic shot size BBB and T may be used for hunting migratory game birds listed in s. NR 10.01 (1) (b), (c) and (g).

b. A person holding a valid permit to harvest a bobcat or wolf and an unfilled pelt tag issued under s. NR 10.145 may possess and use shotshells containing shot larger than no. BB for the purpose of hunting bobcat or wolf during the open season established in s. NR 10.01 (3) (d) and (j).

(b) *Incendiary shells.* Possess or have in control, while hunting, any shell, cartridge or ammunition known as tracer shells, or incendiary shells or cartridges. Distress flares are exempt from this section.

(c) Guns and devices.

1. 'Type.' Hunt with any means other than the use of a gun designed to be fired from the shoulder utilizing the energy of gun powder or compressed air, bow and arrow or by falconry except:

a. Muzzleloaders may be used for hunting, except that any muzzleloader used in the muzzleloading season described in s. NR 10.01 (3) (es) shall have a solid breech plug attached with threads, be capable of being loaded only from the muzzle, use black powder or other black powder substitute, and may include a mounted telescopic sight.

b. Hare, rabbit, squirrel, raccoon, fox, coyote, bobcat and unprotected wild animals may be hunted with handguns or pellet guns of .17 caliber or larger. Handguns shall have a minimum barrel length of 4 inches measured from the muzzle to the firing pin with the action closed.

c. Deer, wolf or bear may be hunted with handguns loaded with centerfire cartridges of .22 caliber or larger and that have a minimum barrel length of 5 ½ inches measured from the muzzle to the firing pin with the action closed.

Note: Hunters using handguns must comply with all state and federal laws respecting handguns, including s. 941.23, Stats., respecting concealment, and ~~s. 29.597~~ s. 167.31, Stats., respecting transportation.

d. Deer, wolf or bear may be hunted with cylinder loading black powder muzzle-loading handguns which are not less than .44 caliber, do not use cartridges, and have a minimum barrel length of 7 inches measured from muzzle to breech face that fire a single projectile weighing not less than 138 grains.

e. Crossbows may be used by disabled individuals issued a permit under ss. 29.171 (4) and 29.193 (2), Stats., which authorize the use of a crossbow and by resident senior citizens to hunt small game, bear, and deer, elk and wild turkey with an appropriate license, permit and tag if required.

Note: In addition, pursuant to ~~ss. 29.164 and 29.171, 29.014(1m) and 29.185(6)(a)1., Stats.,~~ crossbows may be used ~~by resident senior citizens for hunting turkey under a license issued under s. 29.164, Stats., bear under a license issued under s. 29.184, Stats., elk under a license issued under s. 29.182, Stats., and for small game and deer under the authority of an archery license issued under s. 29.171, Stats.~~ for deer, elk, turkey, bear, wolves and small game under a license that also authorizes hunting these species with a firearm during a season open for hunting that species with a firearm.

f. Notwithstanding sub. 1, a persons possessing a class D disabled hunting permit issued pursuant to s. 29.193(2)(d)3., Stats., may use an adaptive device that allows them to use an authorized type of firearm, bow and arrow, crossbow or air gun while hunting without the need for the firearm, bow and arrow, crossbow or air gun to be held by hand or fired from the shoulder, provide the person is still in physical possession and control of the weapon.

2. 'Deer, wolf or bear hunting.' Hunt any deer, wolf or bear with any air rifle, rim-fire rifle, any center-fire rifle less than .22 caliber, any .410 bore or less shotgun, a rifle or handgun loaded with .410 shotgun shell ammunition or with ammunition loaded with nonexpanding type bullets or ammunition loaded with shot other than a single slug or projectile.

3. 'Possession.' Possess any rim-fire rifle larger than .22 caliber or any center-fire rifle .22 caliber or larger in areas ~~wherein~~ where there is an open season or hunt specified in s. NR 10.01 (3) for hunting deer with shotgun only unless the rifle is unloaded and enclosed within a carrying case.

(d) Automatic firearms. Hunt with a fully automatic firearm.

(e) Handguns. Persons possessing a class A or C, or D disabled permit may use handguns chambered for .410 or larger shot shells for hunting all species except deer, elk, bear, wolf, turkey and migratory game birds.

SECTION 21. NR 10.13(1)(b)9. is amended to read:

NR 10.13(1)(b)9. 'Steel jawed traps.' No person may set, place or operate any steel jaw trap with a spread width of more than 8 inches except that the maximum spread width is 7 inches during the period beginning on October 15 and continuing through November 30 for sets that are not water sets.

SECTION 22. NR 10.13(1)(b)15. is amended to read:

NR 10.13(1)(b)15. 'Cable restraints specifications for bobcat, coyote and fox.' Except as provided under (15m), ~~Set~~ set, place or operate any cable restraint except for bobcat from December 1 to January 31 and fox and coyotes from December 1 to February 15, dates inclusive, provided the cable restraint conforms to the following specifications in addition to those under subd. 13.

SECTION 23. 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 roller 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" in diameter or any other immovable object or stake that could cause entanglement.

SECTION 24. 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.' No person may 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 subd. 15. ~~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 25. NR 10.13(1)(b)18. is created to read:

NR 10.13(1)(b)18. 'Killing captured wolves.' Kill any wolf 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: A gun chambered for the .22 caliber rim-fire cartridge may be used to dispatch a wolf that has been legally captured using trapping methods but is prohibited for hunting wolves under s. NR 10.09(1).

SECTION 26. NR 10.145(intro) is amended to read:

NR 10.145 Bobcat, wolf, fisher and otter. No person may hunt or trap, or attempt to hunt or trap, any bobcat, wolf, fisher or otter unless ~~he or she~~ possesses in possession of a current and valid license or permit from the department and any associated pelt tags for the area or unit in which ~~he or she~~ the person is hunting or trapping.

SECTION 27. NR 10.145(1m), (1u) and (1w) are created to read:

NR 10.145(1m) WOLF HARVEST QUOTAS. The wolf harvest quota shall be determined annually by the department. The department shall base its determination upon:

- (a) Population estimates and trends, not including reservation wolves.
- (b) Population goals established in a species management plan approved by the Natural Resources Board.
- (c) The projected impacts of wolf harvest quotas on the wolf population.
- (d) Managing the species' to reduce conflict with agriculture and land use in an area.
- (e) The ecological impacts of wolf predation.
- (f) The ecological importance of wolves.
- (g) The take of wolves for depredation management purposes.
- (h) Previous levels of harvest.
- (i) The impact of disease, illegal harvest, and other causes of mortality on the wolf population.
- (j) Recreational demands for wolf hunting and trapping opportunity.
- (k) Wolf harvest management in adjacent states if those states are sources of dispersing wolves.
- (l) Consideration of conservation genetics.

(m) 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.

(n) 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.

(1u) WOLF HARVESTING LICENSES. The number of wolf harvesting licenses to be issued shall be determined annually by the department. The department shall base its determination on:

- (a) The quota established in sub. (1m).
- (b) The projected success rates of hunters and trappers.
- (c) Maximizing opportunities for participation in hunting and trapping.
- (d) Minimizing the need to exercise the early season closure authority established in sub. (7).
- (e) Minimizing under and over harvest relative to the quota established in sub. (1m).

Note: The department will annually gather information from the wolf harvesting season and will utilize that information in establishing recommendations for subsequent seasons and permanent rules. The department will present a plan for gathering data to the Natural Resources Board at their September 26, 2012 meeting. Information gathered shall include, but is not limited to, information necessary to use the criteria in subs. (1m) and (1u) to establish harvest quotas, a number of licenses to issue, and whether-or-not there has been physical contact between dogs and wolves.

SECTION 28. NR 10.145(3) to (8) are amended to read:

NR 10.145(3) APPLICATION AND ISSUANCE PROCEDURES.

- (a) *Forms.* Applications for permits shall be made on forms provided by the department.
- (b) *Deadlines.* All permit 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.

Note: The department conducts extensive publicity on the application deadlines beginning several months prior to any deadline. Application deadline dates are published in news releases, the department web site at www.dnr.wi.gov, license outlet handouts, and pertinent regulation pamphlets. Department service center hours may vary by location.

- (c) *Application limit.* No person may apply for more than 1 permit for each species.
- (d) *Random selection.* If the number of applications for permits or licenses exceeds the number of permits or licenses available, successful applicants shall be randomly selected.
- (f) *Validity.* All permits are valid only in the area or areas and for the time period specified on the permit during the open season established for bobcat and wolves. Wolf harvesting licenses and tags are not valid and may not be used within the boundaries of the Bad River, Lac Courte Oreilles, Lac du Flambeau, Menominee, and Red Cliff reservations or the Stockbridge-Munsee wolf zone.

(4) TAGGING REQUIREMENTS.

(a) *Field tagging.* When a bobcat, wolf, fisher or otter is killed and before it is carried by hand or transported in any manner, the person who trapped or killed the bobcat, fisher or otter shall immediately validate their pelt tag by slitting, tearing or punching the pelt tag in the manner indicated by the department and attach and seal the pelt tag to the animal in the manner indicated by the department. Failure to validate and attach and seal the pelt tag invalidates the permit or tag. No person may tag a bobcat, wolf, fisher or otter that was trapped or killed by another.

(b) *Transportation and possession.* No person may transport or possess an unskinned bobcat, wolf, fisher, otter carcass, or a raw pelt of these species unless it has been tagged in accordance with par. (a).

(c) *Tag retention.* The pelt and registration tag shall remain attached to the pelt until removed by a fur dresser or taxidermist at time of preparation.

(5) RECORDING OF HARVEST.

(a) 1. 'Bobcat, wolf, fisher and otter.' Unless authorized by the department, each person who has killed a bobcat, wolf, fisher or otter during the respective open season shall exhibit the pelt, separated from the rest of the carcass, to an authorized department representative no later than 5 days after the month of harvest.

(b) The department may require each person exhibiting a bobcat, wolf, fisher or otter pelt to exhibit and provide the skinned carcass to the department.

(c) *Department tagging.* The department shall inspect the pelt, and attach and lock a registration tag to the head portion of the pelt of all lawfully taken and possessed bobcat, wolf, fisher and otter.

(d) *Mounting.* Persons who intend to have a bobcat, wolf, fisher or otter mounted by a taxidermist may exhibit the bobcat, wolf, fisher or otter to the department for registration in whole carcass condition without separating the pelt and shall surrender the skinned carcass to the department within 30 days of registration.

(6) POSSESSION AND TRANSFER RESTRICTIONS. No person may:

(a) Possess raw bobcat, wolf, fisher or otter pelts after the 5th day following closure of the open season for each species and the respective opening date of the next trapping or hunting season without a registration tag attached and locked to the head of the animal.

(b) Transfer, give, trade, sell or purchase a raw pelt or unskinned carcass of any bobcat, wolf, fisher or otter pelt without a registration tag being attached and locked to the head portion of the pelt by the department in accordance with sub. (5) (c).

(7) SEASON CLOSURE. The secretary of the department may close a portion or all of any bobcat, wolf, otter or fisher season established in s. NR 10.01, upon a finding by the department that the harvest for that season will exceed the level authorized by the department under sub. (1). ~~Closure~~ Bobcat, otter, and fisher season closure shall become effective upon issuance of an order and publication in the official state newspaper. 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.

(a) Factors the department shall consider in closing the wolf hunting and trapping season are:

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 quotas were set.

(b) Ability to hunt wolves in additional zones upon season closure. A wolf harvesting license authorizes the holder to hunt or trap in the wolf harvesting zone or zones listed on the license. If the department utilizes its season closure authority in a harvesting zone, the department may authorize the holder to use their license in additional open zones.

(8) REPORTS.

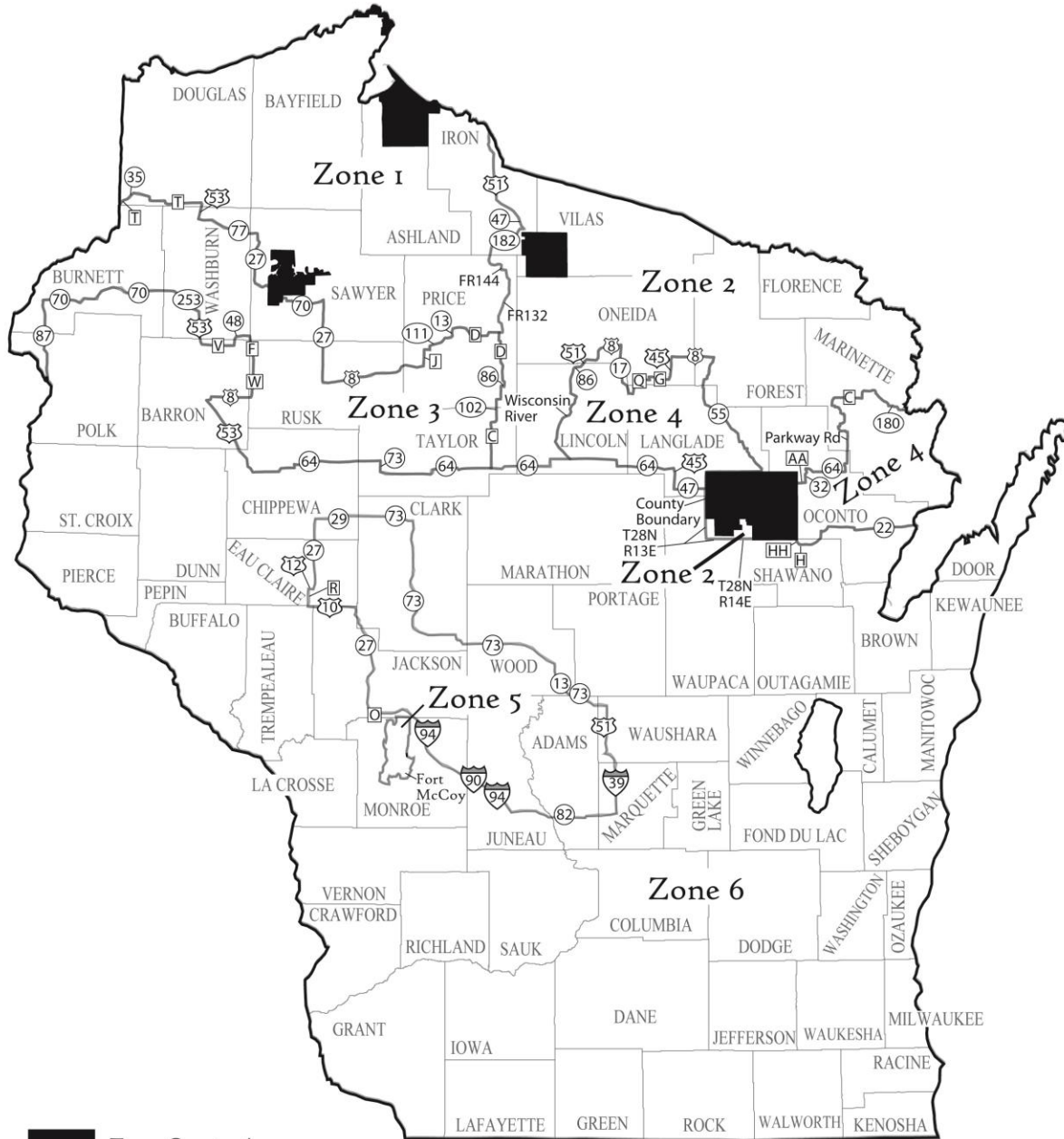
(a) *Harvest reports.* The department may require each successful bobcat permit or wolf harvest license applicant to submit a harvest report in a manner prescribed by the department within 24 hours of harvesting a bobcat or wolf. If the department requires a person who has been issued a bobcat harvest permit or wolf harvest license to report the harvest under this section, the person shall make the report in the manner required by the department within 24 hours of the time the person kills the bobcat or wolf.

SECTION 29. 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 30. NR 10.295 is created to read:

NR 10.295 Wolf Harvesting Zones.



Zero Quota Areas

Wolf harvest is not allowed within the exterior boundaries of the Bad River, Lac Courte Oreilles, Lac du Flambeau, Menominee, and Red Cliff reservations nor within the designated Stockbridge-Munsee wolf zone except with DNR depredation permits.

SECTION 31. NR 12.10(intro.) is 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 and s. NR 12.15.

SECTION 32. NR 12.10(1)(a)4. is amended to read:

NR 12.10(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.

SECTION 33. NR 12.10(1)(b)2. is amended to read:

NR 12.10(1)(b)2. Live-trap and relocate any wild animal, except white-tailed deer, elk, black bear, gray 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 anytime after the raccoon has reached cover by climbing a tree or pole to a height of at least 10 ~~fee~~ feet.

Section 34. NR 12.15(11)(e) is created to read:

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

Section 35. NR 12.15(13) is 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..

SECTION 36. NR 12.60 to 12.63 are created to read:

Subchapter IV – Wolf Damage

NR 12.60 **Purpose.** This subchapter is adopted to implement and administer the payment of claims for damage associated with gray 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 when if the wolf is listed on the federal and/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 used in the pursuit of game animals other than wolves.

(5) "Livestock" means the following farm animals: bison and other bovine animals, sheep, goats, swine, 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.

(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, or 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, other than those used to hunt or pursue wolves, owned by the person has been injured or killed by a gray 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 missing livestock, pets or hunting dogs other than those used to hunt or pursue wolves. 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 will contract with the U.S. Department of Agriculture-APHIS-Wildlife Services to handle complaint contacts and response.

(2) **VERIFICATION CATEGORIES.** Each complaint received under this section shall be classified by the department under 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 within 14 days of the loss on forms provided by the department.

Section 37. NR 12.64(1)(a) and (b)(intro.)1. are created to read:

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. All claimants for damage payments shall meet all of the following eligibility requirements:

1. Carcass Disposal. Claimants need to be in compliance with carcass disposal requirements of s. 95.50, Stats., for livestock claims and, for farm-raised deer claims, the farm-raised deer fencing requirements of ss. 90.20 and 90.21, Stats., in order 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.

SECTION 38. NR 12.64(1)(b)2. and 3. are created to read:

NR 12.64(1)(b)2. **Open Hunting Access.** Unless exempted by the department claimants, seeking compensation for wolf damages that occurred on property they own or lease must have hunting access control over all contiguous land on which they seek wildlife damage abatement assistance or claims. Enrollees shall open their land to hunting or trapping wolves during the wolf hunting and trapping seasons established in s. NR 10.01(3)(j). Claimants 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 enrollees who have also been issued a wolf removal permit under the authority of s. 29.885, Stats., and this chapter. Enrollees 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. Enrollees 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 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. To register for hunting and/or trapping access, licensed hunters and 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.

Section 39. NR 12.64(1)(b)4. and 5. Are created to read:

NR 12.64(1)(b)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. Enrollees 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.

SECTION 40. NR 12.64(2)(a) to (c) are created to read:

NR 12.64(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. A maximum amount to be paid for each type of animal may 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 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 for hunting dogs, other than those used to hunt or pursue wolves, or pets killed by wolves up to a maximum of \$2,500 per animal. Fair market value will be based upon recent sale records for similar dogs or pets.

(c) Veterinary expenses. The department shall pay 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. A detailed receipt shall be submitted to the department within 14 days of paying the veterinarian bill.

SECTION 41. NR 12.64(2)(d) is created to read:

12.64(2)(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 when 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%. The department will conduct scientific field research in Wisconsin to determine how much mortality to missing calves can be attributed to wolves.

SECTION 42. NR 12.64(3) is created to read:

NR 12.64 (3) CLAIM PAYMENTS.

1. The department will review and act on properly filed 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), 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 owners for losses due to wolf depredation regardless of any other insurance the owner may have on the animals that were killed or injured.

SECTION 43. NR 12.65 is created to read:

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 44. NR 19.25 is amended to read:

NR 19.25 **Wild animal protection.** Unless engaged in dog training or dog trials as authorized by the department in s. NR 17.001 (3) and (5), or other activity specifically authorized by the department or under (a), a closed season is established and no person may harass, disturb, pursue, shoot, trap, catch, take, or kill protected wild animals by any means, except as described under s. NR 12.10 (1) (b) 4.

(a) 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 gray wolf or cougar in the act of killing, wounding or biting a domestic animal. Shootings shall be reported within 24 hours to a department conservation warden. The carcass of the wolf or cougar shall be turned over to the department.

SECTION 45. 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 46. EFFECTIVE DATE. This rule shall take effect on August 18, 2012 except for SECTIONS 38 and 41, which shall take effect on January 1, 2013.

SECTION 47. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on July 17, 2012.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)

Final Regulatory Flexibility Analysis

Natural Resources Emergency Board order WM-09-12(E)

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, except if they choose to participate in the damage abatement and claims program established in this rule. The program established in this rule is substantially similar to an existing program that was, and will continue to be, administered by the department at times when wolves are listed as an endangered species. Under both programs, the department reimburses owners for the fair market value of domestic animals killed, or veterinary services, in wolf depredation incidents. A difference in the new program for times when wolves are not listed is that, under 2011 ACT 169, funding for damage claims originates from the sales of wolf harvesting licenses and permit applications. Therefore, these rules will require program participants who have hunt-able land to allow some public access to hunters, consistent with similar damage claims programs for species like deer, which are also funded by hunting licenses. The ACT allows prorating claims based on available funding. The department is not able to estimate the level of interest there will be in permit applications and cannot anticipate whether-or-not prorating claims will be necessary.

The ACT and this rulemaking will allow Wisconsin to manage wolves to population levels that will be lower than the current population. A result will be less wolf depredation on domestic animals. A reduction in depredation will result in less time investigating damage, filing 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. In 2010, the department investigated and made damage payments for depredations of 84 cattle or missing cattle and six sheep.

Because this rule does not create new regulatory requirements of small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.24(3m).