

Clearinghouse Rule 21-029

The statement of scope for this rule, SS 118-20 was approved by the Governor on August 13, 2020, published in Register No. 776A4 on August 24, 2020, and approved by the Natural Resources Board on December 9, 2020. This rule was approved by the Governor on insert date.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, RENUMBERING, RENUMBERING AND AMENDING, CONSOLIDATING, RENUMBERING, AND AMENDING; AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **amend** NR 10.01 (3) (i), 10.111 (3) and 10.37; to **repeal and recreate** NR 10.11 (2); relating to elk management.

WW-34-19

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: The chapter on wild animals and plants, in s. 29.014 (1), “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game.

Additionally, s. 29.182 (1) grants the Department the ability to “issue elk hunting licenses and may limit the number of elk hunters and elk harvested in any area of the state.” The department may also establish areas of the state where elk hunting is prohibited.

2. Statutory Authority: The promulgation of this rule order is authorized by s. 29.014 and s.29.182 (1), Stats.

3. Explanation of Agency Authority: The chapter on wild animals and plants, in s. 29.014, “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to make changes related to hunting regulations.

4. Related Statutes or Rules: There are no currently active related administrative rules.

5. Plain Language Analysis:

SECTION 1 creates a single, uninterrupted elk hunting season.

SECTION 2 specifies that elk tags may be only valid in a specific subunit within an elk management zone.

SECTION 3 amends the elk population goals for each elk management zone.

SECTION 4 renames the elk management zones, updates their boundaries and creates subunits within the zones.

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

States possess inherent authority to manage the wildlife resources located within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

7. If Held, Summary of Comments Received During Preliminary Comment Period

and at Public Hearing on the Statement of Scope: A preliminary public hearing on the scope statement was held on November 9, 2020. No members of the public attended the hearing or submitted written comments.

8. Comparison with Similar Rules in Adjacent States:

Only Michigan and Minnesota have regulated elk seasons. Minnesota has four separate hunting zones encompassing existing herds. Hunting is currently only allowed in two zones (20 and 30), with the majority of hunting in zone 20. Minnesota has five consecutive nine-day long seasons that take place from August 22 through November 1 plus an additional 9-day season from December 5-13. Michigan has three separate hunting "periods". Period one is Sept 1-4, Sept 18-21, and Oct 2-5. Period two is Dec 12-20. Period three is Jan 13-17. In Michigan, Elk Management Units X, H, I. Units H and I (core elk range) are closed for hunting in the September/October periods but open in the December period. Unit X is 10 counties in size, H and I combined are about half of a county in total. Michigan has a statewide elk population goal of 500-900 and Minnesota's population goal is 230-300.

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

Current rule establishes two elk ranges that serve dual purpose as elk management zones. They include the Clam Lake zone and the Black River zone. Hunters were previously allowed to harvest elk in any part of the elk management zone. This rule changes the names and boundaries of these zones, and further divides them by creating elk hunting subunits within these zones. This will prevent the overharvest of elk in a single subunit by specifying that tags are valid in one or more subzone.

The elk season is statutorily required to begin on the Saturday nearest October 15th. It previously ran for thirty consecutive days and then reopened on the second Thursday in December and continued for nine consecutive days. This rule eliminates the current closed period between the seasons and instead offers a single consecutive ending on the Sunday nearest December 15th.

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 fiscal effects on the private sector or small businesses. No costs to the private sector or small businesses are associated with compliance to these rules.

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 standards are contained in the rule.

12. Agency Contact Person: Scott Roepke, Wildlife Biologist, 715-896-4947, scott.roepke@wisconsin.gov

13. Place where comments are to be submitted and deadline for submission:
Written comments may be submitted at the public hearings, by regular mail, or email to:

Scott Karel
Department of Natural Resources
P.O. Box 7921 Madison, WI 53707
Scott.karel@wisconsin.gov 608-267-2452
608-267-7857 (fax)

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 10.01 (3) (i) is amended to read:

Kind of Animal and Locality	Open season (all dates inclusive)	Limit
<p>NR 10.01 (3) (i) Elk (gun and bow seasons) 1. The elk management zones established in s. NR 10.37</p>	<p>Beginning on the Saturday nearest October 15 and continuing for 30 consecutive days <u>through the Sunday nearest December 15</u>, when the department determines, based on scientific metrics, that the local elk population can sustain a hunting season.</p> <p>Beginning the second Thursday in December and continuing for 9 consecutive days, when the department determines, based on scientific metrics, that the local elk population can sustain a hunting season.</p>	<p>One bull elk or antlerless elk as authorized by antlerless elk tag in s. NR 10.111 (5) (c).</p>

SECTION 2. NR 10.11 (2) is repealed and recreated to read:

NR 10.11 (2) TAGS

- (a) A carcass tag shall be issued with each hunting license. While hunting, no person may possess a validated carcass tag unless it is attached to a legally killed elk.
- (b) Carcass tags are valid in the management zone and subunit specified on the harvest authorization. Tags may be valid in more than one subunit.

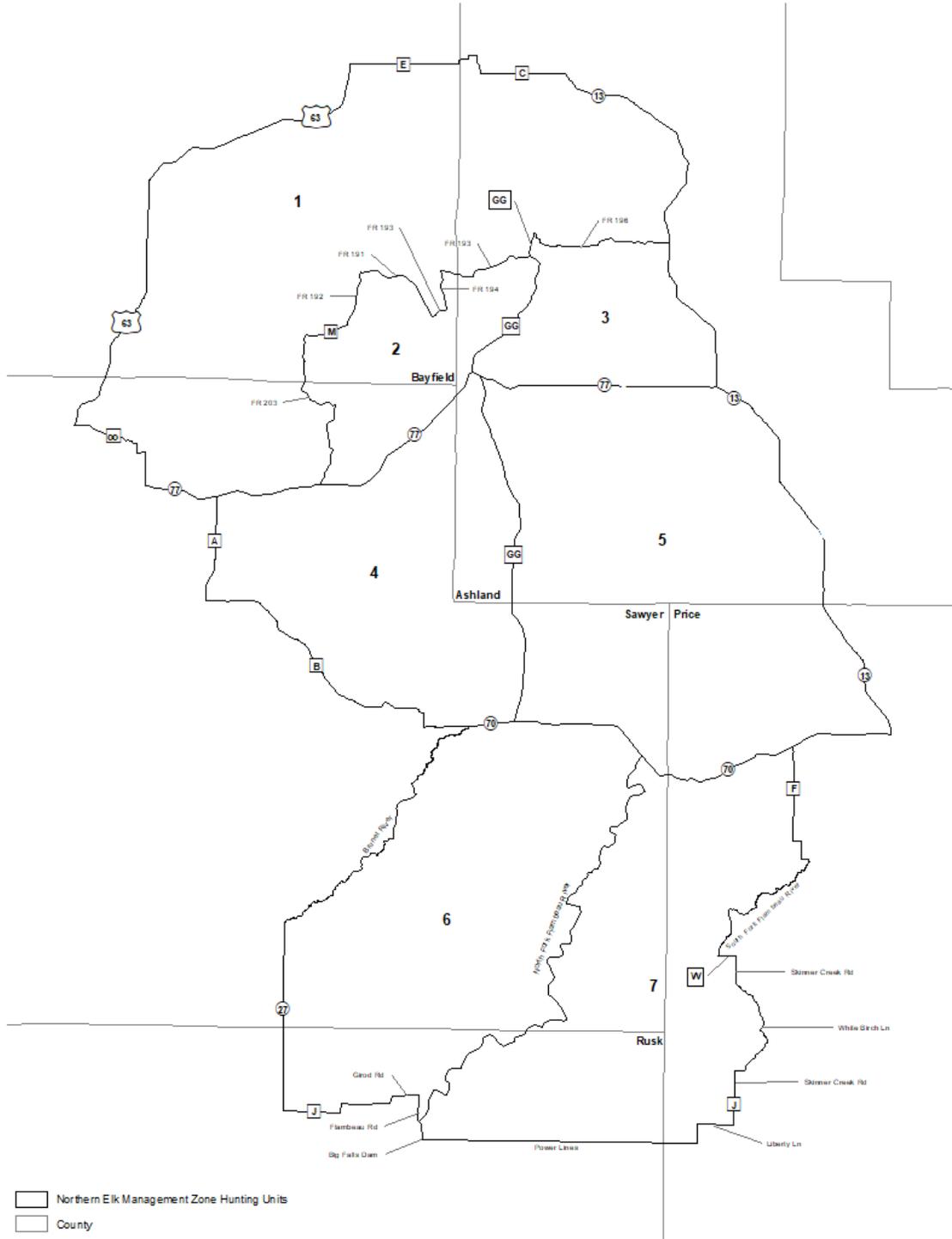
SECTION 3. NR 10.111 (3) is amended to read:

NR 10.111 (3) ELK POPULATION GOALS. (a) The overwinter elk population goal for elk management zones described in s. NR 10.37 shall be expressed as the total number of elk per zone as follows:

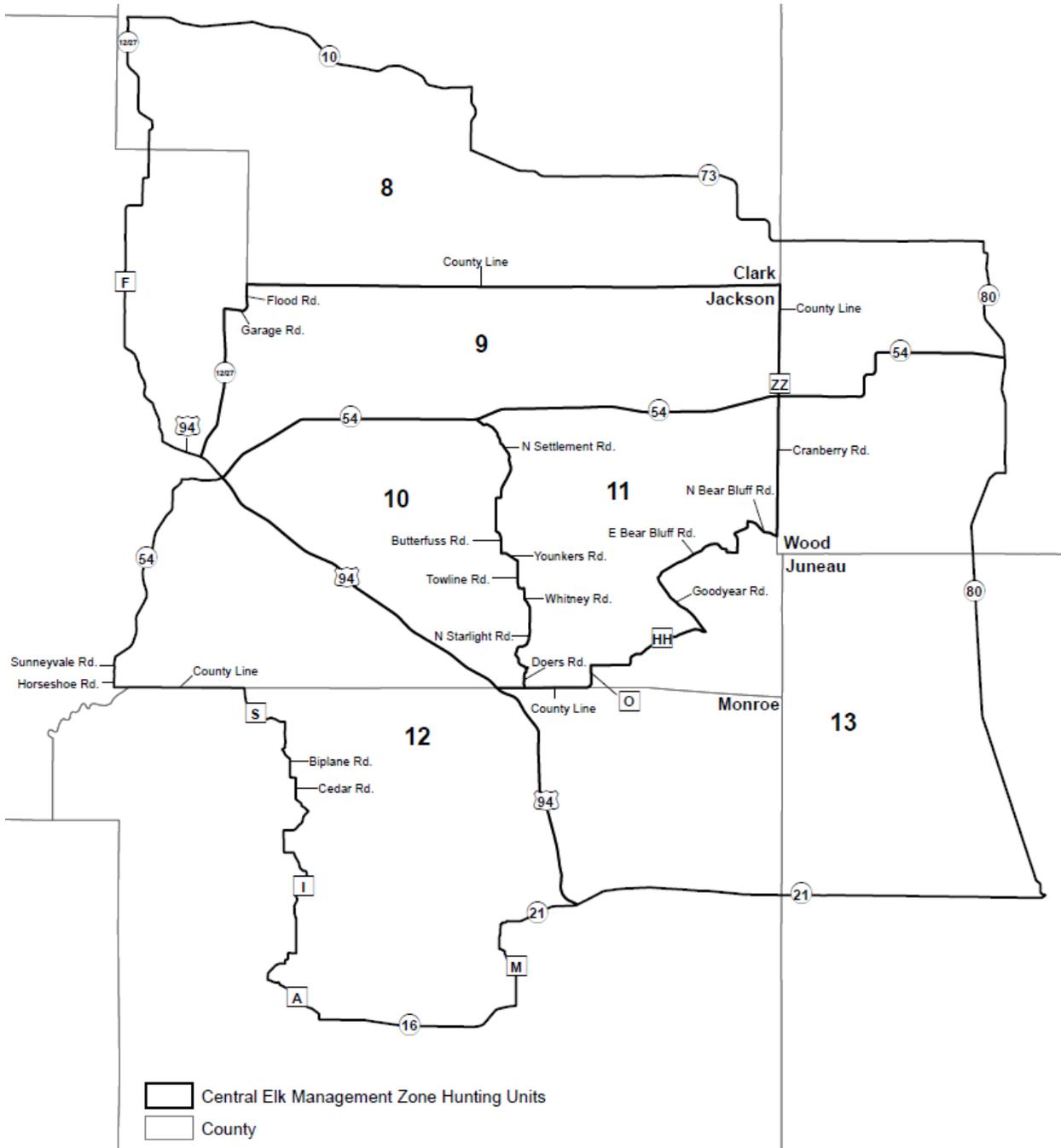
Zone	Population Goal
Clam Lake <u>Northern</u> elk management zone	1,400 +/- 20%
Black River <u>Central</u> elk management zone	390-300 +/- 20%

SECTION 4. NR 10.37 is amended to read:

NR 10.37 Elk Management Zones (1) ~~CLAM LAKE~~ NORTHERN



(2) ~~BLACK RIVER FALLS CENTRAL~~



3) ZONE X. Elk management zone X includes the entire state except areas which are part of the ~~Clam Lake Northern~~ and ~~Black River Falls Central~~ elk management zones.

SECTION 5. 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 6. 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 Preston D. Cole, Secretary