

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING AND AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to repeal NR 27.03(3)(a); and amend NR 10.02(1) relating to the classification of gray wolves.

ER-33-03

Analysis Prepared by Department of Natural Resources

Statutory Authority: Statutes that authorize the promulgation of this rule include ss. 29.039, 29.604, and 227.11, Stats. These sections grant rule-making authority to the Department to establish a list of endangered and threatened species of plants and animals and a list of Protected Wild Animals. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted: In promulgating this rule s. 29.604, Stats., has been interpreted as allowing the Department the authority to remove species from the list of endangered plants and animals. In addition, s. 29.039, Stats., has been interpreted as allowing the authority to add species to the list of Protected Wild Animals.

Plain Language Rule Analysis: The population of gray wolves has recovered in Wisconsin to the point that the species should be removed from the state's threatened species list and managed as a protected species, according to the state's wolf management plan. The winter count of gray wolves outside of Native American Indian reservations in Wisconsin in 2002-2003 was 328; the winter count for 2001-2002 was 313. Under the Wisconsin Wolf Management Plan, approved by the state Natural Resources Board in October 1999, wolves should be removed from the state endangered and threatened species list once the population remained at above 250 wolves outside of reservations for one year.

Initially, removing wolves from the state list will have minimal effect on how wolves are managed in Wisconsin, because the species is still listed as threatened under the federal list. However, this will set the stage for a more flexible management system when wolves are eventually removed from the federal list of threatened species. After the wolf has been removed the federal list, authority for managing the species will revert completely to the state of Wisconsin.

The Wisconsin Wolf Management Plan outlines management practices that will be used once the species is removed from both state and federal lists. These include issuing permits to landowners with ongoing problems associated with wolves preying on livestock or other animals to shoot the problem wolves, and allowing people to kill wolves in the act of attacking domestic animals on private lands. State and federal officials would also have greater flexibility in dealing with problem wolves.

Gray wolves, also called timber wolves, occurred throughout Wisconsin prior to European settlement. There were no laws protecting wolves at that time, and in 1865 the state legislature instituted a bounty. The last Wisconsin wolf taken under the state bounty was killed in 1959.

In 1973 wolves were protected under the federal Endangered Species Act. The Minnesota wolf population began expanding and eventually wolves began to migrate back into Wisconsin on their own, with a wolf pack discovered in the border area between Wisconsin and Minnesota south of Duluth-Superior in 1975.

As Wisconsin's wolf population grew, the state developed a recovery plan, which was later replaced with the management plan, under which wolves were reclassified from endangered to threatened in October 1999. The U.S. Fish and Wildlife Service made the federal change to threatened status species for wolves in Wisconsin effective April 1, 2003. The federal change, which included rules that govern what management actions could be taken, gave state biologists more flexibility to deal with problem wolves, including allowing government agents to destroy wolves that kill domestic animals. Since that change, the state has trapped and euthanized 17 wolves that were preying on livestock at five separate farms.

There are currently an estimated 94 wolf packs in northern and central Wisconsin, with most suitable wolf habitat now occupied by a pack. For that reason, trapping and moving wolves is no longer a viable option for dealing with problem wolves, as any wolf moved into an occupied territory is usually treated as an invader and may be killed by the pack that occupies the territory, or pushed into areas where wolves cause additional problems.

Removing gray wolves from the state's endangered and threatened species list would symbolize that the population has recovered to the point where they no longer need to be treated as endangered or threatened, but can now be protected as a non-game animal. It is also a good-faith act by the Department of Natural Resources to implement changes based on the Wisconsin Wolf Management Plan.

Federal Regulatory Analysis: The gray wolf was added to the federal list of endangered species in 1973. The U.S. Fish and Wildlife Service revised the status of gray wolves in Wisconsin from endangered to threatened on April 1, 2003. The proposed change in state classification from threatened to protected wildlife does not conflict with the federal protection granted this species in 50 CFR 10 because wolves would still be protected from taking by the public.

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

Illinois: Wolves are not a resident species; no rules in place.

Iowa: Wolves are not a resident species; no rules in place.

Michigan: Wolves from Wisconsin recolonized the upper peninsula in the 1980's and were added to the Michigan list of endangered species in 1994. The Michigan population goal for going from endangered to threatened was 100 animals for five years. Michigan reclassified wolves to threatened status on June 18, 2002. The Michigan goal for removing wolves from their threatened species list is 200 animals for five years. They will probably be at that goal in the next two years.

Minnesota: The state of Minnesota listed gray wolves as a state threatened species in 1984. The population was estimated to be 1,000 animals at that time. In 1996 wolves were removed from the state threatened species list because the population had reached approximately 2,500 animals.

A Summary of Factual Data: The Wisconsin Department of Natural Resources conducts a count of all known wolves in the state every winter. The population of gray wolves in Wisconsin has increased from 25 in 1979-1980 to 335 (328 off reservations) in 2002-03.

Regulatory Flexibility Analysis: There is no impact on hunting guides or sporting goods dealers because there is not a current harvest season on wolves and there will not be a harvest season under this rule proposal. There will be no effect on small businesses that cater to individuals who are currently enjoying viewing wolves or wolf sign in the state because they will be able to continue to do so. The six individuals that currently have Endangered/Threatened Species permits to possess gray wolves will be required to obtain a Captive Wildlife Permit instead of the E/T permit. This should have little, if any, impact on their activities.

SECTION 1. NR 10.02(1) is amended to read

NR 10.02(1) Cougar, Canada lynx, badger, moose, elk, gray wolf, wolverine and flying squirrel.

SECTION 2. NR 27.03(3)(a) is repealed.

SECTION 3. EFFECTIVE DATE. The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 4. BOARD ADOPTION. The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 24, 2004.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)