

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

The statement of scope for this rule, SS 017-13, was published in Register No. 687, on March 14, 2013. This permanent rule was approved by the Governor on _____.

<p>The Wisconsin Natural Resources Board proposes an order to amend Ch. NR 10.01(3)(d)1., 10.111 (3) (c) and (5) (b), 10.145 (1) (b), to repeal and recreate NR 10.01 (3) (i), 10.111 (3) (a), 10.37, and to create NR 10.34 relating to bobcat hunting and trapping and elk management.</p>
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WM-05-13

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014, and 227.11 Stats. In particular, s. 29.014 grants rule making authority to the department to establish open and closed seasons for hunting and trapping and to establish other regulations. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: 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 promulgate rules related to bobcat hunting and trapping and elk hunting.

Special regulations on the taking of certain wild animals are authorized under s. 29.192(4), including specific language that authorizes rules related to bobcat hunting and trapping.

The department is directed in by s. 23.09(1) and (2) to provide a system for the development of game and other outdoor resources and may promulgate such rules necessary to carry out the purposes of section 23.09. The establishment of an elk herd is consistent with that direction.

A provision of 2013 ACT 20 created s. 29.182 (1m) which prohibits the department from establishing an opening day of elk hunting season which is earlier than the Saturday nearest October 15.

Related Statute or Rule: No other rules currently being promulgated are directly related to this proposal and these proposed rules are not a response to recently enacted statutes.

Plain Language Rule Analysis: This proposal could result in new hunting and trapping opportunities for bobcat in portions of the state where harvest is not allowed under current rules.

This proposal would create a new elk management zone and population goal in an area of the state where elk are not currently found but where a management plan approved by the Natural Resources Board recommends establishing a herd.

Specifically, these rules would:

SECTION 1 establishes that bobcat hunting and trapping may be allowed statewide instead of only north of State Highway 64.

SECTION 2 establishes that the elk hunting season begins on the Saturday nearest October 15, instead of September 15, in any open elk management zone.

SECTION 3 establishes one elk population goal, instead of two, for the Clam Lake elk management zone and establishes a population goal for the newly created Black River elk management zone.

SECTION 4 establishes that elk tags issued for the Black River elk management zone, in addition to ones issued for Clam Lake, may be designated as valid outside an elk management zone.

SECTION 5 establishes that the formula for determining the number of bull elk tags to issue applies to new Black River Falls elk management zone as well as the Clam Lake zone.

SECTION 6 clarifies that the department may establish a bobcat harvest quota in areas where it has not established a population goal.

SECTION 7 creates new zones where bobcat hunting and trapping may be allowed in the Central, Southwest, and Southeast portions of the state. An alternative approach, to create just one new zone for the remainder of state, will also be a topic of hearings and is described in this rule order.

SECTION 8 consolidates two existing elk management zones in the Clam Lake area, expands the size of that overall zone, and creates a new Black River elk management zone.

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

Comparison with rules in Adjacent States: Bobcats are not harvested in Illinois but are present and increasing in number in both states. Michigan hunters and trappers can generally harvest two bobcats per season. Iowa trappers/hunters have a bag and possession limit of one bobcat while Minnesota hunters and trappers have a season limit of five bobcats. The more liberal season frameworks in Michigan, Iowa and Minnesota reflect greater abundance of the species in those states and/or significantly less hunter and trapper interest. Neither state has the long tradition of hunting with hounds that Wisconsin has.

Restored elk populations exist in Michigan and Minnesota and both states hold an annual hunting season. Hunting regulations and management activities in both states are comparable to Wisconsin's activities.

Summary of Factual Data and Analytical Methodologies: Bobcat are currently hunted and trapped in one management zone which consists of the area north of Hwy 64. Demand for this opportunity greatly exceeds availability – the department consistently receives more than 12,000 applications for fewer than 500 available permits. Research recently completed has provided us with additional answers about the presence, observed expansion and density of bobcats in areas south of Hwy 64. These findings resulted in a recommendation to allow hunting and trapping in additional areas, which would require these proposed new rules.

This rule proposal will be in anticipation of a decision to hunt and trap bobcats in new areas. Alternative 1 which is being evaluated through this rulemaking process is to establish three new management zones.

Alternative 2 is to create one new zone south of the current zone. These rules do not require the department to allow bobcat hunting and trapping in new areas as those activities are still controlled by the establishment of a harvest quota and issuance of permits. However, the department has good information on bobcat populations in central Wisconsin and anticipates a 2014 quota recommendation for this zone as well as the established zone in the north.

A population goal for bobcats north of Hwy 64 is currently established in administrative rule. The department is not proposing to establish a goal in new zones south of Hwy 64 at this time.

This proposal repeals the elk hunting season opening date of the Saturday nearest September 15 and replaces it with a Saturday nearest October 15 opener, as required by 2013 ACT 20. Under this proposal, the elk hunting season in the newly created Black River elk management zone will be the same as the season in the Clam Lake area.

The department has already established, by rule, elk management zones in the northwest part of the state and is managing an elk herd in that area. The department anticipates establishing another elk herd in the Black River Falls area and has a management plan that has been approved by the Natural Resources Board and which enjoys significant local support.

These rules will expand the existing Clam Lake elk management zone by 508 square miles south and immediately adjacent to the original elk range that contains 1,112 square miles, bringing the total Clam Lake zone to over 1,600 square miles. The proposed boundary expansion avoids most agricultural areas and is primarily composed of a large block of state, county and industrial forest land that has the most abundant aspen resource in the region. Existing forest management plans in this area are designed to aggressively manage the aspen resource which will add to the long-term forage security for a growing elk herd. This existing management creates high quality elk forage now and into the foreseeable future.

These rules will replace the current Zone A and Zone B delineations for the Clam Lake elk range with one elk range delineation to include the newly-proposed expanded elk range. Elk density goals will be revised to about one elk per square mile of total area for this entire area. This represents a lower density of elk than established under current rule, but the same overall number of animals for the new, larger zone.

This proposal would establish a new elk management zone in the Black River Falls area. This area is approximately 300 sq. miles in west central Wisconsin. Interstate Highway 94 and County Highway 54 make up the West and North boundaries of the core area. A 70 square mile core range, where initial reintroduction efforts will occur, is centered within the Black River State Forest and Jackson County Forest with a few parcels of non-agriculture private land. A buffer elk range of 250 square miles surrounds the core range. These rules will not establish a legal difference between core and buffer areas. The overall population goal will be 390 animals which equals approximately 1 elk per square mile of elk range.

Under current rules, areas which are not part of the Clam Lake zone are outside of the designated elk range. The new Black River elk management zone will also be designated elk range. Animals outside of the elk range showing nuisance behavior or causing damage may be captured or killed. Elk hunting permits issued for the Clam Lake or Black River zone may also be valid for use outside of the designated elk range.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis: The department will solicit comments on an economic impact analysis of this proposal during the summer of 2013. During that period the department will post a preliminary analysis on its website and distribute the proposed rule and analysis to parties it determines would be interested. A copy of the analysis will be posted on the department’s website at <http://dnr.wi.gov> and can be located by searching for the keywords “administrative rules”.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no costs are associated with compliance to these rules.

Effects on Small Business: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.114(6) or 227.14(2g).

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SECTION 1. NR 10.01 (3) (d) 1. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01 (3) (d) Bobcat (wildcat; hunting and trapping) 1. All that part of Wisconsin north of state highway 64 <u>Statewide</u>	Two permit periods: The Saturday nearest Oct. 17 – Dec. 25 and Dec. 26 – Jan 31	One per season by permit

SECTION 2. NR 10.01 (3) (i) 1. is repealed and recreated to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01 (3) (i) 1. The elk management zones established in s. NR 10.37	Beginning on the Saturday nearest October 15 and continuing for 30 consecutive days, when the department determines that the total elk population estimate for zones A and B is at least 200 elk. Beginning the second Thursday in December and continuing for 9 consecutive days, when the department determines that the total elk population estimate for zones A and B is at least 200 elk.	One bull elk or antlerless elk as authorized by antlerless elk tag in s. NR 10.111 (5) (c).

SECTION 3. NR 10.111 (3) (a) is repealed and recreated 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 elk management zone	1,400
Black River elk management zone	390

SECTION 4. NR 10.111 (3) (c) is amended to read:

NR 10.111 (3) (c) If the department determines that hunting is an appropriate removal method for elk subject to par. (b), the department may designate ~~Zone A or B elk tags~~ any elk tag as being valid on specified properties in Zone X, during the elk season.

SECTION 5. NR 10.111 (5) (b) is amended to read:

NR 10.111 (5) (b) *Bull elk tag formula.* The department shall determine the number of bull elk tags which shall be issued by the formula:

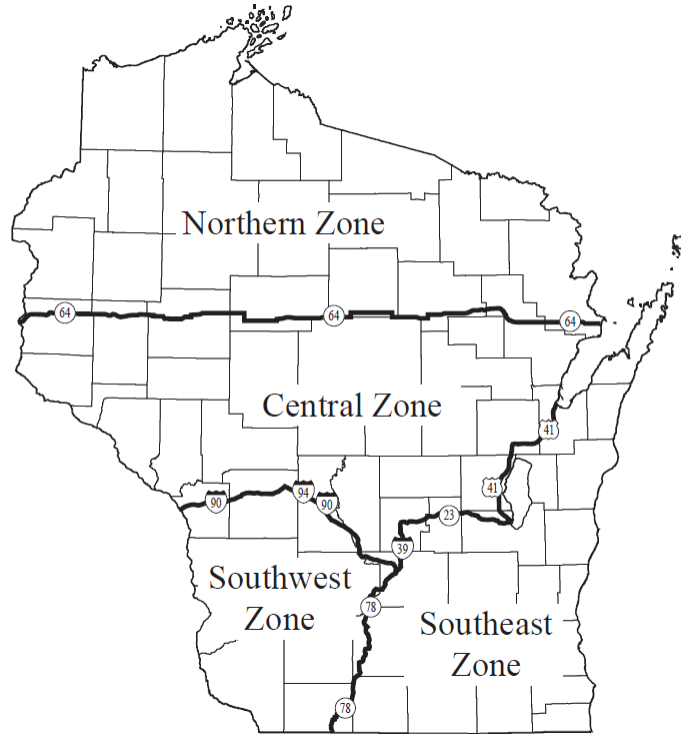
$$\text{Number of bull elk tags available} = \text{total elk population in } \del{\text{Zones A and B}} \text{ a zone} \times 5\%$$

SECTION 6. NR 10.145 (1) (b) is amended to read:

NR 10.145 (1) (b) The population ~~goals~~ goal established in sub. (2) if a goal has been established.

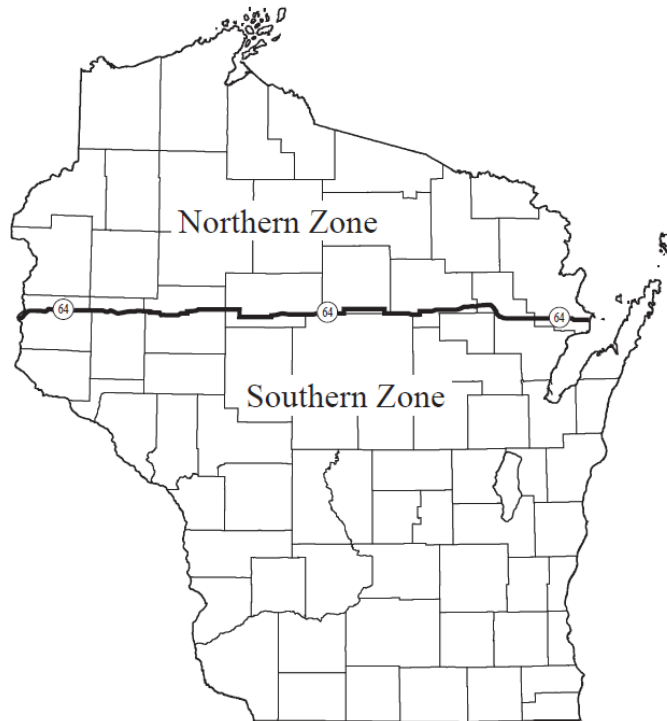
SECTION 7. NR 10.34 is created to read [this is alternative 1 for hearing purposes]:

NR 10.34 Bobcat hunting and trapping zones.



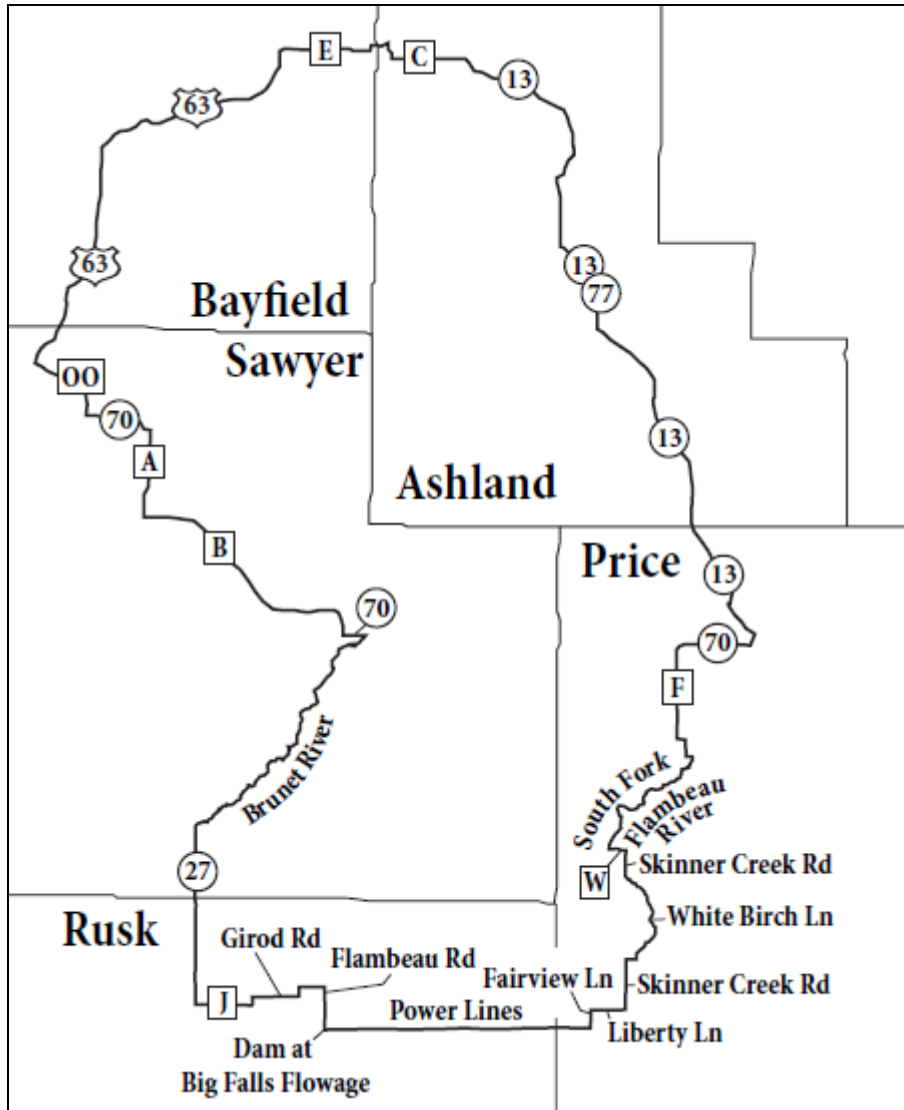
SECTION 7. NR 10.34 is created to read [this is alternative 2 for hearing purposes]:

NR 10.34 Bobcat hunting and trapping zones.

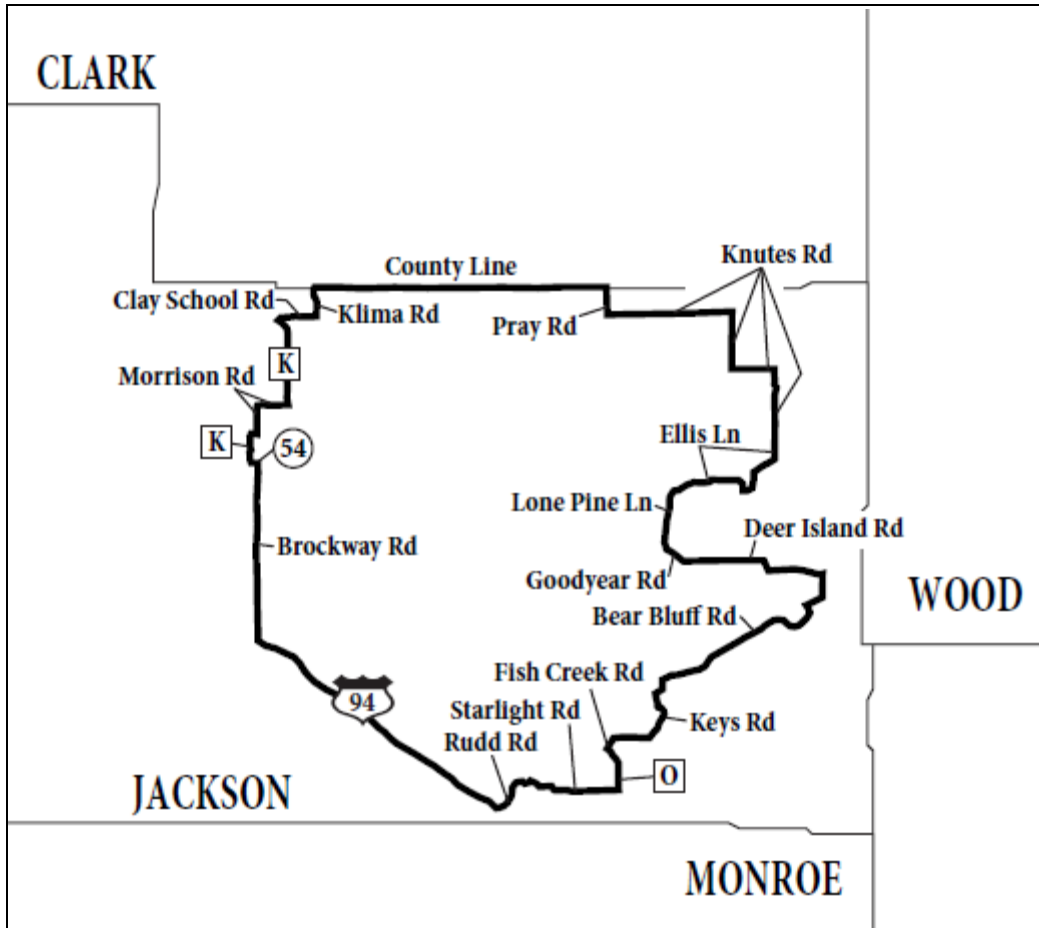


SECTION 8. NR 10.37 is repealed and recreated to read:

NR 10.37 Elk Management Zones (1) CLAM LAKE:



(2) BLACK RIVER FALLS:



SECTION 9. EFFECTIVE DATE. This rule 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 10. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)