

## Clearinghouse Rule 19-133

**DRAFT #1**

[9/16/2019]

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

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 10.102 (1)(d) and 10.102 (4m); to **amend** NR 10.102 (1)(b)(c), to **repeal and recreate** NR 10.30; and to **create** NR 10.102 (1) (note) relating to black bear management.

### WM-01-19

#### Analysis Prepared by the Department of Natural Resources

**1. Statute Interpreted:** In promulgating this rule, s. 29.014 and 29.184 have been interpreted as providing the department the authority to establish and maintain open and closed seasons, along with regulating and limiting the number of bear hunters and bear harvested in any area of the state.

**2. Statutory Authority:** Statutes that authorize the promulgation of this rule include sections of 29.014 and 29.184, Stats.

**3. Explanation of Agency Authority:** Section 29.014 Stats. grants rule-making authority to the department to maintain open and closed seasons for game species in the state. Section 29.184 gives the department the authority to regulate and limit the number of bear hunters and bear harvested in any area of the state.

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

#### **5. Plain Language Analysis:**

SECTIONS 1, 2 and 3 delete the previous formula for determining bear harvest quotas and replaces it with a variety of metrics based on annual data and social factors. Since bears do not seem to respond strongly to reduced density by increasing reproductive output, population growth rate itself declines as harvest increases. This makes harvest a powerful tool for biologists, who can vary harvest levels to bring about desired changes in black bear abundance.

SECTION 3 also repeals the restriction that delayed effective date of bear licenses issued during the open season by three days.

SECTION 4 updates the bear management zone map.

**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. Comparison with Similar Rules in Adjacent States:** Minnesota has 10 bear permit areas, though most of the state is a “no quota area,” including the western edge of the state and everywhere south of St. Cloud. Michigan has 10 bear management units, with six in the upper peninsula and three in the northern

lower peninsula. Over half of the lower peninsula is closed to bear hunting.

To establish bear quotas, Minnesota has separate “quota” and “non-quota” zones. Quota zones define Minnesota’s higher-quality, heavily forested primary bear range in the northcentral and northeastern parts of the state. Quotas are established for each quota zone, with permit levels set using estimates of hunter success. No-quota zones are established outside of primary bear range, and permits are sold over the counter. They utilize population models to estimate bear population size and trend by zone. Models utilize age information derived from teeth submitted from harvested bears. In quota zones, information on trends in nuisance complaints and damage influence quota-setting decisions.

Michigan has separate zones and time periods. Quotas are established for each zone, with permit levels set using estimates of hunter success. Michigan utilizes population models to estimate bear population size and trend by zone. Models utilize age information derived from teeth submitted from harvested bears. Also derive some population metrics from hunter surveys. Information on trends in nuisance complaints and damage influence quota-setting decisions. This Michigan state bear plan states “Perceived and measured social tolerance is given strong consideration when making harvest recommendations.”

Neither Minnesota or Michigan has a waiting period for hunters who purchase their license during the bear season.

Illinois and Iowa do not have bear hunting seasons.

**8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:** Historically, zone-specific numeric population goals have been used as a target for bear population management decision. However, establishing numeric goals that accurately reflect habitat suitability and biological carrying capacity is exceedingly difficult. As well, social constraints to bear population growth vary through space and time and it is difficult to respond to this variation yet maintain populations at or near established goals. Managing toward goals also may sacrifice long-term hunter opportunity, as it may lead to decisions to reduce or stabilize bear populations when further growth would be socially acceptable. Numeric population goals or target ranges may unnecessarily restrict decisions in a management arena where flexibility in annual quota-setting discussions would allow wildlife managers to maximize hunter opportunity and satisfaction while responding to social concerns.

Bear management zones were first incorporated into Wisconsin’s bear management framework in 1987, when the state was divided into three zones. Range expansion into southern Wisconsin presents unique challenges for wildlife managers. Prior to 1985, it was believed that black bears could not coexist with people in this zone and liberal harvests were used to limit population growth. A public survey completed in 2018 revealed that a majority of southern Wisconsin residents are willing to reside near bears. Reconfiguring the current bear management zone structure may be a valid option for addressing local areas of elevated bear-human conflict and/or chronic agricultural damage issues.

**9. 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.

**10. Effect on Small Business (initial regulatory flexibility analysis):** These rules direct the department’s management activities and may have implications for individual hunters, but they impose no

compliance for reporting requirements for small business, nor are any design or operational standards contained in the rule.

**11. Agency Contact Person:** Scott Walter, 101 South Webster Str., PO BOX 7921, Madison, WI 53707-7921, 608-279-5250, Scott.Walter@Wisconsin.gov

**12. Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearings, by regular mail, fax or email to:

Scott Walter

Department of Natural Resources

101 S. Webster St., PO Box 7921

[scott.walter@wisconsin.gov](mailto:scott.walter@wisconsin.gov)

608-267-7865 (phone)

608-267-7589 (fax)

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Web site at <http://adminrules.wisconsin.gov>.

Hearing dates and the comment submission deadline are to be determined.

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**SECTION 1. NR 10.102 (1) (intro) is amended to read:**

**NR 10.102 Black bear hunting quote and license issuance**

(1) BEAR QUOTAS. The department shall establish black Bear bear quotas are based on the status of zone black bear populations in relation to established population goals as established by inventories population management goals.

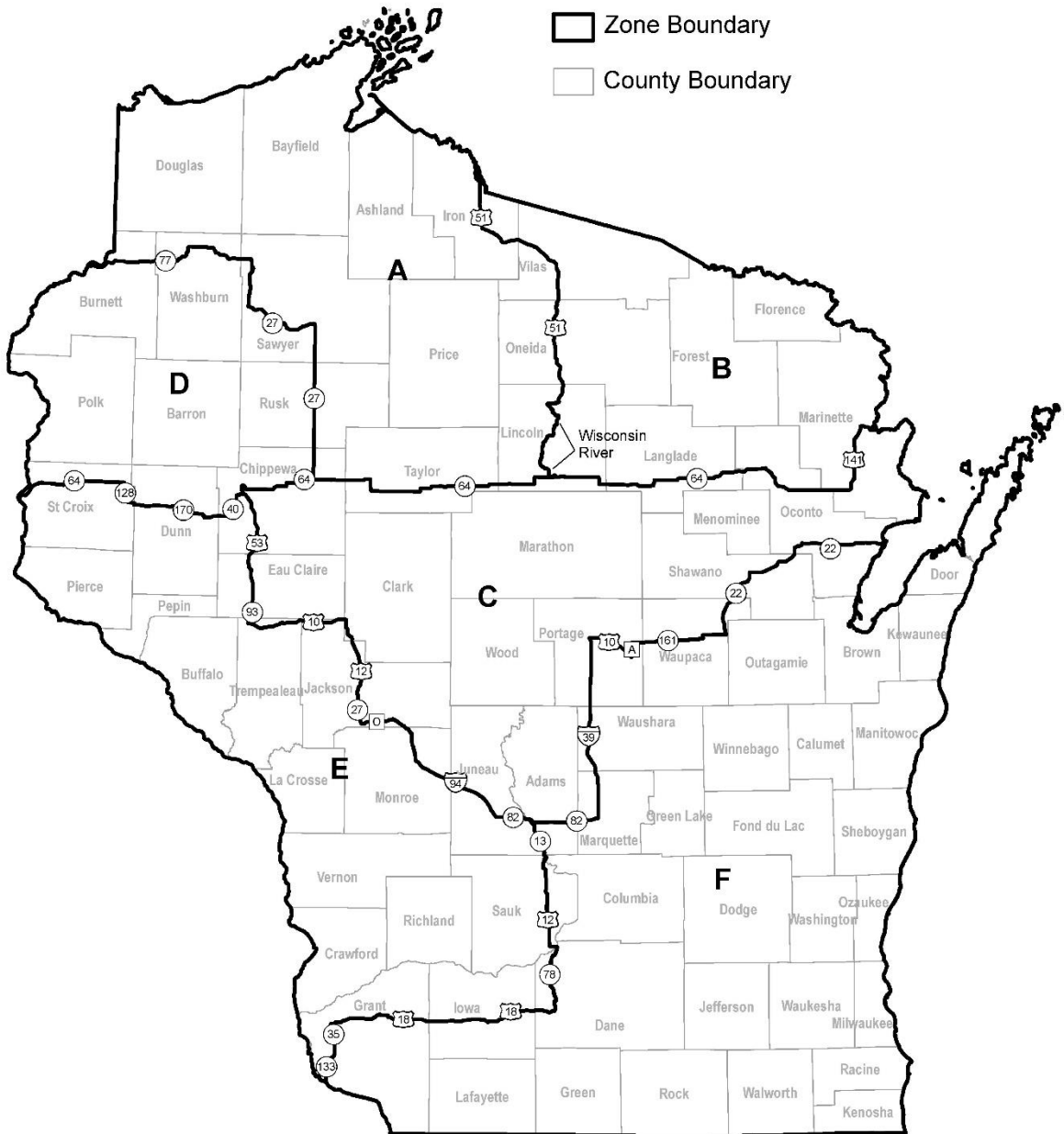
**SECTION 2. NR 10.102 (1) (note) is crated to read**

**NR 10.102 (1) Note:** Population management goals may take into account annual data regarding agricultural damage, nuisance complaints, hunter crowding or conflict, hunter success, hunter satisfaction and bear disease/health issues.

**SECTION 3. NR 10.102 (1) (a) and (d) and (4m) are repealed.**

**SECTION 4.. NR 10.30 is repealed and recreated to read:**

**NR 10.30 Black bear hunting zones.** Black bear hunting zones are established as designated on the following map:



**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 \_\_\_\_\_

Preston D. Cole, Secretary

(SEAL)