

Report to
Legislative Council Rules Clearinghouse
NR 10 and 12 Wis. Adm. Code
Natural Resources Board Order No. WM-03-21

Wisconsin Statutory Authority

The department is directed by s. 29.014(1), Wis. Stats., to establish and maintain conditions for the taking of game, including wolves, that conserve populations and provide opportunities for continued hunting and trapping. This provision 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. Section 29.014 (1t) (a) allows the department to close the season for an animal in a specific area of the state if it determines, based on harvest registration data, that hunters and trappers are likely to exceed the quota for that animal for the open season in that area.

2011 Wis. ACT 169 created s. 29.185, Wis. Stats. Subsection (1m) which directs the department to authorize and regulate the hunting and trapping of wolves. It further provides that the department may limit the number of wolf hunters and trappers and the number of wolves that may be taken by issuing wolf harvesting licenses. Various provisions of s. 29.185, Wis. Stats., provide the department with additional authority to administer and regulate a wolf harvest season. The establishment of wolf harvesting zones is required by the s. 29.185 (5) (b), Wis. Stats. Department authority to close the season in a harvest zone is established in s. 29.185 (5) (c), Wis. Stats. Regulations on the proper use of tags and registration of harvest are authorized under s. 29.185 (7), Wis. Stats. Regulations on the types of traps that may be used to harvest wolves are authorized under s. 29.185 (6) (f), Wis. Stats.

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

Section 29.885, Wis. Stats., provides the department with the authority to remove and authorize the removal of wild animals that are causing a nuisance or damage and establishes conditions regarding such removal.

2011 Wis. Act 169 also created s. 29.888, Wis. Stats., which directs the department to administer a wolf depredation program. Under this program persons may be reimbursed for death or injury caused by wolves to livestock, hunting dogs other than those used to track or trail wolves, and pets and for management and control activities conducted by the department for the purpose of reducing damage caused by wolves.

Collectively, ss. 29.885 and 29.888, Wis. Stats., 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. This is consistent with current requirements for species such as deer, bear, and elk. Public hunting and trapping of certain species must be allowed for species currently covered under s. 29.885(4m), Stats.

Section 21 of 2011 Wis. Act 169 requires the department to promulgate rules to implement ss. 29.185 and 29.888, Wis. Stats.

Federal Authority

The U.S. Department of Interior announced in November 2020 that gray wolf populations across the lower 48 states have recovered and no longer require the protection of the Endangered Species Act. The U.S. Fish and Wildlife Service published a final rule in the Federal Register that removed gray wolves across the lower 48 states from the list of endangered and threatened wildlife and plants. The rule went into effect on January 4, 2021. In February 2022, a federal judge restored wolves to the Endangered Species List in 45 states, including Wisconsin.

Comparison of Adjacent States

The only adjacent states that have established a wolf hunting and trapping season are Minnesota and Michigan. Neither are required to hold a season by statute.

Michigan held a single wolf hunting season in 2013. Wolves are only found in the Upper Peninsula of Michigan. Successful hunters were required to report their harvest on the day of the hunt.

Beginning in 2012, Minnesota allowed hunting and trapping of wolves, but not with the assistance of dogs for tracking or trailing. Minnesota required that harvested wolves be registered by 10 p.m. on the day of harvest.

Neither Minnesota nor Michigan have authorized the harvest of wolves since wolves were removed from the federal endangered species list in January 2021

Court Decisions Directly Relevant

None.

Analysis of the Rule - Rule Effect - Reason for the Rule

Using a regular rulemaking process, this rule proposal will achieve two primary objectives. First, it will codify provisions of an emergency rule, EmR 1210 which went into effect on August 18, 2012. Non-statutory provisions of 2011 ACT 169 state that this emergency rule remains in effect until a permanent rule takes effect. Second, it will implement recommendations from and update regulatory text in consideration of a new wolf management plan.

In response to 2011 ACT 169, the department promulgated an emergency rule, EmR1210, to establish harvest regulations for the administration and implementation of a wolf harvest season. Provisions of the emergency rule related to wolf harvest included establishing wolf hunting zones (Section 30); shooting hours (Section 11); reporting, registration, and carcass presentation requirements (Section 28); and regulations regarding the use of dogs (Section 19). The emergency rule established that harvest quotas for wolves will be based in part on the wolf population, population trends, established population goals, ecological considerations, and wolf conflict with agricultural and land uses (Section 27). The emergency rule also established a wolf depredation program that is similar to the existing program that applies when wolves are listed as threatened or endangered and is consistent with the wildlife damage, claims and abatement program that is in place for other species (Sections 36-43).

Since the emergency rule was promulgated, some sections in code which relate to wolf harvest and depredations have been moved or updated and relevant statutes have amended or newly created. This rule proposes to permanently codify provisions of EmR1210 with updates that align wolf regulations to reflect the subsequent changes in statute and code. These updates are housekeeping in nature, generally serving to update citations and relocate provisions to apply the wolf program as established by EmR1210 to the most current version of the administrative code. This rule also updates terminology as needed to enhance consistency across statutes, other provisions of administrative code, and practice. This rule does not include provisions from EmR1210 that were permanently promulgated by other rulemaking.

As examples of the alignment that these rules will achieve, s. NR 10.145 (7) and (8) established season closure rules and harvest reporting for furbearer species and were amended by EmR1210 to include provisions related to wolves. However, CR 17-061 subsequently renumbered these provisions. This rule adjusts the placement of these provisions accordingly. CR 17-061 also permanently established in code regulations for tagging and registering wolves, making the need to still address these in this rulemaking unnecessary. 2015 ACT 285 adjusted the opening day of the wolf harvest season from October 15 to the first Saturday in November, which in turn necessitates an identical adjustment in this rule.

In 2023 the department will finalize a new wolf management plan. These rules propose additional updates to implement recommendations from with this new plan. These updates are generally consistent with policies established in the emergency rule with a few exceptions. For example, this rule will provide that the department may issue wolf harvest tags that are specific to a certain zone or zones instead of tags that are

valid in any open zone statewide as was done in previous harvest seasons. This rule will reduce the time a successful hunter or trapper must register their harvest from 5 p.m. the day after harvest to within eight hours after the wolf has been recovered. This rule will provide protections for wolf dens and create a dog training season for wolves which is open only when a zone is open to wolf harvest. This rule will create an enhanced reimbursement rate for producers that have multiple confirmed livestock depredation events within the same grazing season. This rule will also update wolf management and harvesting zones, using a six-zone structure with updated boundaries to fulfill both purposes.

This rule additionally updates regulatory text in consideration of the new wolf management plan. These updates are generally consistent with policies established in the emergency rule but account for the development of management metrics, objectives and guidelines in the new plan. One example of this includes the factors which the department may use to set and allocate among the zones a wolf harvest quota and license numbers. Some of the factors that were previously enumerated in the emergency rule are now fully captured and considered in the new plan so it is unnecessary for them to be individually listed in administrative code.

Certain provisions of s. 29.185, Wis. Stats., 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), Wis. 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), Wis. Stats.

Agency Procedures for Promulgation

This rule will be brought to the Natural Resource Board for approval in the fall of 2023.

Description of any Forms (attach copies if available)

N/A

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