

Report From Agency

REPORT TO LEGISLATURE

NR 10 and 12, Wis. Adm. Code

Board Order No. WM-03-21
Clearinghouse Rule No. 23-047

Basis and Purpose of the Proposed Rule

Using a regular rulemaking process, this rule proposal will achieve two primary objectives. First, it will codify provisions of an emergency rule, EmR1210, 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 been 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 revisions 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. Additionally, 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 makes additional updates to implement recommendations from 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 occupied wolf dens and create a dog training season for wolves which is open only when a zone or subzone 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 which 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 and encompassed within other factors so it is no longer necessary for them to be individually listed in administrative code.

Modifications Made

The department made three small clarifying edits based on the comments received during the open comment period. First, language was added to clarify that protections for wolf dens apply to those that are occupied. Second, the rule clarifies that when a subzone closes to wolf harvest it also closes to wolf baiting and the training of dogs on wolves. Finally, the section regarding the criteria used to establish wolf quotas was updated to better reflect the department's consideration of off-reservation treaty rights and the on-reservation jurisdiction of Native American tribes when establishing wolf harvest quotas. These changes were made in response to comments received during the open comment period.

Appearances at the Public Hearing

The department held a virtual public hearing on September 12, 2023 at 4 p.m. Since it was a virtual public hearing and individuals were joining and leaving the meeting throughout the hearing it was difficult to obtain an accurate count of the number of attendees. The best estimate is that just over 100 people attended the hearing. Only sixteen attendees chose to make an oral statement. Please see the attached document ("Comment Summary and Response" document) which summarizes the most common comments received during the open comment period and department responses to those comments.

The following registered or spoke in support of the rule:

- Elizabeth Ward, Sierra Club-Wisconsin Chapter
- John Fetzer
- Wendel Johnson, Chappee Rapids Audubon Society
- Adrian P. Wydeven, Wisconsin's Green Fire
- Penny Bunnell

The following did not indicate support or opposition:

- Collette Adkins, Center for Biological Diversity
- Kyle Meyer
- George Meyer, Wisconsin Wildlife Federation
- Dana Herman
- Linda Hendrix
- Megan Nicholson, Humane Society of the United States
- Mark Silverman, Wisconsin Animal Protection Society
- Diane Cane
- Mike Wiggins, Jr., Bad River Band of Lake Superior Tribe of Chippewa
- Great Lakes Indian Fish and Wildlife Commission
- Florence Sandok

The following registered or spoke in opposition of the rule:

- Wendy Kraly
- Coleen Johnson
- Chris Albert
- Kimberly Hollis
- John Hollis
- Chris Vaughn, Hunter Nation
- Laurie Groskopf
- Elena Tillman

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or fiscal estimate through the public comment process. One comment was received during the open comment period from the Great Lakes Indian Fish and Wildlife Commission. This comment requested that the EIA reference the positive economic impact that wolves may have on reducing car collisions and preventing the spread of CWD. The department elected not to update the EIA in response to this comment as the impact of wolves to car collisions and CWD prevention is not fully understood and at this time there is insufficient scientific data to support economic quantification.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on August 31, 2023.

Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m) Stats., a final regulatory flexibility analysis is not required.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.