

SUBJECT: Adoption of Board Order WM-21-07, revisions to NR 10, 12 & 16 related to regulating captive wild or feral swine, mute swans, and wolf-dog hybrids under the Captive Wildlife Law.

FOR: FEBRUARY, 2010 BOARD MEETING

TO BE PRESENTED BY: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

2007 ACT 119 requires that the department list by rule wild or feral hogs as harmful wild animals. In this rulemaking, the department also proposes listing wolf-dog hybrids and mute swans because those species can also be a threat to the environment, public health, the health of domestic animals, or are capable of inflicting severe physical harm to humans or domestic animals.

People who wish to possess these animals will need to obtain a Captive Wild Animal Farm License and meet minimum requirements for animal care, confinement, record keeping, and reporting of animals which are transferred or which escape.

Under this proposal only people who possessed wild or feral hogs prior to the effective date of the rule may continue to possess those animals and they may only be possessed for purposes of meat production. Wolf-dog hybrids are required to be sexually neutered. Mute swans were previously regulated under NR 16 and those regulations, which are not currently in effect because of modifications to Ch. 50 of the Federal Code of Regulations, are restored.

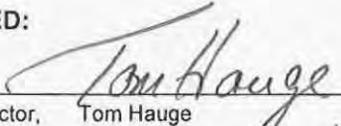
These regulations will apply to captive wild animals which are privately owned. These rules would not apply to a public zoo, veterinarians for the purpose of providing medical treatment, or people who possess wild animals for less than 10-days for the purpose of resale or slaughter.

RECOMMENDATION: Request adoption of Board Order WM-21-07, related to harmful wild animal designation for wild or feral swine, mute swans, and wolf-dog hybrids.

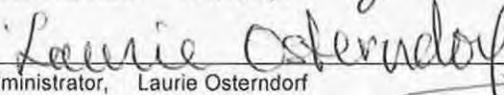
LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:


Bureau Director, Tom Hauge

2/4/10
Date


Administrator, Laurie Osterndorf

2/10/10
Date


Secretary, Matt Frank

2-12-10
Date

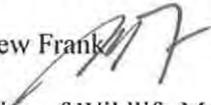
cc: Laurie J. Ross - AD/8
Deborah Johnson LS/8

Scott Loomans WM/6 (4 copies)
Tom Van Haren LE/8

Tom Hauge WM/6

DATE: February 3, 2010

TO: All members of the Natural Resources Board

FROM: Matthew Frank 

SUBJECT: Adoption of Wildlife Management Rule Order WM-21-07 related to captive wildlife

I am requesting Natural Resources Board adoption of WM-21-07, revisions to NR 12 and 16 related to requirements for harmful wild animals kept in captivity and the harmful wild animal designation for wild or feral swine, mute swans, and wolf-dog hybrids.

Background:

The Captive Wildlife Law, Ch. 169, Stats., establishes prohibitions and requirements, and requires department rule making for captive wild animals that are listed as harmful wild animals. People who wish to possess these animals will need to obtain a Captive Wild Animal Farm License. A condition of licensing is that owners follow standards for animal care, confinement, record keeping, and reporting of animals which are transferred or which escape. Licensing standards are designed to assure humane care and to reduce the likelihood of animals escaping where they may pose a threat to human safety, the health of other wild or domestic animals, or of becoming established on the landscape as an invasive species.

2007 ACT 119 amended Ch. 169 to require that the department list wild or feral hogs as harmful wild animals and provides authority to list by rule other species meeting specified criteria. Captive species may be listed as a harmful wild animal if they are found to be a threat to the environment, public health or the health of domestic animals, or are capable of inflicting severe physical harm to humans or domestic animals (s. 169.11, Stats). The department proposes listing captive wolf-dog hybrids and mute swans as harmful wild animals.

Under this proposal only people who possessed wild or feral hogs prior to the effective date of the rule may continue to possess those animals and they may only be possessed for purposes of meat production. Wolf-dog hybrids are required to be sexually neutered. Captive, privately owned mute swans were previously regulated under NR 16; captive mute swans will be regulated under these proposed rules (Mute swan regulations are not currently in effect because a cross reference in state rules was affected by modifications to Ch. 50 part 10.13 of the Code of Federal Regulations).

Currently, we estimate that these species may be kept at around two dozen sites in Wisconsin (captive wild or feral swine at perhaps two locations; captive mute swans may be kept at eight locations; and wolf-dog hybrids at an unknown number of locations – Michigan has licensed 29 sites).

Wild or feral swine

Wild and feral swine have proven their ability to persist on the landscape in Wisconsin after being introduced into the wild (Appendix 1). By listing wild or feral swine in ch. NR 40 as invasive species, the department has adopted the position that feral pigs are invasive, non-native animals that pose significant threat to the environment and agricultural operations. We promote aggressive removal anywhere feral pigs are reported.

Wild and feral swine pose a threat to domestic animals. Individual farmers and representatives of the agriculture industry are especially concerned about the potential spread of exotic diseases to their domestic livestock. Of primary concern are diseases such as pseudorabies, brucellosis and tuberculosis. The concern is that, while these diseases can be eliminated from domestic livestock herds, wild or feral swine that persist on the landscape will be disease reservoirs that continually reintroduce diseases to domestic herds. Disease outbreaks are devastating to individual farmers whose herds may need to be destroyed and can be similarly devastating to the industry on a statewide basis because of the potential for the loss of disease-free status. A recent test result suggests that pseudorabies may be present in feral swine in Wisconsin.

Wild and feral pigs are opportunistic omnivores that eat an amazing variety of plants and animals. They disturb native ground cover creating avenues for infestation by invasive plants. They eat insects, crayfish, frogs, salamanders, snakes, mice, eggs of ground-nesting birds and even young rabbits and fawns. Feral and wild swine disturb habitat for, and compete with, a wide range of native animals, wild plants and agricultural crops. Through their digging and rooting activities, large family groups have caused significant damage to contour strips of alfalfa in Crawford County.

Mute swans

Mute swans are a non-native species that, once released into the wild, have also proven their ability to persist on the landscape and outcompete other waterfowl such as loons, ducks, colonial waterbirds, tundra swans, and geese and will sometimes completely displace, or even kill, native waterfowl. While different types of native waterfowl also compete with each other, mute swans tend to concentrate in large numbers at productive feeding areas and can deplete aquatic plants needed by native waterfowl. In flocks, mute swans can overgraze submerged vegetation to the point that this vegetation cannot fully recover. This causes a reduction in the quantity and quality of aquatic habitat that may affect the food web, impact resident and migratory waterfowl, and affect an area's biodiversity. While feeding, mute swans paddle their feet and rake the substrate. Coupled with their tendency to concentrate, this mute swan behavior causes sediments to become suspended in the water column, which may reduce water quality.

Adult mute swans can be aggressive toward people and pets. In numerous cases, mute swans have threatened and attacked people in parks, backyards, and small boats. Although this often involves some degree of bluffing, mute swans are capable of inflicting bruises, sprains, and bone fractures. Aggressive tendencies are most pronounced in territorial breeding males.

Some individuals strongly appreciate the presence of mute swans as an ornamental bird and are opposed to their removal. Preventing the introduction of mute swans in additional waterfront communities will avoid future conflict between people who support the presence of this species and the department and other people who are concerned about their impact on native wetland habitats and waterfowl.

This rule making applies to captive mute swans and has no legal or policy relationship to birds that currently exist in free ranging situations.

Wolf-dog hybrids

Wolf-dog hybrids, once released or escaped into the wild, have proven their ability to persist on the landscape, interact negatively with humans and domestic animals, and interact with wild timber wolves (Appendix 2.). The department is concerned about the presence of hybrids with wild wolves because of the potential for hybrids to be accepted into a wild wolf pack and expose true wolves to domestic animal predation activity, their potential to interbreed with timber wolves, and the challenges these concerns

pose to effective management and public acceptance of wild timber wolves. Additionally, wolf-dog hybrids represent a potential disease threat to wild timber wolves in that timber wolves are susceptible to the same infectious diseases as domestic dogs, such as canine distemper, parvovirus and rabies. Finally, wolf-dog hybrids have proven to be a significant threat to human physical safety through incidents of serious injury in Wisconsin and by causing one or more deaths in the surrounding states of Michigan and Minnesota. This proposed rulemaking fulfills a goal of Wisconsin's Wolf Management Plan.

Summary of the Rule:

The department recommends modifications to chapters NR 12, and 16, Wis. Adm. Code, related to harmful wild animal designation of wild or feral swine, mute swans, and wolf-dog hybrids. Individual sections of this rule order do the following:

Section 1 prohibits live trapping and relocating any harmful wild animal. Under current rules some species, such as squirrels, rabbits and raccoons may be trapped and relocated without permission from the department. This provision clarifies that this ability does not extend to harmful wild animals.

Section 2 corrects a typographical error

Section 3 adds feral or wild swine, mute swans, and wolf-dog hybrids to the list of harmful wild animals and establishes definitions. With this designation, the following existing provisions of the Ch. NR 16 Admin. Code will be applicable:

- Licensing is required.
- Enclosures must be constructed of suitable materials, structurally sound, maintained in good repair, and double fencing is required (mute swans will be exempt from the double fence requirement).
- Animals must be provided adequate food and water, protected from injury, and be housed in enclosures free of trash and waste.
- Stocking animals into the wild and taking these species alive from the wild without department permission is prohibited.
- Quarterly reporting is required.

Section 4 creates an exemption from the requirement that animals be confined at all times so that wolf-dog hybrids can be actively controlled on a leash and not in an enclosure.

Section 5 requires that mute swans which are kept in open top pens be pinioned and clarifies that mute swans which are both pinioned and sexually sterilized may not be at large from the licensed property.

Section 6 allows only those people who possessed wild or feral swine on the effective date of this rule order to be licensed to possess those species under this section. Animals may not be killed on premises, except for custom slaughter or mobile custom slaughter, and can only be transported directly to slaughter, animal market or a meat establishment as defined by the Department of Agriculture, Trade and Consumer Protection. This section also requires permanent identifying information on feral swine so that, if discovered in the wild, the department can easily verify the origin of the animal and identify the owner.

Section 7 requires wolf-dog hybrids to be sexually neutered. This section also requires permanent identifying information on wolf-dog hybrids so that, if discovered in the wild, the department can easily verify the origin of the animal and identify the owner.

Section 8 provides an exception for wolf-dog hybrids from the existing prohibition on housing captive wild animals in buildings devoted to human occupancy.

Section 9 applies the existing pen space requirements for captive timber wolves to wolf-dog hybrids when they are housed outdoors and not in a building devoted to human occupancy. Wolf-dog hybrid pens with a covered top shall be a minimum of 300 square feet where up to 2 wolf-dog hybrids are held. A minimum of 100 additional square feet are required for each additional hybrid. The pen height must be at least 6 feet. Enclosure size requirements apply beginning on January 1, 2014.

Section 10 requires that fences for feral or wild swine have at least 30 inches of fence material buried unless the floor is solid.

Section 11 exempts mute swans from the requirement that harmful wild animals be enclosed by both a primary fence and a perimeter fence. This section also establishes that a perimeter fence for wild or feral swine need only be 4 feet in height instead of 8.

Section 12 lowers the standard for a secondary fence for wolf-dog hybrids in a rural area when the secondary fence is posted against trespass. This section also allows owners of wolf-dog hybrids four years to construct enclosures that meet the established standards by exempting them until January 1, 2014.

Section 13 applies the existing pen space requirements for captive timber wolves that are held in pens with open tops to wolf-dog hybrids that are held in pens with open tops. Wolf-dog hybrid pens with open tops shall be a minimum of 1000 square feet. The walls shall be a minimum of 10 feet in height with an additional 4 feet at the top slanted in at a 30° to 45° angle. This section also establishes that minimum pen size standards do not apply until January 1, 2014.

Sections 14 and 15 require quarterly reporting by the owners of feral or wild swine, mute swans or wolf dog hybrids. This reporting shall include information on all transactions occurring during that period.

Section 16 requires the owners of harmful wild animals to report escapes to the department within 24 hours of becoming aware of the escape. Owners of the animals are also required to tell the department what action they will take to recover the animals. This section also clarifies that the department may dispose of an escaped harmful wild animal upon determining that the animal poses a risk to public safety or to the health of other domestic or wild animals.

These regulations will apply to captive wild animals which are privately owned. These rules would not apply to a public zoo, veterinarians for the purpose of providing medical treatment, or animal markets that possess wild animals for less than 10 days for the purpose of resale or slaughter.

Public Hearings

The department conducted seven hearings in late August, 2009. Hearing attendance and registrations are summarized in table 1. Hearings were held beginning at 6:00 p.m. and were followed at 7:00 p.m. by hearings on another rule order which proposed modifications to deer management unit overwinter goals. The dual nature of the hearings likely accounts for many of the people who registered on the captive wildlife rule but who did not speak or register support or opposition.

Table 1. Summary of Public Hearing Attendance, Support and Opposition.

	Attendance	Testimony In Favor	Registered Support	Testimony In Opposition	Registered Opposition	As Interest May Appear or no position
West Bend	5					5
Wausau	15	1	2			12
Rhineland	2	1				1
La Crosse	1	1				
Green Bay	3	3				
Ashland	2					2
Menomonie	2	1				1

Comments received through public hearing process

Mary Popple of Chippewa Falls suggested that annual reporting would be sufficient for mute swans. Under Ch. 169.36(9)(b) Stats., quarterly reporting is required for all animals listed as harmful wild animals and department rules may not be less restrictive. Ms. Popple also requested that mute swans which are pinioned or neutered, rather than swans which are both pinioned and neutered, should be allowed to roam freely on the licensee’s property. Ms. Popple suggested that older regulations allowed this. Because the main goal of this proposal is to prevent new introductions of mute swans in the wild, department staff prefer not to allow free roaming mute swans on a property unless they are both pinioned and sterilized because of the likelihood of escape. This has been a provision of mute swan regulations since they were first promulgated in 2003.

Doug Muericke, representing the Timber Wolf Alliance, suggested that wolf-dog hybridization has negative consequences for wolf populations. Mr. Muericke cited concerns about genetic consequences, negative and inaccurate perceptions of wild wolves caused by experience with hybrids, and that human ownership of hybrids encourages a romantic view of wolves rather than a realistic understanding of the role of wolves in natural ecological systems.

State Representative Lee Nerison, from Westby, cited concerns about crop damage, livestock disease, and environmental threats of feral or wild swine. Bill Gnatzig, representing the Wisconsin Pork Producers Association, was supportive of the proposal in general. Tom Bahti, of Sobieske, supported the rule in general and suggested that regulations are long overdue for all three species.

Written Comments

During the comment period the department received letters of support from the Wisconsin Pork Association, Wisconsin Farm Bureau and the Timber Wolf Alliance.

The Endangered Resources and Law Enforcement Committee of the Conservation Congress voted unanimously at its August 29, 2009 meeting to support these proposed rules.

Individuals expressing support by letter included Jayne and Mike Belsky of Central Wisconsin Wolfdog Rescue in Necedah. They expressed support for the requirement that wolf-dog hybrids be neutered but did suggest that dig proofing pens could be an additional requirement of the rule.

Lori Fowler, ARF’s German Shepherd Rescue, expressed support for the rule but concern that the pen standards for wolf-dog hybrids are stringent and expensive to meet. The department agrees that pen

requirements will result in a significant investment for owners and established a 2014 compliance date in order to allow a generous amount of time for people to acquire materials and construct enclosures.

Richard Stoelb of Sheboygan expressed support. Sue Bowers (no address given) appreciated that the rule was not a complete prohibition of ownership of wolf-dog hybrids.

Department staff were made aware that the rule proposal was posted to at least one national social networking website devoted to the topic of wolf-dog hybrid ownership. This apparently did not generate more than one or two written comments to the department.

Rule Development:

These rules were developed with assistance from the bureaus of Law Enforcement, Legal Services and Endangered Resources and from the departments of Agriculture, Trade & Consumer Protection and Health & Family Services.

Legislative Council Rules and Clearinghouse Report

Comments the department received from Legislative Council Clearinghouse have been incorporated (see attached report).

Small Business and Regulatory Flexibility Analysis:

The revisions to Ch. NR 12 and 16, Wis. Admin. Code relating to harmful wild animal designation of feral or wild swine, mute swans, and wolf-dog hybrids are primarily applicable to a limited number of individual animal owners and will not have a significant economic impact on a substantial number of small businesses. Ownership of feral or wild swine will be prohibited by people who possess them for any reason other than meat production. A primary reason that some people have for possessing these swine, to provide game farm shooting opportunities, is already illegal. Business owners who possess wild or feral hogs, mute swans, or wolf-dog hybrids would be subject to the same compliance standards as individuals through a requirement that enclosures be of sufficient construction to contain those species. For wolf-dog hybrid owners, compliance with pen requirements would not be required until 2014. Permanent marking of wild or feral swine and wolf-dog hybrids would be required. Wolf-dog hybrids would need to be sexually neutered. Annual reporting of animals acquired and sold or which die would be required. Additionally, business owners would be required to report events of animal escape to the department within 24 hours of becoming aware of the escape. Therefore, under s. 227.19 (3m) Stats., a final regulatory flexibility analysis is not required.

Environmental Analysis:

The department has determined that these rule revisions are a Type III action under Chapter NR 150, Wis. Adm. Code, and no environmental analysis is required.

Appendix 2. Wolf-Dog Hybrid Incidents in Wisconsin 2000-2008.

The enclosed table shows all known wolf-dog incidents in Wisconsin from FY 2000 to FY 2008. The listed incidents include situations where WDNR personnel were involved in dealing with the hybrids. Some wolf-dog hybrid incidents that were handled by local law enforcement or private citizens, may not have come to the attention of the WDNR. Animals were considered wolf-dog hybrids based on appearances, descriptions of behaviors, eye witness reports, videos, pictures, plus observations of track and other sign. In most cases it was not possible to completely verify if the animals were actual wolf-dog hybrids by skeletal characteristics or more recently by DNA samples, and a few of these animals listed as likely wolf-dog hybrids may have included some wolf-like dogs or possibly full-blooded wolves.

Suspected wolf-dog hybrid incidents and problems in Wisconsin, 1 July 2000 – 31 June 2008.

Date	County	No. of wolf-dogs Sex/Age	Problem	Outcome
7/28/00	Marathon	Possible hybrid or wolf	Calf killed	Unknown
9/09/00	Sauk	Adult/ sex unknown	Running along Road	Hit by vehicle and disappeared.
10/31/00	Kenosha	Unknown	Running Loose	Unknown
11/07/01	Marquette	Unknown	Running Loose	Unknown
01/22/01	Juneau	Adult Female	Killed chickens	Placed in captivity.
02/09/01	Juneau	Adult/ Sex unknown	Running Loose	Unknown
03/06/01	Rock	Adult	Running Loose	Unknown
03/08/01	Sawyer	Possible hybrid or wolf	Killed 56 poultry	Unknown
03/11/01	Langlade	Unknown	Attacked 2 Dogs	Unknown
03/27/01	Portage	Unknown	Running Loose	Unknown
03/28/01	Oconto	Adult /Sex unknown	Found Dead	Skull & Skin saved
04/09/01	Vilas	Adult/ Sex unknown	Found Dead	Unknown
04/19/01	Burnett	Adult/ Sex unknown	Found Dead	Specimen Saved ?
04/23/01	Sawyer	Adult/ Sex unknown	Found Dead	Left at Site
04/30/01	Shawano	Adult Male	Bite Man	Destroyed by Sheriff
05/11/01	Iowa	Adult/ Sex unknown	Running Loose	Unknown
05/23/01	Adams	1 Adult and 2+ pups	Running Loose	Unknown
7/10/01	Sheboygan	1 A/M	Obtained by shelter	Unknown
7/16/01	Marathon	3 ?/?	Running loose	Recaptured by owner
8/7/01	Wood	1 A/?	Running loose	Unknown
8/24/01	Washington	1 A/?	Running loose	Unknown
9/18/01	Marathon	? A's & P's/?	Running loose	Unknown
10/13/01	Kenosha	1 A/M?	Died at home Picked up by warden	Returned to owner?
10/29/01	Barron	1 A/F?	Left behind at house Picked up by warden	Turned over to shelter
12/10/01	Jackson	1 A/?	Killed chicken	Unknown
1/3/02	Vilas	1 P/?	Running loose	Unknown
1/12/01	Washington	1 ?/?	Died in wild	Owner buried
2/7/02	Juneau	2 A/?	Running loose	Unknown
2/25/02	Price	1 A/M	Shot, Picked up by warden	Made into study specimen

Appendix 2. Date	County	No. of wolf-dogs Age/Sex	Problem	Outcome
3/5/02	Dane	1 A/? w/"red" collar	Running loose	Unknown
4/10/02	Racine	1 A/?	Running loose	Unknown
4/16/02	Oconto	1 A/?	Found dead	Left to decompose
5/20/02	Forest	1 A/M	Hanging close to school; mangy	Shot by warden
6/12/02	Ashland	Unknown	Killed 1 calf, Injured 1 calf	Unknown
5/11/02- 11/23/02	Oneida	Wolf 437F, AF	Hybrid seemed to roam with wolf pack	Died natural cause
6/02/02- 12/09/02	Lincoln	Wolf 433M	Hybrid seemed to roam with wolf pack	Dispersed & shot 109 mi. to south
6/02/02	Columbia	1 A/?	Running loose	Unknown
7/10/02	Sheboygan	1 A/?	Escaped from owner	Captured & returned to owner.
8/02/02	Burnett	1 P/?	Traffic concerns on road near wolf pack	Killed by Vehicle?
9/16/02	Green	A/?	Running loose; stealing dog food	Unknown
11/06/02	Iron	? / ?	Escaped from owner	Unknown
11/14/02	Racine	? / ?	Presented to Zoo as "wolf"	Held at Zoo?
11/18/02	Ozaukee	A / ?	Running at Dog Park	Unknown
01/07/03	Pierce	A/M	Found dead, started investigation	Disposed
01/23/03	Marathon	?/?	Running in City	Captured by PD & returned to owner
01/24/03	Forest	A/?	Threatening people	Shot by PD
02/18/03	Forest	2 A + P's	Site of frequent escapes	Unknowns
03/27/03	Grant	A/?	Running loose	Unknown
05/01/03	Polk	A/ M	Killed by vehicle; started investigation	Disposed
05/07/03	Oconto	A/ M	Running loose, investigated death.	Died Unknown Cause
05/13/03	Sheboygan	2 A/?	Running Loose	Unknown
05/15/03	LaCrosse	A/?	Killed 4 calves	Shot
08/19/03	Juneau	1A/M	Stealing Dog Food	Captured
09/09/03	Ozaukee	1 A?/sex?	Scaring Neighbors	Unknown
10/23/03	Marquette	1	Possible hybrid in horse pasture	Unknown
10/30/03	Eau Claire	1A	Bit dog	Euthanized Hybrid
11/01/03	Menominee	5+ (3+ A, 2+ P)	Approaching homes	Unknown
11/05/04	Oneida	1 A/M	Free-roaming in City	Captured
1/24/04	Langlade	4	Possible hybrids frequencing residence	Flashing lights installed by WS

Appendix 2. Date	County	No. of wolf-dogs Age/Sex	Problem	Outcome
03/03/04	Juneau	Y/F	killed by vehicle collision	Disposed
03/03/04	Milwaukee	2 A	Free-roaming in City	Unknown
03/26/04	Marquette	?/?	Possible hybrid killed by vehicle collision	Disposed
03/29/04	Bayfield	A/F	Running loose/attacked injured poodle	Recovered by owner Euthanized
04/07/04	Marathon	?/F	Shot	Killed; UW-Zool. Col.
04/11/04	Ozaukee	A/?	Running Loose	Shot by Cty. SO
05/18/04	Florence	2 A/F	Aggressive to Human	Shot by landowner
06/??/04	Oconto	1A	Aggressive to Human	Unknown
06/02/04	Winnebago	A/F	Aggressive to Human	Shot by Landowner
06/24/04	Lincoln	P/F	Possible hybrid captured in Averill Creek pack	Too small to collar; unknown.
07/17/04	Waushara	1 Y/F	Attacked dog	Left with owner
07/20/04	Shawano	1 ?/?	Attacked dogs	Killed & disposed
11/26?/04	Kenosha	1 A?/M	Found dead	Disposed
12/01/04	Sawyer	1 ?/?	Approaching homes	Possibly killed
12/25/05	Winnebago	1 ?/? Blue collared Canid	Aggressive to people & dog	Unknown
01/26/05	Brown	1 ?/? Wolf-like Canid	Near homes & dogs	Unknown
04/??/05	Iowa	2 Husky/ wolf like	Running Loose	Unknown
~04/20/05	Marathon	1 ?/?	Running Loose in Wausau	Unknown
04/30/05	Ashland	1 ?/? Hybrid found dead with dog collar	Reported as dead wolf	Disposed/ Skull saved
13 Jul. 05	Douglas	1 A/ F (2 year old)	Hit by vehicle; free roaming	Carcass retrieved by owner
31 Jul. 05/ 02 Aug.05	Price	1 AM, 2PF with 9+ wolves	Caused death of cow on farm	Trapped & euthanized with 6 wolves.
05 Nov.05	Sawyer	1 P/?	Found dead in field	Submitted for necropsy
20 Dec.05	Waukesha	?/?	Wolf-like animal roaming urban area	Unknown
14 Jan. 06	Rock	A or Y /M	Shot	To UW Zool. Mus.
14 Feb. 06	Waukesha	Y/M	Vehicle or Train Collision; free-roaming	To UW Zool. Mus.
21 Feb. 06	Waukesha	?/?	Free roaming, near 2/14 obs. by police(?)	Unknown
02 Mar.06	Sheboygan	?/?	Injured wolf hybrid, being fed by people	Unknown
Mar. 06	Jackson	A or Y/ F	Approached vehicles	Unknown
24 May 06	Burnett	19 hybrids in pens, one escaped	Owner died (other cause), animal control captured	Sent to sanctuary in CO.
30 May 06	Dunn	A/ ?	Roaming along highway	Unknown

Appendix 2, Date	County	No. of wolf-dogs Age/Sex	Problem	Outcome
02 Jun. 06	Kewaunee	A/? with red collar	Roaming in residential area, not afraid of people	Unknown
30 Jun. 06	Green Lake	A/?	Challenge 2 people	Unknown
Jul – Aug 06	Vilas	1 A/M	With wolf pack	Trapping unsuccessful
Aug 06	Sheboygan	1 A/F	Brought to Humane Society	Euthanized?
04 Nov 06	Waushara	1 ?/?	Escaped from enclosure	Unknown
27 Dec. 06	Juneau	1 AM & 1AF, & 2 dogs	Illegal released into Wildlife Refuge	AF placed in captivity, AM killed by vehicle
Mid Mar 07	Taylor	1 ?/?	Bit 2 people, injured dog	Unknown
Mar 07	Chippewa	1 AM	Roaming loose	Hit by vehicle 15 Apr.
29 Mar 07	Monroe	1 A/F	Roaming loose	Captured & placed in captivity
10 April 07	Burnett	1 A/F	Found shot & decapitated	Initiated investigation
15 Apr 07	Chippewa	1 ?/M	Hit by vehicle	Mortality
06 Jun 07	Marquette	1 A/?	Roaming loose	Unknown
28 Jun 07	Shawano	1 A/M	Hit by vehicle	Mortality
28 Jun 07	Waukesha	1 A/M	Loose in public area	Unknown
9 July 07	Ashland	1 A/?	Killed chickens	Unknown
13 Aug 07	Lincoln	1 Y/M	Hit by vehicle	Mortality
17 Aug 07	Columbia	1 A/?	Challenged dogs	Unknown
19 Sep 07	Barron	1 A/?	Escaped from owner	Unknown
30 Sep 07	Outagamie	1 A/?	Roaming loose	Unknown
03 Oct 07	Price	1 A/F	Caught on farm during depredation trapping	Euthanized
03 Oct 07	Price	1 A/M possible hybrid	Caught on farm during depredation trapping	Euthanized
21? Oct 07	Door	1 A?/?	Roaming loose	Unknown
20 Nov 07	Iowa	1?/?	Roaming loose, fearless	Unknown
20 Nov 07	Oneida	1 A/F	Shot	Mortality
01 Jan 08	Marathon	1 A/?	Roaming loose in yards	Unknown
08 Jan 08	Wood	1 A/M	Brought to Humane Society shelter	Sent to rescue facility in Canada
06 Apr 08	Winnebago	1 A/?	Chased bicyclist	Unknown
17 Apr 08	Winnebago	1 A/?	Roaming loose	Unknown
26 April 08	Sheboygan	1 ?/?	Injured , running through residential area	Died?
08 May 08	Waukesha	2 ?/?	Roaming loose in residential area	Unknown
14 June 08	Dane	1 A/?	Roaming loose in residential area	Unknown
23 June 08	Oconto	1 A/?	Roaming in rural area	Unknown

Fiscal Estimate — 2009 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number WM-21-07

Subject

Listing feral or wild swine, mute swans, and wolf-dog hybrids as Harmful Wild Animals under Ch. NR 16 Wis. Adm. Code and requiring record keeping, reporting, and establishing regulations on the possession and transportation of those species.

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- | | |
|--|--|
| <input type="checkbox"/> Increase Existing Appropriation | <input checked="" type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

Increase Costs — May be possible to absorb within agency's budget.

Yes No

Decrease Costs

Local: No Local Government Costs
 Indeterminate

- | | |
|--|---|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

20.370 (mu)

Assumptions Used in Arriving at Fiscal Estimate

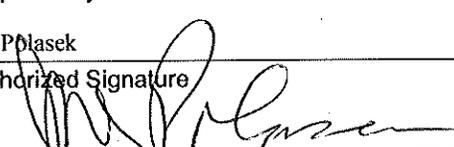
This proposed rule making will require a license issued under the authority of Ch. 169 Stats., Captive Wildlife, for the possession of mute swans, wolf-dog hybrids and feral or wild swine.

The process used by the department to collect fees, store licensing information, reports, and issue renewal notices is already established. The department anticipates that most individuals would apply for a Class B Captive Wild Animal Farm License (CWAFL). The fee for a CWAFL is \$50 the first year and \$25 for annual renewal. The higher cost during the first year is to compensate for site inspections that may be conducted by department staff during initial licensing.

Only people who possess feral or wild swine prior to the effective date of this rule and for the purpose of meat production may be licensed. It is anticipated that as few as two facilities may be eligible. Prior to January 1, 2003 the department had authority to require game farm or exhibiting licenses for people who possess mute swans. The maximum number of licensed facilities with mute swans was 8. Because of the limited number of these licenses to be issued and the department's ability to generate approximately \$500 to recover the cost of inspections, no fiscal impact is anticipated by requiring licenses for these species.

The number of people who currently possess wolf-dog hybrids and will require a license under this rulemaking is difficult to estimate; however, it is possible that Wisconsin's numbers may be comparable to Michigan, which already requires similar licensing under its Wolf-Dog Cross Act and licensed a total of 29 individuals in 2007 to possess wolf-dog hybrids.

Long-Range Fiscal Implications

Prepared By: Joe Plasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 02-05-10

Fiscal Estimate — 2009 Session

Page 2 Assumptions Narrative Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-21-07

Assumptions Used in Arriving at Fiscal Estimate – Continued

One-Time Costs/Revenues

It will take a wildlife manager approximately 2 hours to inspect a facility multiplied by the average value of salary and fringe of \$32. Therefore, assuming that Wisconsin permitting activity will be comparable to Michigan, total one-time costs to permit new facilities will be \$1,856 (\$64 x 29 permittees) and total one-time revenues for new permittees will be \$1,450 (\$50 x 29 permittees). While Department staff are learning how to permit these new facilities, it is possible that multiple site visits may be needed in an effort to work cooperatively with some permittees to ensure their facilities are compliant, which would result in higher costs. It is also possible that the number of permittees may be higher in Wisconsin than Michigan.

Ongoing Costs/Revenues

The effort required to license new facilities for these species will be greatest upon initial implementation. Therefore, in subsequent years, no significant costs are anticipated whereas ongoing revenues are estimated to be \$725 (\$25 annual renewal fee x 29 permittees).

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-21-07

Subject

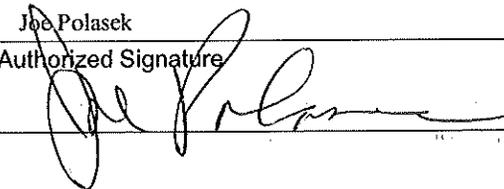
Listing feral or wild swine, mute swans, and wolf-dog hybrids as Harmful Wild Animals under Ch. NR 16 Wis. Adm. Code and requiring record keeping, reporting, and establishing regulations on the possession and transportation of those species.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 Total one-time costs to permit new facilities of \$1,856 and total one-time revenues for new permittees of \$1,450.

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes	\$	\$ -	
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-	
Local Assistance		-	
Aids to Individuals or Organizations		-	
Total State Costs by Category	\$	\$ -	
B. State Costs by Source of Funds			
GPR	\$	\$ -	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
State Revenues	<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -	
GPR Earned		-	
FED		-	
PRO/PRS		-	
SEG/SEG-S		725	-
Total State Revenues	\$	725	\$ -

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$	\$
Net Change in Revenues	\$ 725	\$

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	02-05-10

2007 Assembly Bill 334

Date of enactment: **March 20, 2008**

Date of publication*: **April 3, 2008**

2007 WISCONSIN ACT 119

AN ACT to amend 169.11 (1) (a) (intro.) of the statutes; relating to: designating feral pigs as harmful wild animals.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 169.11 (1) (a) (intro.) of the statutes is amended to read:

169.11 (1) (a) (intro.) The department shall designate by rule cougars and, members of the family ursidae, wild

swine, and feral swine as harmful wild animals. After consulting with the department of agriculture, trade and consumer protection and the department of health and family services, the department of natural resources may designate by rule other species of wild animals as harmful wild animals if any of the following applies:

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
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Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-052

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. SECTION 2 of the rule should be broken into two SECTIONS: the first SECTION would amend s. NR 16.11 (1); the second SECTION would create s. NR 16.11 (3) to (5). The text of s. NR 16.11 (2), which is not affected by the rule, should not be shown. Similarly, SECTION 4 of the rule should treat only s. NR 16.15 (2) (e) 1. and 2., not all of par. (e); SECTION 10 should be two SECTIONS, one to amend s. NR 16.30 (9) (b) (intro.) and one to create s. NR 16.30 (9) (b) 3.; and SECTION 12 should be two SECTIONS, one to amend s. NR 16.50 (1) (c) 2. a. and one to create s. NR 16.50 (1) (c) 2. e. and f.

b. In s. NR 16.11 (1), “~~knows~~ known” should replace “knowsn”.

c. Because the rule designates all swine as harmful wild animals, s. NR 16.11 (3) should read, simply:

(3) SUIDAE. Members of the family suidae.

All of the remaining language in that provision is explanatory or illustrative, and should be moved to a note.

d. Section NR 16.11 (5) goes beyond designation of wolf-dog hybrids as harmful wild animals. While the information regarding what is a wolf-dog hybrid is pertinent to the designation, the procedural provisions regarding determination by the department that an animal

is a wolf-dog hybrid and a challenge to such a determination by the animal's owner more properly belong in a separate provision.

e. In s. NR 16.15 (4) (a) and (b), the word "must" should be replaced with the word "shall." Also, those provisions should be written in the active voice, i.e., "A person that owns a wolf-dog hybrid shall ...". Finally, the term "wolf dog" should be hyphenated.

f. In s. NR 16.15 (3) (a), the notation "... (LRB inserts date)" should be inserted after "the effective date of this subsection".

g. Section NR 16.50 (1) (d) and (e) should be numbered s. NR 16.50 (1) (d) 1. and 2.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Because s. NR 16.11 (3) designates all swine as harmful wild animals, domestic swine in captivity are included in that designation. Is this intentional, and does it create any problems for the administration or enforcement of s. 169.11, Stats., and s. NR 16.11?

b. Section NR 16.50 (1) (c) 2. f. seems to suggest that mute swans are the only wild animals of the family anatidae ("...any captive wild animals of the [following] families:"), which of course is not the case. If the intent is to require the specified reporting only for captive mute swans, this provision should be reworded to say that specifically. Otherwise, "mute swans" should be replaced with something more comprehensive, such as "ducks, geese, and swans" or simply "waterfowl". Similarly, though not affected by this rule, note that there are more types of mustelids in Wisconsin than identified in s. NR 16.50 (1) (c) 2. c. If the intent is to require reporting only for the types listed, that provision should be reworded also.

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

The Wisconsin Natural Resources Board proposes and order to amend ss. NR 12.10(1)(b)2., 16.11(1), 16.15(2)(a), 16.15(2)(e)1. and 2., 16.30(2)(a), 16.30(4)(a)2.d., 16.30(9)(b)(intro.), 16.30(9)(c)2., 16.50(1)(c)2.a., and to create ss. NR 16.11(3) to (5), 16.15(3)(title), 16.15(4)(title), 16.30(4)(a)2.g., 16.30(9)(b)3. and 4., 16.50(1)(c)2.e. and f., 16.50(1)(d)(title)1. and 2. relating to harmful wild animal designation for wild or feral hogs, mute swans, and wolf-dog hybrids.

WM-21-07

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: The department has interpreted the following statutes as providing the authority to establish regulations on the taking or removal of wild animals and requiring the department to promulgate rules designating certain animals as harmful wild animals; ss. 29.014, 29.885(3)b., and 169.11, 169.36(9)(b) Stats.

Statutory Authority and Explanation of Agency Authority: 2007 ACT 119 requires that the department designate wild or feral hogs as harmful wild animals. The same statute, s. 169.11 Stats., also authorizes that any non-native wild animal that is a threat to the environment, public health or the health of domestic animals, or is capable of inflicting severe physical harm to humans or domestic animals may be designated a harmful wild animal. Quarterly reporting of transactions is authorized under s. 169.36(9)(b) Stats. Authority to regulate the taking or removal of wild animals is derived from s. 29.014 and 29.885(3)b. The title to captive wild animals is established under ss. 169.02(1). All rules promulgated under this authority are subject to review under ch. 227, Stats.

Related Rule or Statute: Chapter s. 23.22 Stats., provides additional department authority to regulate species that are also invasive. Chapter NR 40, Wis. Adm. Code establishes that wild or feral swine are invasive species. The provisions of NR 40 do not contradict, pre-empt, or create requirements which are inconsistent with this rulemaking. Chapter ATCP 10.01(62), (97) and 10.02 establish that wild swine are not domestic animals.

Plain Language Analysis: The department has recommended modifications to chapters NR 12 and 16, Wis. Adm. Code. Specifically, these rule proposals:

Section 1 establishes that harmful wild animals may not be trapped and relocated without written permission of the department.

Section 2 corrects a typographical error.

Section 3 adds wild or feral swine, mute swans and wolf dog hybrids to the list of species which are classified as harmful wild animals and establishes definitions.

Section 4 creates an exemption from the requirement that animals be confined at all times so that wolf-dog hybrids can be controlled by a leash.

Section 5 eliminates the option of keeping mute swans that are only sexually sterilized and not also pinioned in pens that are not covered and clarifies that mute swans which are both pinioned and sexually neutered may not be allowed to roam off of the property which is licensed.

Section 6 allows the possession of wild or feral swine only by certain people who are producing them for meat and slaughter off-site or by a custom meat processor and that feral or wild swine are permanently marked with identifying information.

Section 7 requires wolf-dog hybrids to be sexually neutered and permanently marked with identifying information.

Sections 8, 9 and 12 establish pen standards and allow that wolf-dog hybrids may utilize space that is intended for human occupancy.

Section 10 requires that enclosures for wild or feral swine include a section of fence or wall that is buried at least 30 inches unless flooring is concrete or similar material.

Section 11 exempts mute swans from the requirement that harmful wild animals be enclosed by both a primary fence and a perimeter fence. This section also establishes that a perimeter fence for wild or feral swine need only be 4 feet in height instead of 8.

Section 12 lowers the standard for a secondary fence for wolf-dog hybrids in a rural area when the secondary fence is posted against trespass. This section also allows owners of wolf-dog hybrids four years to construct enclosures that meet the established standards by exempting them until January 1, 2014.

Section 13 applies the existing pen space requirements for captive timber wolves that are held in pens with open tops to wolf-dog hybrids that are held in pens with open tops. This section also establishes that minimum pen size standards for wolf-dog hybrids do not apply until January 1, 2014.

Sections 14 and 15 establish record keeping and reporting requirements for wild or feral swine, wolf-dog hybrids and mute swans.

Section 16 requires the owners of harmful wild animals to report escapes to the department within 24 hours of becoming aware of the escape. This section also clarifies that the department may dispose of an escaped harmful wild animal upon determining that the animal poses a risk to public safety or to the health of other domestic or wild animals.

Summary of, and Comparison with, Existing or Proposed Federal Regulations: Federal regulations allow states to manage wildlife resources and captive wild animals located within their boundaries provided they do not conflict with regulations established in the Federal Register.

As a result of rule making by the United States Fish & Wildlife Service that was completed in 2005, mute swans are no longer regulated by the Migratory Bird Treaty Act and are federally unprotected. Under ch. 169, Stats., the department has the authority to regulate migratory birds held in captivity and defines migratory birds by cross-referencing Ch. 50 part 10.13 of the Code of Federal Regulations. The department currently has regulations regarding the possession of mute swans that are held in captivity but, because that species is no longer listed under Ch. 50 part 10.13 CFR, those regulations are no longer in effect.

The United States Fish & Wildlife Service has regulated gray or timber wolves by designating them as threatened or endangered species. The service does not regulate captive wolves or wolves that are hybrids with domestic dogs or coyotes.

States are responsible for the regulation of wild or feral hogs both in the wild and in captivity and none of these rule changes violate or conflict with the provisions established in the Code of Federal Regulations.

Comparison with rules in Adjacent States: These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management of wild animals and the regulation of certain captive wild animals.

Iowa regulates as a "Dangerous wild animal" swine which are members of the species *Sus scrofa linnaeus* including, but not limited to, swine commonly known as Russian boar or European boar of either sex. Possession is generally prohibited except for certain shooting preserves. Minnesota regulates Eurasian wild pigs and their hybrids (*Sus scrofa* subspecies and *Sus scrofa* hybrids), excluding domestic hogs (*S. scrofa domesticus*) and European wild boars as a "restricted species" of invasive animal. Possession is prohibited in most cases. Illinois and Michigan have regulations that are primarily animal health related.

Illinois prohibits the possession of wolves and wolf hybrids under the Illinois Dangerous Animals Act. Minnesota explicitly prohibits the release or introduction of wolf-dog hybrids into the wild. Michigan's Dog Cross Act of 2000 established significant restrictions on the ownership, possession, and care of certain wolf-dog crosses; prohibits the ownership and possession of certain wolf-dog crosses and establishes fees. Iowa does not have significant regulations for wolf-dog crosses. Nationally, many states regulate or prohibit the possession of wolf-dog crosses. The state of Washington is considering a prohibition through legislation being worked on in spring, 2009.

Mute swans held in captivity in Michigan require a department permit and must be pinioned. In Minnesota, mute swans are regulated as an invasive species and a game farm permit and fencing are required for legal possession. Iowa discourages allowing the free-flight of mute swans but does not regulate them. They are present in the wild in Iowa and considered a challenge to their trumpeter swan restoration effort. Illinois does not regulate captive mute swans. Mute swans are common in the wild in Illinois.

Summary of Factual Data and Analytical Methodologies: The rule changes included in this order do not deviate from current department policy on the management of wildlife, captive wildlife, and the regulation of animals which are listed as harmful wild animals. As required by ch. 169, Stats., consultation with the Department of Agriculture, Trade and Consumer Protection and the Department of Health and Family Services has occurred.

Only persons who possessed wild or feral swine, prior to the effective date of this rule, for the purpose of producing meat could be licensed to possess that species. Animals may only be killed at or transported to licensed meat facilities except by the license holder or an employee.

Designation as a harmful wild animal requires a license for the possession, transportation, sales, transfer, import, and exhibition. People who are in possession of a wild or feral hog, mute swan, or wolf-dog hybrid must possess their license and display it to the department upon request and carcasses must be accompanied by information such as a receipt indicating where and when the carcasses were acquired.

Pen standards are established for all three species. Feral and wild hogs and wolf-dog hybrids must be housed in enclosures constructed of suitable materials, structurally sound, and kept in good repair. Wolf-dog hybrids must be housed in closed top pens that are a minimum of 300 square feet. There may be no more than two wolf-dog hybrids per 300 square foot pen and at least 100 additional square feet for each additional hybrid. The pen height shall be a minimum of six feet. Wolf-dog hybrid pens with open tops shall be a minimum of 1000 square feet. The walls of an open top primary enclosure shall be a minimum of 10 feet in height with an additional 4 feet at the top slanted in at a 30° to 45° angle. In order to allow time for owners of wolf dog hybrids to modify and improve facilities, new pen standards would not be effective until January 1, 2014. A second perimeter fence is required for feral and wild hogs and wolf-dog hybrids. Housing standards for all harmful wild animals require that animals are provided with adequate food and water, facilities that are in good repair, protected from injury, and free of trash and accumulation of waste. Housing must provide shelter from the elements and adequate space. Animals may be confined in a different manner on a temporary basis to provide health care or for transportation.

Record keeping and quarterly reporting is required for harmful wild animals and shall include records of all transactions, deaths, and harvesting of animals on the licensed premises. Reports

must be submitted to the department on the last day of the months of January, April, July and October. All records must be kept by the owner for three years and displayed to the department upon request.

Taking of all three species alive from the wild without department authorization is currently prohibited under Ch. NR 10.08(5) Wis. Admin. Code except when the person is the owner of the animal or acting on behalf of the owner. The department would continue to allow taking animals from the wild in situations such as when an individual or organization, devoted to the rescue of injured, unwanted or escaped wolf-dog hybrids, acts as an agent of the department. The department could also allow activities by a local unit of government with responsibility for controlling nuisance or dangerous animals. Stocking any of these species into the wild is prohibited. Propagation is allowed by license except that mute swans which are not kept in pens must be sexually neutered and pinioned and wolf-dog hybrids must be sexually neutered. Rehabilitation of harmful wild animals is not allowed without prior authorization from the department and medical treatment may be allowed by the department or its agents.

Reporting escapes and a recovery plan for all three species to the department within 24 hours of discovery of the escape is required in order to facilitate recovery efforts.

The possession of harmful wild animals must be consistent with ordinances established by local units of government.

This rule making is designed to reduce the possibility of feral or wild hogs, which are held in captivity, escaping to the wild. Feral hogs, also known as wild boars, are a threat to native ecosystems, a disease threat to domestic swine herds, and are capable of causing significant damage to agricultural crops. Pseudorabies and swine brucellosis are among several livestock diseases for which the US Department of Agriculture's Animal and Plant Health Inspection Service has established national eradication programs with a goal of elimination of the diseases from all livestock in the United States. One of the most serious challenges to achieving this goal is the widespread and growing occurrence of feral swine. Feral swine can harbor and transmit these diseases, and in some areas may serve as the most prevalent wildlife host. A state's status with the US Department of Agriculture, in terms of being considered brucellosis-free, may depend partly on whether disease is found in the population of free roaming swine. Feral and wild swine are deemed unprotected animals in the wild and for the purposes of the proposed rules would be considered harmful when held in captivity. Any swine that has existed in the wild for seven days can be considered a wild or feral swine and a harmful wild animal.

This rule is designed to reduce the occurrence of wolf-dog hybrids escaping into the wild or posing a threat to human health. Wolves which share genetic material with domestic dogs have been documented in packs of wild wolves on three occasions in Wisconsin and alone in significantly more instances. Experience has shown that wolves which have some domestic heritage are more likely than wild wolves to interact with humans and domestic animals in negative ways. These actions, including depredation of domestic animals, pose a threat to the management of wild wolves and a threat to the genetics of wild wolves. Wolf-dog hybrids are responsible for fatal attacks on humans in neighboring states and have attacked people in Wisconsin. Improper care and containment of wolf-dog crosses can be a significant risk of physical harm to people.

This rule is designed to reduce the likelihood of mute swans escaping from captivity and becoming established in the wild where they compete with native waterfowl, including trumpeter swans, for breeding, feeding, and living space. Mute swans have shown that they are extremely well adapted to surviving in the wild in Wisconsin. Existing rules already require that swans which are not pinioned and neutered must be housed in covered enclosures. These regulations are not currently in effect but are restored in this rule by eliminating the need to cross-reference federal regulations. A new provision of this proposal is that mute swan escapes shall be reported to the department within 24 hours of becoming aware of the escape.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: 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 will allow the possession, propagation, and sale of mute swans in a manner which is identical to regulations which were in effect prior to a change to the Code of Federal Regulations which invalidated state regulations by breaking a cross reference in code language.

The possession and sale of wolf-dog hybrids would continue to be allowed under this rule proposal with certain conditions. Propagation would not be allowed under this proposal. Propagation for sale in Wisconsin is believed to be a limited activity that would have limited to no effect on small businesses. Likewise, the possession and propagation of feral swine would continue to be allowed by certain people for the purposes of meat production. People who possess wild or feral swine for other purposes are not believed to be benefitting economically and there would be no business effect.

Effects on Small Businesses: In most cases these rules are applicable to individual animal owners. Business owners who possess wild or feral hogs, mute swans, or wolf-dog hybrids would be subject to compliance standards through a requirement that enclosures be of sufficient construction to contain those species. For wolf-dog hybrid owners, compliance with pen standards would not be required until 2014. Permanent marking of wild or feral swine and wolf-dog hybrids would be required. Wolf-dog hybrids would need to be sexually neutered. Annual reporting of animals acquired and sold or which die would be required. Additionally, business owners would be required to report events of animal escape to the department within 24 hours of becoming aware of the escape.

Agency Contact Person: Scott Loomans, 101 S. Webster St., PO Box 7921, Madison, WI 53707-7921. (608) 267-2452. scott.loomans@wisconsin.gov

Section 1. NR 12.10(1)(b)(2) is amended to read:

NR 12.10(1)(b)2. Live-trap and relocate any wild animal, except white-tailed deer, elk, black bear or any wild animal classified as endangered or threatened under s. NR 27.03, or any animal classified as a harmful wild animal under s. NR 16.11, to open unenclosed lands not controlled by the department with the permission of the owner. Pursuit of animals released under this subdivision by dogs may not occur in an area where a wild animal has been released for a period of 2 hours after release of the animal, except dogs may be released to pursue raccoons at anytime after the raccoon has reached cover by climbing a tree or pole to a height of at least 10 feet.

Section 2. NR 16.11(1) is amended to read:

NR 16.11 Harmful wild animals. The following wild animals are designated as harmful wild animals:

- (1) URSIDAE. Members of the family ursidae commonly known known as bears.

Section 3. NR 16.11(3) to (5) are created:

- (3) SUIDAE. Members of the family suidae including pure wild strains of swine commonly known by the name European, Eurasian, Russian or hybrids with domestic strains. Feral domestic strains include animals which are confined but which exhibit characteristics of being in an untamed state, and hybrids of wild or feral with domestic swine. Included in this definition are any swine which is captured in the wild or from an unconfined environment after it has existed in the wild or unconfined environment outside of an enclosure for more than 7 days, regardless of its

physical characteristics, except that in emergency situations the department may designate a period of less than 7 days.

(4) ANATIDAE. The species *anserinae* *Cygnus*, commonly known as mute swans.

(5) CANIDAE. Hybrids of the species *Canis lupus*, *C. lycaon*, or *C. rufus* commonly known as wolves and the species *Canis familiaris*, domestic dogs, and subsequent generations from such matings. These animals are commonly called wolf-dog hybrids or wolf dogs.

(a) Canids may be presumed to be wolf-dog hybrids if they have some wolf-like physical characteristics and the owner presents such animals verbally or in writing to be a wolf-dog hybrid. Canids with very distinct wolf-like characteristics may be determined by the Department to be wolves or wolf-dog hybrids.

(b) An owner may challenge such a determination by providing the department with genetic testing results. The department will be responsible for the costs of testing if the animal is determined to have only the DNA of domestic dogs.

Section 4. NR 16.15(2)(a) is amended to read:

NR 16.15(2)(a) *Confinement*. No person subject to ch. 169, Stats., may possess captive wild animals unless the animals held in captivity are confined at all times to appropriate pens except wolf-dog hybrids which are under the immediate control of a person with a leash. Wolf-dog hybrids are not allowed in a dog park or similar area which is open to the public. Pens shall meet meeting the specifications of ss. NR 16.30 to 16.38 except as otherwise authorized by this chapter.

Section 5. NR 16.15(2)(e)1. and 2. are amended to read:

NR 16.15(2)(e) *Mute swans*. All mute swans held on a captive wild animal farm shall be confined within a covered pen except as follows:

1. Mute swans that are pinioned or ~~sexually neutered~~ by 4 weeks of age shall be confined but do not require a covered pen.
2. Mute swans that are both sexually neutered and pinioned by 4 weeks of age need not be confined in a pen but shall be confined to the owner's property and not allowed to roam freely on waters of the state unless those waters are entirely boarded by lands owned or leased by the owner of the mute swans.

Section 6. NR 16.15(3)(title) is created to read:

NR 16.15(3) WILD OR FERAL SWINE AND THEIR HYBRIDS. (a) Only individuals who possessed wild or feral swine on the effective date of this subsection (**LRB inserts date**) may be licensed under s. 169.15, Stats. to possess wild or feral swine. Licenses shall be applied for within 90 days of the effective date of this subsection (**LRB inserts date**). Animals must be held in strict confinement and possessed for the purpose of producing food for humans. Except as provided in ss. 169.02(1) and 169.15(b), Stats, and for custom slaughter or mobile custom slaughter as defined by the Department of Agriculture, Trade and Consumer Protection, animals may not be killed on premises. Animals may only be transported live directly to facilities licensed under ch. 169, Stats., or to a slaughter establishment as defined by the Department of Agriculture, Trade and Consumer Protection.

(b) Wild or feral swine must have an official individual identification as defined by ATCP10.01(70).

(c) An individual who possesses wild or feral swine under this rule must keep herd inventory records which include the age, sex and official individual identification of the animals. These records must be available to the department upon request.

Note: Animal markets, slaughter and meat establishments that meet the requirements of NR 16.15(3) are defined and regulated by the Department of Agriculture, Trade, and Consumer Protection in Chapters ATCP 10.01(90) and 55.

Section 7. NR 16.15(4)(title) is created to read:

NR 16.15(4) WOLF-DOG HYBRIDS. (a) A person who owns a wolf-dog hybrid shall have the animal sexually neutered by six months of age.
(b) A person who owns a wolf-dog hybrid shall have the animal individually tattooed, implant with a microchip, or otherwise permanently marked with information identifying the owner.

Section 8. NR 16.30(2)(a) is amended to read:

NR 16.30(2)(a) Structure; construction. Facilities for captive wild animals shall be designed and constructed so that they are structurally sound. They shall be kept in good repair, protect the captive wild animals from injury, contain the animals securely and restrict other animals from entering. Portions of buildings devoted to human occupancy may not be used as the primary enclosure or primary housing facility for captive wild animals listed in sub. (4). Possession of captive wild animals listed in sub. (4) in portions of buildings devoted to human occupancy shall be limited to temporary health care, treatment or special handling needs except that wolf-dog hybrids kept as pets may share indoor housing which is intended for human occupancy.

Section 9. NR 16.30(4)(a)2.d. is amended to read:

NR 16.30(4)(a)2.d. Timber wolf and wolf-dog hybrid pens with a covered top shall be a minimum of 300 square feet. No more than 2 wolves or wolf-dog hybrids may be held in a 300 square foot pen. A minimum of at least 100 additional square feet is required for each additional wolf or wolf dog hybrid. The pen height shall be a minimum of 6 feet. This section applies to owners of wolf-dog hybrids beginning on January 1, 2014.

Section 10. NR 16.30(4)(a)2.g. is created to read:

NR 16.30(4)(a)2.g. Wild or feral swine primary enclosures shall include a portion of fence or wall which is buried at least 30 inches unless the floor is a solid, impervious material such as concrete.

Section 11. NR 16.30(9)(b)(intro.) is amended to read:

NR 16.30(9)(b) *Perimeter fence*. An outdoor housing facility for harmful wild animals other than mute swans and wild or feral swine shall be enclosed by a perimeter fence that is at least 8 feet high. Fences less than 8 feet high may be approved by the department. An outdoor housing facility for wild or feral swine shall be enclosed by a perimeter fence that is at least 4 feet high not including any portion of the fence that is buried. The fence shall be constructed so that it protects the enclosed species by restricting unauthorized humans from having contact with the enclosed species. It shall be of sufficient distance from the outside wall or fence of the primary enclosure to prevent physical contact with captive wild animals inside the enclosure. Fences less than 3 feet in distance from the primary enclosure may be used if approved by the department. A perimeter fence is not required if any of the following apply:

Section 12. NR 16.30(9)(b)3. and 4. are created to read:

NR 16.30(9)(b)3. The primary enclosure for wolf-dog hybrids is located outside the boundaries of a city or village, and the primary enclosure is located at least 100 yards from a perimeter fence of at least 4 feet in height and posted with notices which indicate that trespassing is not allowed.

4. This paragraph applies to owners of wolf-dog hybrids beginning on January 1, 2014.

Section 13. NR 16.30(9)(c)2. is amended to read:

NR 16.30(9)(c)2. Cougar, bobcat, lynx, timber wolf, wolf-dog hybrid, and coyote pens with open tops shall be a minimum of 1000 square feet. The walls shall be a minimum of 10 feet in height with an additional 4 feet at the top slanted in at a 30° to 45° angle. This section applies to owners of wolf-dog hybrids beginning on January 1, 2014.

Section 14. NR 16.50(1)(c)2.a. is amended to read:

NR 16.50(1)(c)2. Records to be included in the quarterly report shall consist of complete records of all transactions or activity involving any captive wild animals of the families:

a. Canidae (coyotes, foxes, wolves and wolf-dog hybrids).

Section 15. NR 16.50(1)(c)2.e. and f. are created to read:

NR 16.50(1)(c)2.e. Suidae (wild or feral swine)
f. Anatidae (mute swans)

Section 16. NR 16.50(1)(d)(title)1. and 2. are created to read:

NR 16.50(d) *Reporting and disposition of escaped harmful wild animals.* 1. Any time a harmful wild animal escapes, the licensee shall notify the department of the escape. The notification shall take place immediately if possible but not later than 24 hours after the person is aware the escape has occurred and shall include what action will be taken by the licensee.

Note: Notification of fence failures or escapes should be made to the local conservation warden or wildlife manager in the county the fence failure or escape occurs, or by calling the department's hotline at 1-800-847-9367.

2. If a harmful wild animal has escaped from land owned by a person who is licensed under or subject to Ch. 169, Stats. and has not been recovered by the owner within 24 hours of the discovery of the escape, the department may dispose of the animal immediately upon determining that the animal poses a risk to public safety or to the health of other domestic or wild animals.

Note: Under s. 169.02(1), legal title to a live captive wild animal or the carcass of a captive wild animal is vested in the person who owns the wild animal if the person is in compliance with s. 169 and the rules promulgated under that chapter. Legal title to an animal or animal's carcass can be assumed by the department when the animal or carcass is possessed in violation of Ch. 169 Stats., or this chapter.

Section 17. Effective dates. 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 18. 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 _____
Matthew J. Frank, Secretary

(SEAL)