

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT: Illegally Held Wildlife Response Procedures for Department Staff

FOR: March 2103 Board meeting

TO BE PRESENTED BY: Tami Ryan, Wildlife Health Section Chief and Amanda Cyr, Wildlife Biologist

SUMMARY:

The Wildlife Management and Law Enforcement programs share responsibility for addressing situations involving illegally held wildlife and have developed a proposed policy for program staff.

Under state and federal regulations, no person may take or possess any protected native animal from the wild except as authorized under the terms of a license or permit issued by the department and the U.S. Fish and Wildlife Service. The conditions of these licenses and permits are designed to protect wildlife and human health and safety. Additionally, state and federal regulations also provide for the temporary possession of sick, injured, orphaned or displaced wildlife by unlicensed citizens for the sole purpose of transfer to an appropriately licensed individual. Successfully responding to instances of wildlife being held in violation of these laws requires good communication with the public and media, knowledge of laws and rules, and may require a variety of actions in different situations.

RECOMMENDATION: This agenda item is for information only.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- | | |
|--|------------------------------|
| <input type="checkbox"/> Background memo | <input type="checkbox"/> N/A |
| <input type="checkbox"/> N/A | <input type="checkbox"/> N/A |

Approved by	Signature	Date
Tom Hauge, Bureau Director	<i>Thomas Hauge/TR</i>	3/14/13
Kurt Thiede, Administrator	<i>[Signature] for Kurt Thiede</i>	3/14/13
Cathy Stepp, Secretary	<i>[Signature]</i>	3/15/13

cc: Board Liaison – AD/8

ILLEGALLY HELD WILDLIFE RESPONSE PROCEDURES FOR STAFF

DRAFT

*Law Enforcement
Handbook*

Effective Date: Upon approval by the LE & WM Bureau Directors and respective Division Adminstrators	Total Pages:	File Name: GUIDANCE – ILLEGALLY HELD WILDLIFE RESPONSE PROCEDURES
Special Instructions: Wisconsin Statute and the Code of Federal Regulations [s. 169.04(2) Wis. Stats. and 50 CFR 21.12(d)] provide for the temporary possession of sick, injured, orphaned or displaced wildlife by unlicensed citizens for the sole purpose of transfer to an appropriately licensed individual. Therefore, this guidance only applies to situations wherein a wild animal has been retained by the public for a period exceeding 24 hours.		

I. PURPOSE

To provide guidance to Wisconsin Department of Natural Resources Wildlife Management and Law Enforcement staff in responding to situations and complaints involving illegally held live wildlife by members of the public. The goal of this guidance is to:

- Deal with illegally held wildlife situations with increased speed and efficiency.
- Resolve situations with the lowest amount of conflict possible.
- Provide for resolution at the lowest DNR staff level possible.
- Support DNR staff in actions taken.
- Promote state-wide consistency in handling of these situations by DNR staff

II. POLICY

Wisconsin Department of Natural Resources Bureau of Wildlife Management and Bureau of Law Enforcement share responsibility for addressing situations involving illegally held wildlife. Wildlife Management staff and conservation wardens shall work cooperatively and follow the procedures of this guidance in responding to reports and complaints of illegally held live wildlife by members of the public.

III. DEFINITIONS

“Animal”, “wild animal” and “wildlife”– For the purposes of this guidance, means any living wild animal included in the definition of sec. 29.001(90), Wis. Stats.

“Curtilage” - The area immediately surrounding and adjacent to a home in which the activity of home life extends. It is the area that is so closely related to the home that the inhabitants have a reasonable expectation of privacy in it. Factors to consider in determining the extent of a home’s curtilage are: 1) the proximity of the area to the home; (2) whether the area is within an enclosure surrounding the home; (3) the nature of the uses to which the area is put; and (4) the steps the resident takes to protect the area from observation by passers-by.

“DNR” or “department” – Wisconsin Department of Natural Resources

“Euthanasia” – The humane killing of a wild animal in accordance with the most current American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (<http://intranet.dnr.state.wi.us/int/land/wildlife/protocol.htm>), or the most current American

Association of Zoo Veterinarians (AAZV) Guidelines for Euthanasia of Nondomestic Animals (contact WM's Wildlife Health Section for copies).

“Imprinting” – The process during a critical stage of development when an animal identifies with the first thing they see, hear, or touch after hatching or being born. Once an animal has imprinted on something, the association cannot be reversed.

“Habituation” - When an animal exhibits behavior that is abnormally tolerant or dependent on people.

“LE” – Bureau of Law Enforcement staff including conservation wardens

“Open field”- Any area outside of the home or curtilage, where the occupant does not have a reasonable expectation of privacy. An “open field” need not be either “open” nor a “field” as those terms are used in common speech.

“Wildlife rehabilitator” - “... a person authorized to capture, receive, temporarily possess, transport or transfer orphaned, sick or injured wildlife for the purpose of wildlife rehabilitation under a valid license issued pursuant to this subchapter”. [NR 19.71(14), Wis. Adm. Code]

“WM” – Bureau of Wildlife Management staff

IV. PROCEDURES

Situations involving wildlife held by the public without proper state authorization will be handled jointly by staff from the Department's Bureaus of Wildlife Management (WM) and Law Enforcement (LE). Both WM and LE staff need to be mindful that every case involving illegally held wildlife is considered high profile because of the potential for significant interest and involvement on the part of the media, legislators, or external organizations. Proper and consistent response to these situations is necessary to ensure compliance with the law while balancing the best interests of the public and the affected wildlife. The following guidelines were developed to assist staff in the assessment and management of these situations to successful conclusions. (*See Appendix A for a flowchart of the procedure outlined in this text.*)

A. Response and Assessment

1. **Communicating with department staff:** Since resolving issues involving illegally held wildlife require assistance from both WM and LE staff in order to be effective, communication among bureaus and staff is critical.
 - a. **Notification to WM and LE supervisors:** When a situation that may evoke controversy is reported to a member of WM or LE, the report shall be shared with both the WM and LE immediate supervisors for that area. That supervisor will then inform their Regional/District supervisor and the central office designee [Wildlife Rehabilitation Liaison, Captive Wildlife Administration Warden (CWA), and/or the Wildlife Health Section Chief] of the situation.
 - b. **Progress reports:** The LE and/or WM staff verifying and handling the situation, should provide periodic progress reports to both the WM and LE Regional/District supervisors to keep them informed on associated issues, conflicts, and developments with the situation. These reports can be made verbally, electronically, or via a written report as appropriate. (Staff should make and maintain notes for the case file of verbal communications involving controversial situations to ensure a complete chronological record of decisions and actions.)

- c. **Public affairs manager(s) and news releases:** If necessary due to developing or likely controversy, the department's regional or statewide public affairs manager(s) should be briefed about the situation, referred to the Captive Wildlife Events Database and Case Folder for a complete case history; and, if requested by appropriate regional leaders, a news release and/or talking points should be developed for use by the media (for general talking points that apply to any illegally held wildlife situation, refer to *Appendix B*).
2. **Verifying the violation:** After the suspected violation has been reported to the appropriate WM and LE Regional/District Supervisors, it needs to be verified. Verifying the violation is an important part of the process, since there will be times when a false complaint is made due to personal disputes or speculation. Suspected violations shall be verified in an expedient manner through a site visit or personal communication as appropriate with the available information and known circumstances.
- a. **Verification:** Verification of the suspected violation may be handled by WM, LE or jointly, depending on the particular situation.
 - 1) Challenging circumstances may dictate that the staff member receiving the complaint verify the suspected violation immediately without consultation with the other bureau.
 - 2) **Hotline reports:** If the situation is reported through the DNR Hotline, a conservation warden will receive details about the call and may respond immediately, or may consult with their WM counterpart to determine who will respond.
 - 3) Generally, either WM or LE can legally conduct surveillance of publicly viewable areas from locations they can lawfully access. Therefore, verification may be completed through means other than a personal contact, including observations from a drive-by or by utilizing a neighbor's property with appropriate permission.
 - 4) **Assistance of other department staff:** Staff members from other bureaus may also be able to provide additional information that may be pertinent to the case, such as past records, complaints, or property ownership/occupant information.
 - b. **Trespass:** In investigating complaints and information of illegally held wildlife, DNR staff must be aware of the trespass laws and the 4th Amendment rights of all citizens.
 - 1) Either WM or LE staff may contact property owners or occupants to question them regarding the alleged illegally held wildlife and to seek permission to inspect the property, including constitutionally protected areas within the curtilage.
 - 2) Areas that are governed by the "open fields" doctrine are deemed to not have an expectation of privacy. Visual surveillance of these areas is legal provided the DNR employee conducts the observations from a legally accessed vantage point.
 - 3) Only conservation wardens have the authority to enter private property (i.e. "open field" areas outside the curtilage) without permission.
3. **Assessing the situation:** Every illegally held animal situation is unique, but considering the safety of the department staff is a priority. Often, the person in question has developed an emotional connection to the wild animal in their possession and the prospect of having to surrender the animal is traumatic. These emotions might lead to resistance to cooperate, or an attempt to get the media involved. Department staff should exhibit sensitivity in these situations to the grievance process and try to achieve voluntary compliance before resolving to take enforcement action.

- a. **Immediate seizure of the animal:** If an animal is voluntarily surrendered or removed immediately, assessment of the animal can happen sooner, department staff safety can be protected, and time is not allowed for the animal to be moved or released. Staff conducting a site visit need to be prepared to capture, restrain, and transport the animal for immediate seizure or if the animal is voluntarily surrendered at the time of the initial contact by WM and/or LE.
- b. **Confirmation of illegally held animals:** If there is a violation and an animal is held illegally, assess the situation to determine and document the reason for immediate seizure or surrender such as a threat to human health and safety, the animal's welfare (malnourished, severely sick or injured animals, poor living conditions), or another factor that makes taking the animal into custody immediately necessary (e.g. aggressive behavior).
- c. **Deer:** If the illegally possessed wild animal is a deer, see sec. D. 4. "Special Considerations - Deer" for specific instructions regarding the handling of these animals.
- d. **Endangered, threaten or special concern species:** Situations involving species that are endangered, threatened, or of special concern in Wisconsin or federally shall be considered a high priority (for a list of these species, visit the Bureau of Endangered Resources webpage: <http://dnr.wi.gov/topic/endangeredresources/etlist.html>).
- e. **Contact with the U.S. Fish and Wildlife Service (USFWS):** A central office designee (Wildlife Rehabilitation Liaison, Captive Wildlife Administration Warden (CWA), or the Wildlife Health Section Chief) will contact the nearest USFWS special agents if there is a violation that involves a migratory bird or a federally endangered or threatened species. Department staff should evaluate each situation and determine if U.S FWS should be informed. Contact information for Wisconsin's USFWS field offices, including law enforcement, can be found at <http://www.fws.gov/midwest/news/wisconsin.html>.

Note: Even if an illegally held captive wildlife situation may involve a migratory bird or federally listed species, USFWS does not need to be informed about every situation. If the case involves unlawful possession, for instance a hawk is illegally trapped and kept for falconry use, the nearest FWS special agent should be contacted. But if DNR staff can assess and address a situation, for instance a mallard duckling is held for a couple days and then brought to a rehabilitation center, then contacting a nearest USFWS special agent is probably not necessary.
- f. **Documentation:** The DNR staff completing the verification and assessment steps should thoroughly document the background information of the situation, including contact information for the person(s) involved and any other relevant information listed in *Appendix D* (that may be used at a later date should the situation escalate). Conservation wardens shall document their investigation and actions following the protocols of Law Enforcement's [Report Writing Manual](#) [OPS 17]

B. Situation With Voluntary Compliance

If the person will voluntarily surrender the illegally held wildlife, WM and LE at the local level shall jointly evaluate the animal(s) and assist the person(s) in possession of the animal to direct the appropriate voluntary compliance solution which may include the following:

1. **Self implemented resolution:** The person may voluntarily complete the determined solution on their own, but department staff should be prepared to assist the person as needed.
2. **Transfer to a Department Employee:** Voluntary surrender of the animal(s) to a department employee who will determine the appropriate outcome.
3. **Disposition Options:** Depending on the situation, disposition options may include immediate release, transfer to a department staff or a licensed wildlife rehabilitator, euthanasia, or placement in an approved captive wildlife facility. See sec. *D Evaluation and Disposition Procedures*.

C. Taking Custody of Captive Wild Animals Involuntarily

If the person in possession of the wild animal is not cooperative during an attempted seizure, there may be extra work required to achieve the goal of removing the animal. For example, it may be necessary for DNR staff to request assistance from the local law enforcement agency or work with the District Attorney's Office to draft a search warrant. When taking custody of an animal that is being illegally possessed or involuntarily surrendered, there are several factors that must be considered to ensure a safe and efficient removal, including:

1. **Search warrant:** If a search warrant will be utilized, a search warrant plan will be developed along with a course of action as established by the LE and WM bureau directors (or their designees). The approved plan will be clearly communicated to all relevant DNR staff prior to serving the search warrant and taking custody of the animal.
2. **Personnel:** Staff must be confident in their ability to humanely handle, restrain, and transport the species in question. Depending upon the species and circumstances, outside personnel with specialized expertise may be needed to safely seize and transport the animal(s).
3. **Needed equipment:** There must be appropriate equipment available to safely capture, restrain, and transport the animal (for recommendations on transporting wildlife, refer to *Wildlife Transport Recommendations* on the DNR's Wildlife Rehabilitation webpage, <http://dnr.wi.gov/topic/wildlifehabitat/directory.html>, or *Captive Wildlife Pen Specifications & Transport Standards* on the DNR's Captive Wildlife webpage, <http://dnr.wi.gov/topic/wildlifehabitat/captive.html>).
4. **Disease evaluation:** Disease concerns must be evaluated and precautions taken to ensure the health of those involved and other animals. Contact DNR Wildlife Health staff for information and assistance.

D. Evaluation and Disposition Procedure

Once department personnel are in possession of the animal, WM and LE at the local level shall jointly evaluate the animal and situation to determine the appropriate disposition. If the disposition was determined prior to taking custody, a reassessment should be made once staff are in possession of the animal. Depending on the situation, disposition options may include immediate release, transfer to a licensed wildlife rehabilitator, euthanasia, or placement in a captive wildlife facility.

1. **Considerations for release:** When possible, an animal taken from the wild by an individual without the proper authority should be returned to the site from which it was

originally taken, provided it exhibits no signs of human habituation, imprinting, injury, or disease, and has a reasonable chance of living in the wild.

- a. If the site of origin is unsuitable, animals may be released at another location, preferably one that is within the animal’s natural range of dispersal and meets habitat requirements.
- b. Landowner permission must be obtained before releasing any animal on private or state property. Consequently, the corresponding DNR property manager shall be consulted before animals are released in any state park, forest, natural or wildlife area to ensure that doing so would not conflict with potential projects or management goals.
- c. All releases shall occur at a time of year, day and habitat type that is appropriate for that species.

2. Transfer to a Licensed Wildlife Rehabilitator: Wildlife rehabilitators are licensed by the state and U.S. Fish and Wildlife Service to provide temporary care to sick, injured, orphaned, or displaced wildlife with the goal of releasing them back into the wild.

- a. When staff are confronted with a situation involving an animal that cannot be immediately released, but has the potential to live in the wild, the animal shall be transferred to a wildlife rehabilitator, with the appropriate experience and capacity, whenever feasible (a directory of licensed wildlife rehabilitators is available on the DNR’s intranet, <http://intranet.dnr.state.wi.us/int/land/wildlife/rehab.htm> or the DNR’s Wildlife Rehabilitation webpage, <http://dnr.wi.gov/topic/wildlifehabitat/directory.html>). Examples of animals that may fall into this category include orphaned baby animals, those with minor injuries or treatable illnesses.
- b. **Habituated animals:** Animals that have been habituated to humans may be candidates for transfer to a wildlife rehabilitation facility. Reversal of human habituation is sometimes achieved by placing the animal with individuals of the same species and eliminating human contact or any human stimuli (e.g., hand-feeding). However, it may be determined by department staff or the wildlife rehabilitator that the risk to human safety and/or the animal’s welfare rules out rehabilitation and release.

Note: Habituation should not be confused with imprinting (See section III Definitions).

3. Disposition of non-releasable wild animals: There are certain circumstances under which an animal shall not be released back into the wild. This determination may be made in the interest of the individual animal’s welfare, such as when it is imprinted or suffering from conditions that would interfere with living in the wild. There are also cases in which the release of the animal would pose a risk to human health and safety or jeopardize the health of other individual animals and/or populations. Finally, there will be other situations where the Department just does not have the resources to ensure the animal’s safe and effective return into the wild. Some common conditions that render an animal non-releasable, the associated risk(s), and examples of the condition or risk(s) are displayed in Table 1.

Table 1. Conditions that render wildlife non-releasable, the potential risks and examples of these conditions/risks.

Non-releasable Conditions		
Condition	Potential Risk(s)	Ex. of Risk(s)/Condition
Imprinted on or irreversibly	- Human health and safety	- Gored by a male deer

habituated to humans	- Individual animal's welfare	habituated to humans - Scratched by an imprinted raptor - Failure to migrate or seasonally disperse - Failure to evade predators
Infectious disease	- Individual animal's welfare - Welfare of other individual animals or populations (Depends on severity)	Chronic Wasting Disease, Canine Distemper Virus
Terminal disease or injury	- Individual animal's welfare	Congestive heart failure, neurologic damage
Significant deformities/injuries that interfere with normal functioning	- Individual animal's welfare	Complete blindness, most amputations of the wing or limb

Depending on the situation and the animal involved, the WM and/or LE staff assisting the person(s) in possession of the animal(s) shall direct one of the following options if an animal is deemed non-releasable:

- a. Euthanasia:** Euthanasia of the animal may be done by WM or LE staff, a veterinarian, an Advanced Licensed wildlife rehabilitator, or a Basic Licensed wildlife rehabilitator under direct supervision of the sponsor or consulting veterinarian, competent in their respective ability to safely and humanely perform this task. The person(s) in possession of the animal(s) may prefer to utilize a veterinarian for humane euthanasia and may not require department staff assistance. There are numerous euthanasia methods available for staff to consider. The preferred methods of euthanasia are chemical and gunshot, but that does not preclude staff from considering and employing other lethal methods when the situation and species type dictates otherwise.
- 1) This resolution is acceptable with the understanding that follow-up between department staff and the person(s) is required to certify the resolution has occurred.
 - 2) If the person(s) require assistance with humane euthanasia for the non-releasable wild animal, the most appropriate humane method should be decided for every situation.
 - 3) If the preferred euthanasia method cannot be employed, the next preferred method or body location can be utilized, as long as the wild animal receives a humane euthanasia. For instance, gunshot can result in immediate loss of sensation and death if properly placed. Generally the first choice should be a shot through the skull. In cases where a head shot is not an option because of human safety or animal health testing (e.g. rabies, chronic wasting disease (CWD)), the gunshot placement should be at the most cranial vertebrae possible or to the heart. If chemical euthanasia is utilized, proper carcass disposal procedures should be followed to ensure that inadvertent chemical exposure is not available on the landscape.
- b. Transfer to a captive wildlife facility:** An animal that cannot be released or rehabilitated to the wild may be transferred to an individual who possesses an appropriate **captive wildlife license** (e.g. Nonprofit Educational Exhibitors license,

Captive Wild Animal Farm license), provided there is compliance with applicable state and federal regulations.

- 1) The transfer of animal(s) to a permanent captive facility may require the assistance of other department staff, depending on if the captive facility is in-state or out-of-state, or if the facility is a non-exempt or exempt organization [see sec. 169.04(5), Wis. Stats.].
- 2) When deciding on the disposition of a non-releasable wild animal, it is important to base the determination on what is best for that particular animal. Not all species or individual animals are well-suited for captivity, nor are all permanent placement facilities equipped to ensure a quality life for all wild animals. Some considerations when assessing a wild animal's eligibility for placement in a particular captive setting include:
 - **Social structure of the species** – highly social animals will not adapt well to living a solitary life in captivity
 - **Normal home range** – animals that roam over large areas in the wild will not be content confined to a small enclosure in captivity
 - **Natural disposition of the animal** – certain animals, such as Cooper's hawks, tend to become highly stressed in captive settings, risking injury to themselves and others
 - **Life span of the animal** – once an animal is placed in captivity, it will require consistent care and resources

4. Special Considerations – Deer: Due to CWD and the department's efforts to manage the disease, there are additional special considerations to evaluate when dealing with white-tailed deer illegally held by the public. The assessment of illegally held deer needs to be evaluated in terms of where the deer originated, how long it has been in captivity, and where it is currently being held. Existing captive cervid regulations allow permittees to maintain licensed captive cervids. At times, licensed captive cervids escape from facilities. Captive cervid rules regulate escape reporting, escape recapture and/or allowed euthanasia by DNR representatives under certain circumstances. Additionally, in special circumstances and situations in the CWD Management Zone, a more rapid response may be needed to preclude any risks associated with the movement of deer.

a. Communication with the Captive Wildlife Administrative Warden (CWA):

With every situation involving an illegally possessed live whitetail deer, the results of the assessment shall be communicated to the CWA. The CWA shall then assist department staff in evaluating and managing the situation for public interest and public safety considerations. If the person in possession of the wild animal is not cooperative during an attempted seizure, law enforcement actions may be invoked per the recommendation of the CWA and others upon consultation.

b. Deer from or held within the CWD Management Zone (CWD-MZ): The *current Deer Rehabilitation Policy* prohibits the rehabilitation of deer in counties where CWD or bovine tuberculosis has been confirmed in a captive or free-ranging animal (available on the intranet, <http://intranet.dnr.state.wi.us/int/land/wildlife/rehab.htm>, and the DNR's Wildlife Rehabilitation webpage, <http://dnr.wi.gov/topic/wildlifehabitat/deerrehab.html>). This restriction also applies to counties that are within a 10-mile radius of a confirmed positive. Deer from a CWD-MZ or held within a CWD-MZ may not be transported into or rehabilitated in counties outside of the CWD-MZ. Therefore, the only option for deer that have been taken

from these areas or subsequently held in a CWD-MZ is immediate release to the originating location or humane euthanasia.

- 1) **Release:** Deer taken from the CWD-MZ where immediate release is possible shall be placed back at the originating location in the wild. Situations precluding immediate release back into the wild include cases of human habituation, terminal disease or injury, infectious disease, and/or deformities making a normal life in the wild impossible. In addition, fawns shall not be released unless they have a reasonable chance at survival.
 - 2) **Euthanasia:** When immediate release back to the originating site in the wild is not an option, deer from a CWD-MZ or held within a CWD-MZ shall be euthanized following the preceding procedures of subs. 3.a.
- c. **Deer from outside a CWD Management Zone:** If a deer is taken from outside the CWD management zone, and was not held in a facility that contrary to the Deer Rehabilitation Policy housed deer from within the CWD management zone, one of the following dispositions shall be utilized:
- 1) **Release:** The deer should be immediately released back to the site of origin if the animal exhibits no signs of human habituation, injury, or disease and it has a reasonable chance of living a normal life in the wild. If the site of origin is unsuitable, deer may be released at another location, provided it is within the animal's natural range of dispersal and appropriate landowner permission is granted. Fawns shall not be released unless they have a reasonable chance at survival.
 - 2) **Transfer:** Transferred to a licensed wildlife rehabilitator in accordance with the *Deer Rehabilitation Policy* (<http://intranet.dnr.state.wi.us/int/land/wildlife/rehab.htm> or <http://dnr.wi.gov/topic/wildlifehabitat/deerrehab.html>)
 - 3) **Euthanasia:** If release of the deer to the wild or transfer to a licensed wildlife rehabilitator is not feasible or deemed in the best interest of the animal and/or human health and safety, the deer shall be euthanized following the preceding procedures of subs. 3.a.

V. BACKGROUND/HISTORY

Pursuant to state and federal regulations, no person may take or possess any protected native animal from the wild except as authorized under the terms of a valid license or permit issued by the Department of Natural Resources and the U.S. Fish and Wildlife Service [ss. 169.04(1) and 169.05(1) Wis. Stats. and 16 U.S.C. 703]. The associated conditions of these licenses and permits are designed to protect wildlife and human health and safety.

It is recognized that people often take possession of live wild animals for a variety of reasons, many of which are well-intended (e.g. assist an injured animal, rescue of a young animal believed to be abandoned, etc.). In recognition of these reasons, the legislature enacted sec. 169.05, Wis. Stats. allowing citizens to hold a live wild animal for 24 hours for the sole purpose of transferring it to a licensed wildlife rehabilitator or DNR personnel. Beyond a 24 hour period, continued possession is illegal without prior authorization from the department.

However, once the animal is in possession, past experiences show that the person in question often develops an emotional connection to the wild animal in their possession. As a result, wild animals are often illegally retained by the person rather than being turned over to the department or a licensed wildlife rehabilitator. Once the department becomes aware of an illegally held wild

animal, WM and LE have a legal obligation to investigate and take steps to bring the situation into compliance with state and federal regulations for the welfare of both the animal and the public. As noted in sec. IV.A.3. of this guidance, the Procedure, a person’s emotional attachment to the animal may lead to resistance to cooperate, or an attempt to get the media, legislators, or other organizations involved in an effort to circumvent the requirements of the law. Following the procedures of this guidance document will assist DNR staff to successfully manage these situations in the best interest of both the public and the wildlife.

VI. REFERENCES (i.e., Statutes, Administrative Codes, Case Law, Manual Codes) **(Insert hyperlink to each document in the references – TRH)**

Appendices:

Appendix A – Illegally Held Wildlife Response Flowchart

Appendix B – Illegally Held Wildlife Talking Points reference why the department regulates the possession of wildlife.

Appendix C – Illegally Held Wildlife Talking Points reference why wild white-tailed deer are not well-suited for life in captivity.

Appendix D – Illegally Held Wildlife: Specific information required to be collected during the verification and assessment steps.

LE Handbook:

[Report Writing Manual](#) [OPS 17]

[Responding to Reports of Deer Farm Fence Failures, Escapes or Unlawful Releases of Farm-Raised Deer](#) [OPS 24]

[Taking and Possession of Certain Exempt Wild Animal](#) [Captive IB 1]

Deer Rehabilitation Policy – Wildlife Management policy on handling of live deer

Wisconsin Statutes:

sec. 169.04 (1), Wis. Stats. - Restrictions on possession of wild animals

sec. 169.04(2) Wis. Stats. – Authorizes temporary possession of wild animals.

sec. 169.05, Wis. Stats. - Restrictions and exemptions on the taking of wild animals.

NR 19 Wis. Adm. Code (Subchapter II – Wildlife Rehabilitation) – Wisconsin’s rules for wildlife rehabilitators.

50 CFR 21.12(d) – Code of Federal Regulations authorizing the temporary possession of migratory birds under certain conditions

VII. APPROVALS

Thomas M. Hauge: _____ Date _____
Director,
Bureau of Wildlife Management

Kurt Thiede: _____ Date _____
Administrator,
Division of Land

Randall Stark: _____ Date _____
Director,
Bureau of Law Enforcement

Timothy Lawhern: _____
Administrator,
Division of Enforcement & Science

_____ Date

Appendix A
Wisconsin Department of Natural Resources
Illegally Held Wildlife Response Procedure for Staff Flowchart

This flowchart is a supplemental resource to be used in conjunction with the document, *Illegally Held Wildlife Response Procedure for Staff*.

Communication
 Inform supervisor about potential situation. Supervisor will inform other local WM or LE Regional Supervisors about potential illegal animal situation

Verify
 Verify violation through site visit or personal communication with the subject. Collect relevant information listed in Appendix D.

Compliance Assessment
 Assess to determine if the situation will conclude with voluntarily or involuntarily resolution. Collect any remaining relevant information listed in Appendix D.

Voluntary Resolution
 The person(s) in possession of the animal(s) will cooperatively assist in the resolution.

Involuntary Resolution/Animal seizure
 Situation is a threat to animal welfare and/or human health & safety.

Resolution Assessment
 Dept. staff determines the resolution and directs the person(s) accordingly per the following options.

Take Custody
 Remove or accept surrendered animal(s) in a safe and efficient manner, and take action per the following options.

Release
 Return animal(s) to place of origin or place in suitable native habitat, with landowner or property manager permission.

 Refer to pgs. 5-6

Transfer
 Transfer animal(s) to a licensed wildlife rehabilitator for evaluation and disposition, in accordance with Wis. Admin. Code NR 19, subchapter II.

 Refer to page 6

Euthanize
 Safely dispatch animal(s), using the AVMA and/or AAZV euthanasia guidance as a reference**
 Note: This is the only acceptable disposition for deer taken from or held within the CWD-MZ.

 Refer to page 7

Permanent Placement
 Transfer animal(s) to individual possessing a Nonprofit Educational Exhibitors or Captive Wild Animal license. Note: Permanent placement is not appropriate for deer.

 Refer to pgs. 7-8

Follow up to determine case is closed and report to WM and LE Regional/District Supervisor, and the CWA or Wildlife Health to ensure all final information is entered into the Captive Wildlife Events Database.

** Contact the Wildlife Health Section for copies of the AVMA and AAZV guidelines. The AVMA guidelines are also available on the WM intranet, <http://intranet.dnr.state.wi.us/int/land/wildlife/protocol.htm>

Appendix B
Wisconsin Department of Natural Resources
Illegally Held Wildlife Response Procedure for Staff Talking Points

These are some general talking points that can be used when addressing questions from the media or constituents regarding why the Dept. regulates the possession of wildlife. This appendix is a supplemental resource to be used in conjunction with the document, *Illegally Held Wildlife Response*

Against the law:

It is a violation of Wis. Stats. ss. 169.04 (1)(a) and (b) to possess wildlife that is not legally obtained and held without a license or authorization, respectively.

- Pursuant to Wis. Stats., s. 169.05(1) it is also illegal to take most wild animals from the wild except as authorized under a bird hunting preserve license, a wild fur farm license, a rehabilitation license, or a scientific research license or under s. 29.319 (for a list of non-protected species exempt from this regulation, refer to s. 169.04 (4)(a), Wis. Stats.).
- Federal regulations prohibit the taking of birds protected under the Migratory Bird Treaty Act.

Note: Under state and federal law, citizens may take and possess protected animals from the wild, for a period not to exceed 24 hours, for the sole purpose of transfer to a licensed individual. Continued possession after the 24 hour period is illegal without Department authorization.

Health and safety concerns for wildlife and people:

- Wild animals may carry diseases that can be transmitted to humans and domestic animals (e.g., roundworm infection, mange, rabies, and canine distemper virus).
- Placing wild animals in spaces shared by humans and domestic animals may also expose them to diseases for which they have no natural immunity.
- If diseased animals are released back into the wild, they have the potential to compromise the health of individual wild animals or entire populations.

Animal welfare:

- A healthy animal's best chance at survival is to be raised by its parent(s) in its native habitat.
- Wild animals are not meant to be confined as pets and have very complex nutritional, housing, and enrichment needs not easily met in captivity.

Resources:

- *Deer Rehabilitation Policy* – WDNR's Wildlife Rehabilitation webpage (<http://dnr.wi.gov/topic/wildlifehabitat/deerrehab.html>) and WDNR Wildlife Management's intranet page (<http://intranet.dnr.state.wi.us/int/land/wildlife/rehab.htm>)
- *Directory of Licensed Wildlife Rehabilitators*
 - Intranet – Bureau of Wildlife Management's Wildlife Health webpage: <http://intranet.dnr.state.wi.us/int/land/wildlife/rehab.htm>
 - Internet – WDNR's Wildlife Rehabilitation webpage: <http://dnr.wi.gov/topic/wildlifehabitat/directory.html>
 - Hard copies mailed each May to wildlife biologists, regional wardens and licensed wildlife rehabilitators. Also available upon request.
- *Orphaned Wildlife webpage* – WDNR's Wildlife Rehabilitation webpage: <http://dnr.wi.gov/topic/wildlifehabitat/captive.html>.

Appendix C
Wisconsin Department of Natural Resources
Illegally Held Wildlife Response Procedure for Staff Talking Points

These are general talking points as well as legal considerations that can be used when addressing questions from the media or constituents concerning reasons why wild white-tailed deer are not well-suited for life in captivity. This appendix is a supplemental resource to be used in conjunction with the document, *Illegally Held Wildlife Response Procedure for Staff*.

Against the Law:

- It is a violation of **Wis. Stats. ss. 169.04 (1)(a) and (b)** to possess wildlife that is not legally obtained and held without a license or authorization, respectively.
Note: Under state and federal law, citizens may take and possess protected animals from the wild, for a period not to exceed 24 hours, for the sole purpose of transfer to a licensed individual. Continued possession after the 24 hour period is illegal without Department authorization.
- Pursuant to **Wis. Stats., s. 169.05(1)** it is also illegal to take most wild animals from the wild except as authorized under a bird hunting preserve license, a wild fur farm license, a rehabilitation license, or a scientific research license or under s. 29.319 (for a list of non-protected species exempt from this regulation, refer to s. 169.04 (4)(a), Wis. Stats.).
- Specific counties in Wisconsin prohibit the rehabilitation of white-tailed deer as a result of chronic wasting disease or bovine tuberculosis. Pursuant to **NR 19.72(2)** The department may restrict wildlife rehabilitation of specific wildlife species, either statewide or in certain geographic areas to control the spread of disease, to protect public health or to prevent harmful environmental impacts.
*Note: The white-tailed deer rehabilitation policy can be found on the intranet: <http://intranet.dnr.state.wi.us/int/land/wildlife/rehab.htm>, or on the internet: <http://dnr.wi.gov/topic/wildlifehabitat/deerrehab.html>. The Department of Agriculture, Trade and Consumer Protection also prohibits the take of wild white-tailed deer: **ATCP 10 Subchapter VII (11) PROHIBITIONS**. No person keeping a herd of farm-raised deer may do any of the following: (b) Take or accept into the herd, on a temporary or permanent basis, any cervid from a free-ranging herd.
*Note: Among other things, par. (b) prohibits a keeper of farm-raised deer from accepting orphan fawns or injured deer for temporary care pending return to the free-ranging herd. Persons accepting orphan fawns and injured deer must hold a rehabilitation license under s. 169.24, Stats., and must keep those fawns and injured deer separate from any farm-raised deer herd.**
- The Association of Zoos & Aquariums (AZA) also has policies regarding the acquisition of wild animals into AZA accredited zoos. Pursuant to the AZA 2012 Accreditation Standards and Related Policies, acquisition of wild animals should be done in accordance with all local, state, federal and international wildlife laws.
Note: IV. ACQUISITION REQUIREMENTS, B. Acquisitions From the Wild
The maintenance of wild animal populations for education and wildlife conservation purposes is a unique responsibility of AZA member zoos and aquariums. To accomplish these goals, it may be necessary to acquire wild-caught specimens. Before acquiring animals from the wild, institutions are encouraged to examine sources including other AZA institutions or regional zoological associations. When acquiring animals from the wild, careful consideration must be taken to evaluate the long-term impacts on the wild population. Any capture of free-ranging animals should be done in accordance

with all local, state, federal, and international wildlife laws and regulations and not be detrimental to the long-term viability of the species or the wild or captive population(s). In crisis situations, when the survival of a population is at risk, rescue decisions are to be made on a case-by-case basis.

Safety concerns for people, domestic animals, and wildlife:

- Fawns bottle-fed by people can become aggressive as they mature.
- Deer habituated into a domestic situation can cause injury to people, especially children.
- Human safety risks include goring, trampling and kicking.
- Wild animals in captivity may also become aggressive toward domestic animals or livestock, ie. at times during mating season.

Health concerns for domestic animals and wildlife:

- Confining deer in captive facilities may increase the risk of disease transmission between other wildlife, livestock, and domestic animals (ie. chronic wasting disease, tuberculosis, salmonella).
- The risk of chronic wasting disease or bovine tuberculosis transmission may increase if captive deer are in contact with wild deer or domestic livestock.
- Captive deer may experience reduced immunity from nutritional deficiencies or the stress of captivity.

Animal welfare:

- Deer exhibiting tame behaviors may not be rehabilitated and released into the wild because they have lost their natural survival instincts.
- Deer kept in confinement may lose their natural fear of people and can become a nuisance demanding food and attention from people.
- Deer have very specific requirements in regard to housing, secure containment, and nutrition.
- Veterinarians cannot provide necessary medical care unless the deer is possessed legally, ie. under the authority of a wildlife rehabilitation license.
- Natural behaviors can be radically altered because of inappropriate care.
- Deer are herd animals and should not be housed alone or with different species.
- A healthy animal's best chance at survival is to be raised by its parent(s) in its native habitat.

Appendix D

Wisconsin Department of Natural Resources

Illegally Held Wildlife Response Procedure for Staff Verification and Assessment

Specific information is required to collect during the verification and assessment steps, and forward to the CWA or Wildlife Health.

This appendix is a supplemental resource to be used in conjunction with the document, *Illegally Held Wildlife Response Procedure for Staff*.

The following information is required for WM and/or LE to collect during the verification and assessment steps. Every illegally held animal situation is unique and as a result, not all of the following information may be applicable. All relevant information should be collected and verified prior to forwarding to CWA or Wildlife Health:

1. Personal contact information
 - a. Name
 - b. Address
 - c. Phone number
2. Wild animal information
 - a. Species and age
 - b. Number of animals held
 - c. The animal's name
 - d. The animal(s) physical condition
 - e. Free-roaming or in captivity
 - f. Enclosure type; how/where is the animal in captivity
 - g. Length of time of possession (if known)
3. Other information
 - a. What was the person's intention for the animal(s)? (ie. Release, eventually bring to rehabilitator)
 - b. If a veterinarian was contacted, the veterinarians name and facility contact information
 - c. If a rehabilitator was contacted, the rehabilitator's name and contact information
 - d. If applicable, media information portraying the captive animal (ie. Facebook)
 - e. If applicable, other complaints received from neighbors, citizens



Updated April 2012
Wisconsin Department of Natural Resources

DEER REHABILITATION POLICY

Nuisance, rescued, and sick or injured deer are captured every year by the public and Department staff and placed with wildlife rehabilitators. Rehabilitators commonly care for sick or injured deer and orphaned fawns. The identification of Chronic Wasting Disease (CWD) in Wisconsin deer requires appropriate restrictions and guidance for deer placement and rehabilitation to prevent further spread of the disease.

Deer rehabilitation policy, with specific geographic guidance for prohibited and permitted areas will be communicated annually by the Department directly to all licensed rehabilitators in the state. Additionally, current information will be available through the Department Wildlife Rehabilitation website and the Wisconsin Wildlife Rehabilitators Association.

The rehabilitation of deer is PROHIBITED for deer originating from an entire county if:

1. A CWD zone has been established in the county or a portion of the county, or
2. A CWD or bovine tuberculosis (TB) positive captive or free-ranging, domestic or wild animal has been confirmed since January 1, 1998 from the county, or
3. The county or portion of the county is within a 10-mile radius of a captive or free-ranging, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine TB since January 1, 1998.

Conditions

- Both injured/sick adults and fawns from any county where deer rehabilitation is prohibited shall be humanely euthanized. Heads from adult deer shall be collected, stored at refrigerator or freezer temperature, and contact shall be made within 72 hrs with local Department Wildlife Management or Warden staff to submit the head for testing.
- Deer from counties where deer rehabilitation is prohibited cannot be transferred to any other county.
- Deer from any other county may not be transported into or rehabilitated in a county where rehabilitation is prohibited.
- Transportation and disposal of deer carcasses shall follow Department regulations; carcasses shall be disposed of in a participating landfill.
- If temporary holding is necessary, the deer from areas of CWD/TB concern shall not have contact with any other deer or be held in a facility or crate where other deer will be held.

The rehabilitation of deer is PERMITTED for deer originating from an entire county if:

1. The county does not fall into any of the categories defined above.

Conditions

- Deer in a wildlife rehabilitator's care, prior to the discovery of CWD or bovine TB in the surrounding area, shall be humanely euthanized if CWD or bovine TB is discovered and the county is subsequently included under a deer rehabilitation prohibition.
- Any deer in Wisconsin over 16 months of age that exhibits symptoms fitting a CWD profile, shall be euthanized. The head shall be collected, stored at refrigerator or freezer temperature, and contact shall be made within 72 hrs with local Department Wildlife Management or Warden staff to submit the head for testing. If temporary holding is necessary, a deer fitting the CWD profile shall not have contact with any other deer or be held in a facility or crate where other deer will be held.
- When possible, deer in rehabilitation should be in contact only with deer from the same county, or preferably even smaller area of a county. Whenever possible, deer in rehabilitation should be released back to the county, and preferably the specific area, where found. Deer cannot be released on Department lands without permission from the Department.
- Released deer shall be identified with a metal ear tag issued by the Department. Ear tags shall be labeled by the Department to distinguish them from ear tags used for other purposes.
- Released deer shall not be identified with any other type of ear tag, such as those visible from a distance commonly used on farmed deer or livestock.
- All deer chemically immobilized or treated with drugs near the time of release shall be identified with an additional ear tag as required by the Department's Animal Care and Use Committee and Chemical Immobilization Policy.
- Deer under a rehabilitator's care will be reported quarterly, using the standard Department wildlife rehabilitation quarterly reporting form.

The placement of wild deer in deer farms is PROHIBITED.

Wisconsin Administrative Code states, "No person keeping a herd of farm-raised deer may do any of the following ... take or accept into the herd, on a temporary or permanent basis, any cervid from a free-ranging herd" (s. ATCP 10.46(11)(b)). Placement of deer that were free-ranging into a captive herd is a violation of these rules and the farm will be placed under quarantine by the Wisconsin Department of Agriculture Trade and Consumer Protection.