

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

SUBJECT: Request that the Board approve the hearing notice and report to the Legislative Council Rules Clearinghouse for Board Order WM-10-13, proposed rules affecting Ch. NR 19 related to the rehabilitation of wild animals.

FOR: June 2015 Board meeting

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

SUMMARY:

Wildlife rehabilitation is the act of providing temporary care for injured, sick or orphaned wildlife with the goal of releasing them back into the wild. Animals released back into the wild must have the ability to recognize and find appropriate foods, socialize with members of their own species, and exhibit normal behaviors such as fear of humans and predator avoidance.

These proposed revisions will clarify existing rules and establish new requirements for people licensed to rehabilitate wild animals, and people who assist them, based on what the department has learned after ten years of experience administering the subchapter. These rules will assure that standards for the rehabilitation of wildlife are consistent, that all persons engaged in wildlife rehabilitation are qualified, and that rehabilitators provide the most humane care and housing possible for wildlife being rehabilitated.

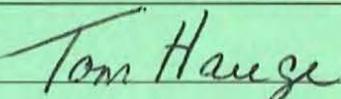
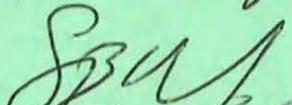
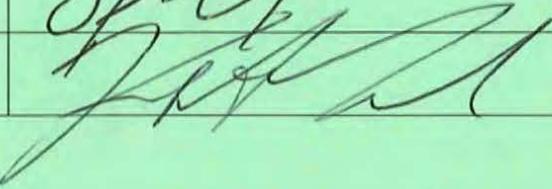
Holders of licenses to rehabilitate injured wild animals and their subpermittees, care providers, and volunteers are the primary people who will be impacted by these rules. Wildlife rehabilitation is typically performed by non-profit organizations or individuals and volunteers who are not reimbursed by government funding or by fees paid for services.

We recommend holding hearings in four locations spread geographically around the state in areas where there are actively operating rehabilitation facilities. The locations would be the fox valley area, Eau Claire, Rhinelander, and Madison in August.

RECOMMENDATION: Approval of the hearing notice and report to the Legislative Council Rules Clearinghouse for Board Order WM-10-13, proposed rules affecting Ch. NR 19 related to the rehabilitation of wild animals.

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

- Background memo
- Fiscal estimate and economic impact analysis form
- Clearinghouse report
- Board order/rule

Approved by	Signature	Date
Tom Hauge, Bureau Director		6/4/15
Sanjay Olson, Division Administrator		6-7-15
Cathy Stepp, Secretary		6-8-15

CORRESPONDENCE/MEMORANDUM

DATE: May 19, 2015

TO: All Members of the Natural Resources Board

FROM: Cathy Stepp, Secretary

SUBJECT: Background memo requesting authorization of public hearings on Board Order WM-10-13 relating to wildlife rehabilitation.

We are requesting authorization to hold hearings on Board Order WM-10-13. These proposals will clarify existing rules and establish new requirements for people licensed to rehabilitate wild animals based on what the department has learned after the first ten years of experience administering the subchapter.

The hearings would be held in August and be spread geographically around the state at locations in the Fox Valley, Eau Claire, Rhinelander, and Madison.

Background:

Wildlife rehabilitation is the act of providing temporary care for injured, sick or orphaned wildlife with the goal of releasing them back into the wild. Animals released back into the wild must have the ability to recognize and find appropriate foods, socialize with members of their own species and exhibit normal behaviors such as fear of humans and predator avoidance.

This subchapter was first adopted in 2004 to establish consistent standards for the rehabilitation of wildlife, ensure that all persons engaged in wildlife rehabilitation are qualified, and to ensure that rehabilitators provide humane care and housing for wildlife being rehabilitated. These will be the first significant revisions.

Summary of rule:

Specifically, these proposed rules would:

Establish a definition for the word "cage" to clarify that it can mean any type of enclosure.

Establish definitions of direct and indirect supervision to clarify that the actual presence of the licensee or consulting veterinarian is required in certain situations. These sections also define that a "subpermittee" is a person who is working in a limited capacity under the supervision of the holder of an advanced license for wildlife rehabilitation.

Simplify the definition of "volunteer".

Update the name of the Wildlife Rehabilitation Advisory Committee, the group of volunteers appointed by the secretary to advise the department on wildlife rehabilitation so that it is now a "council" and expand the council's charge to include advisory roles related to wildlife health and other captive wildlife matters. Use of the word council reflects that this is a long term, rather than a temporary, advisory body.

Provide information in a note so readers are aware that rehabilitation of skunks and wolves is not allowed and directing people to the location on the department's website where rehabilitation

restrictions and requirements related to deer, wolves and threatened and endangered species are explained.

Clarify that wild animal rehabilitation is restricted only to those species which are listed on the rehabilitator's license and establish a process by which additional species may be added to a license.

Require an applicant for a rehabilitation license to describe their previous rehabilitation and animal care experience when applying for the license.

Establish conditions under which volunteers may assist basic license holders with the rehabilitation of wild animals, including that volunteers may provide only basic care under the direct supervision of the licensee.

Establish that holders of a basic license for wildlife rehabilitation may not utilize the assistance of subpermittees.

Require the signature of a veterinarian to assure that applicants for an advanced wildlife rehabilitation license meet minimum criteria. These sections also require a description of prior wildlife rehabilitation experience and successfully completing a written exam which evaluates their knowledge as part of the licensing process. This is already a requirement for basic licensees.

Establish that volunteers can assist advanced license holders in rehabilitating wildlife and establishes the conditions and requirements.

Specifically establish that subpermittees can assist a person who is licensed as an advanced rehabilitator, including at a location other than that of the advanced license holder. This section establishes reporting and other requirements for subpermittees and establishes that advanced licensees are responsible for the activities of volunteers.

Establish a state requirement that consulting veterinarians comply with the Animal Medicinal Drug Use Clarification Act of 1994. This is already a requirement of federal law. This section also requires that applicants for wildlife rehabilitation licenses read a code of ethics for wildlife rehabilitation,

Clarify that, when providing documentation that facilities are allowed under local zoning, the documentation can be supplied by the applicant instead of the local unit of government. The requirement to show that facilities are allowed under local zoning is also an existing statutory requirement.

Establish requirements for non-residents who wish to apply for a license to rehabilitate wild animals in Wisconsin. The requirements are similar to the ones which apply to resident applicants. As a condition of license renewal for residents, this section requires applicants to obtain and show proof of continuing education.

Establish that, in addition to preparing a test, the wildlife rehabilitation council may select an existing examination that is used to evaluate applicants for wildlife rehabilitation licenses.

Require wildlife rehabilitation license applicants to provide information about their enclosures used to confine animals to make the licensing process more efficient and to better assure that humane standards will be met.

Incorporate by reference the standards for enclosures which are established by the National Wildlife Rehabilitation Association and International Wildlife Rehabilitation Council. This will provide more specific guidance to license applicants and will assure consistently better care and housing of animals.

Clarify that the department, as well as wildlife rehabilitators, can make the determination that an animal is not capable of being released and having a chance of survival in the wild. The department's authority is already established in Ch. 169 Stats. but is re-stated in these rules to provide clarity.

Establish that, when responding to an oil spill, rehabilitators who are licensed in another state may assist in Wisconsin on a temporary basis. These sections also clarify how a rehabilitator must respond when they take possession of an animal they know or reasonably suspect has been exposed to rabies and other diseases, and updates a related cross-reference to Ch. ATCP 10. These sections establish a time frame during which a relationship with a new consulting veterinarian must be established if a current veterinarian is no longer able to perform veterinary services for the rehabilitator. Finally, language in these sections clarifies that failing to meet the requirements for the care and treatment of wildlife is a prohibited action.

Establish that quarterly reporting of activity with the following additional species is required; fisher, marten, wolverine, weasel, elk, white-tailed deer, and moose. These sections also update the list of animals for which quarterly reports to the department are required so that it includes wild or feral swine, mute swans, and wolf-dog hybrids at times when rehabilitation of those species is not prohibited under s. NR 19.72 (2).

Designate a specific person in the department to whom applicants to become advanced wildlife rehabilitation sponsors shall apply. The section also requires both the department and the wildlife rehabilitation advisory committee to review applications and documents describing the applicant's experience with wildlife rehabilitation.

Establish that the sponsor who applies to advise or consult a basic licensee must either be actively rehabilitating the species that the basic licensee will work with, or must have the facilities necessary to work with that species.

Establish that, in addition to situations of risk to public health, the department may also modify license conditions when there is a threat to animal health or welfare.

Effect on existing policy:

These rules are consistent with current department policy, established in s. NR 1.18, which establishes that wildlife rehabilitation is the practice of providing first aid and temporary care to orphaned, injured or confiscated wildlife. The practice of wildlife rehabilitation may provide important benefits to the scientific community through knowledge gained during treatment of animals as well as benefit to the wildlife being treated. Necessary standards for facilities and care are established to assure proper care and confinement. Skunks may not be held under this permit authority. The department does not actively engage in a rehabilitation program but provides coordination of referrals to authorized rehabilitators.

Previous board action:

These will be the first significant revisions to wildlife rehabilitation regulations since 2004.

The scope statement for these rules was approved by the board at its April 2013 meeting.

People impacted by the proposed rule:

Holders of licenses to rehabilitate injured wild animals and their subpermittees, and volunteers are the primary people who will be impacted by these rules. Wildlife rehabilitation is typically performed by non-profit organizations or individuals and volunteers who are not reimbursed by government funding or by fees paid for services.

Environmental Analysis:

The rulemaking process for Board Order WM-10-13 constitutes an equivalent analysis action under s. NR 150.20 (2) (b), Wis. Adm. Code and additional environmental analysis is not required.

Anticipated economic impact of implementing the rule and small business analysis:

The department has made a preliminary determination that these rules will have no economic impact locally or statewide. In preparing a final analysis of economic impacts, the department will post a notice soliciting comments on the preliminary analysis in July.

Wildlife rehabilitation is typically performed by non-profit organizations or individuals who are not reimbursed by government funding or by fees paid for services. These rules, and the legislation which grants the department rule making authority, will have no economic effect on small businesses. These rules are applicable to individual wildlife rehabilitators and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

The department observes that wildlife rehabilitators contribute to the economy through their purchases of veterinary and animal husbandry related products and services. The department anticipates that these economic impacts will continue to occur under the proposed rules at the same level at which they occur under current rules.

Rule Development:

These rules were developed with assistance from the bureaus of law enforcement, legal services, customer service, and endangered resources.

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Ch. NR 19, Miscellaneous Fur, Fish, Game and Outdoor Recreation. Board Order WM-10-13

Subject

Regulations for the rehabilitation of sick or injured wild animals.

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20, Stats. Appropriations Affected

None

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

This subchapter was adopted in 2004 to establish consistent standards for the rehabilitation of wildlife, ensure that all persons engaged in wildlife rehabilitation are qualified, and to ensure that rehabilitators provide humane care and housing for wildlife being rehabilitated. These Proposed revisions will clarify existing rules and establish new requirements for people licensed to rehabilitate wild animals based on what the department has learned following ten years of experience administering the subchapter.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Pursuant to the Governor's Executive Order 50, Section IV, the department will provide notice that we will accept comments on this Economic Impact Analysis during a 14 day period in July 2015. A comment period of 14 calendar days was selected because this rule will have no economic impact locally or statewide.

Economic Impact

Wildlife rehabilitation is typically performed by non-profit organizations or individuals who are not reimbursed by government funding or by fees paid for services. These rules, and the legislation which grants the department rule making authority, will have no economic effect on small businesses. These rules are applicable to individual wildlife rehabilitators and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

The department observes that wildlife rehabilitators contribute to the economy through their purchases of veterinary and animal husbandry related products and services. While these rules will modify the requirements for participating in the practice of wildlife rehabilitation, it is not anticipated that there will be any significant decline or increase in rehabilitation activities. The department anticipates that economic impacts will continue to occur under the proposed rules at the same level at which they occur under current rules.

Fiscal Impact

The department currently implements the requirements for licensing and enforcement of regulations on the rehabilitation of sick or injured wild animals by members of the public. These duties currently are the responsibility of the bureaus of wildlife management, law enforcement, and customer service and licensing. Under the proposed rules, we anticipate devoting the same level of department resources to these activities as under the current rules. Regulations modified by this proposal will not require significant changes to past practices or procedures and will have no fiscal impact but may result in more efficient use of department staff time.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

This subchapter was first adopted in 2004 to establish consistent standards for the rehabilitation of wildlife, ensure that all persons engaged in wildlife rehabilitation are qualified, and to ensure that rehabilitators provide humane care and housing for wildlife being rehabilitated. These will be the first significant revisions and will clarify existing rules and establish new requirements for people licensed to rehabilitate wild animals based on what the department has learned after nearly ten years of experience administering the subchapter.

These rules will assure that standards for the rehabilitation of wildlife are consistent, that all persons engaged in wildlife rehabilitation are qualified, and that rehabilitators provide the most humane care and housing possible for wildlife being rehabilitated.

An alternative of not implementing the proposed rules would also have no economic impact but would not advance the goal of providing the most humane care of wild animals being held for rehabilitation purposes.

Long Range Implications of Implementing the Rule

Implementing these rules will have no specific long range economic impacts.

Compare With Approaches Being Used by Federal Government

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. Under international treaty and Federal law, the possession of migratory birds is also regulated by the United States Fish & Wildlife Service. Additionally, federal regulations do apply to bald eagles and federally listed endangered or threatened species. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Wisconsin's surrounding states also have regulations in place establishing some type of licensure and which are designed to assure humane care of animals and manage the use of wildlife resources which are held in the public trust. Wildlife rehabilitation regulations vary from state-to-state but are generally comparable to Wisconsin's approach.

Michigan wildlife rehabilitation regulations require all new applicants to pass the International Wildlife Rehabilitation basic skills course prior to applying for a wildlife rehabilitation permit. Permits are valid for 5 years and continuing education credits are required prior to a permit renewal. Rehabilitation facilities must be in compliance with the International Wildlife Rehabilitation and National Wildlife Rehabilitation Association minimum standards.

The Minnesota wildlife rehabilitation regulations specify three classes of licenses. A passing score of an exam is required prior to obtaining the next level permit. Continuing education credits are required to renew licenses or apply for a subsequent license. Each permit level is allowed to have a specified number of in-shelter assistants who are authorized to assist in rehabilitation activities.

The Iowa wildlife rehabilitation regulations ensure that facilities are in compliance with International Wildlife Rehabilitation and National Wildlife Rehabilitation Association minimum standards.

Name and Phone Number of Contact Person
Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452
Amanda Kamps, Wildlife Biologist, 715-359-5508

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARINGS
WM-10-13

NOTICE IS HEREBY GIVEN that pursuant to ss. 169.24 and 227.11(2)(a), Stats., interpreting ss. 169.24, Stats., the Department of Natural Resources will hold public meetings on revisions to ch. NR 19, Wis. Adm. Code, related to wildlife rehabilitation.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will begin at 7:00 p.m. at each of the following locations:

August South Central Region Department of Natural Resources office, 3911 Fish Hatchery Rd., Fitchburg

August Fox Valley Area

August Eau Claire Area

August Rhinelander

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with rulemaking. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Plain Language Rule Analysis: This subchapter was adopted in 2004 to establish consistent standards for the rehabilitation of wildlife, ensure that all persons engaged in wildlife rehabilitation are qualified, and to ensure that rehabilitators provide humane care and housing for wildlife being rehabilitated. These Proposed revisions will clarify existing rules and establish new requirements for people licensed to rehabilitate wild animals based on what the department has learned after ten years of experience administering the subchapter. Specifically, these rules would:

SECTION 1 establishes a definition for the word "cage" to clarify that it can mean any type of enclosure.

SECTIONS 2 and 4 establish definitions of direct and indirect supervision to clarify that the actual presence of the licensee or consulting veterinarian is required in certain situations. These sections also define that a "subpermittee" is a person who is working in a limited capacity under the supervision of the holder of an advanced license for wildlife rehabilitation.

SECTION 3 updates a cross reference to American veterinary medical association standards so that it will always refer to the current standards.

SECTION 5 simplifies the definition of "volunteer".

SECTIONS 6 and 35 update the name of the Wildlife Rehabilitation Advisory Committee, the group of volunteers appointed by the secretary to advise the department on wildlife rehabilitation so that it is now a "council" and expand the council's charge to include advisory roles related to wildlife health and other captive wildlife matters. Use of the word council reflects that this is a long term, rather than a temporary, advisory body.

SECTION 7 provides information in a note so readers are aware that rehabilitation of skunks and wolves is not allowed and directing people to the location on the department's website where rehabilitation restrictions and requirements related to deer, wolves and threatened and endangered species are explained.

SECTION 8 clarifies that wild animal rehabilitation is restricted only to those species which are listed on the rehabilitator's license and establishes a process by which additional species may be added to a license.

SECTION 9 requires an applicant for a rehabilitation license to describe their previous rehabilitation and animal care experience when applying for a license.

SECTION 10 establishes the conditions under which volunteers may assist basic license holders with the rehabilitation of wild animals, including that volunteers may provide only basic care under the direct supervision of the licensee.

SECTION 11 establishes that holders of a basic license for wildlife rehabilitation may not utilize the assistance of subpermittees.

SECTIONS 12 to 14 require the signature of a veterinarian to assure that applicants for an advanced wildlife rehabilitation license meet the minimum criteria for the license. These sections also require a description of prior wildlife rehabilitation experience and successfully completing a written exam which evaluates their knowledge as part of the licensing process. This is already a requirement for basic licensees.

SECTION 15 establishes that volunteers can assist advanced license holders in rehabilitating wildlife and establishes the conditions and requirements.

SECTION 16 specifically establishes that subpermittees can assist a person who is licensed as an advanced rehabilitator, including at a location other than that of the advanced license holder. This section establishes reporting and other requirements for subpermittees and establishes that advanced licensees are responsible for the activities of volunteers.

SECTION 17 establishes a state requirement that consulting veterinarians comply with the Animal Medicinal Drug Use Clarification Act of 1994. This is already a requirement of federal law. This section also requires that applicants for wildlife rehabilitation licenses read a code of ethics for wildlife rehabilitation,

SECTION 18 clarifies that, when providing documentation that facilities are allowed under local zoning, the documentation can be supplied by the applicant instead of the local unit of government. The requirement to show that facilities are allowed under local zoning is also an existing statutory requirement.

SECTIONS 19 to 21 establish requirements for non-residents who wish to apply for a license to rehabilitate wild animals in Wisconsin. The requirements are similar to the ones which apply to resident applicants. As a condition of license renewal for residents, this section requires applicants to obtain and show proof of continuing education.

SECTION 22 establishes that, in addition to preparing a test, the wildlife rehabilitation council may select an existing examination that is used to evaluate applicants for wildlife rehabilitation licenses.

SECTION 23 requires wildlife rehabilitation license applicants to provide information about their enclosures used to confine animals to make the licensing process more efficient and to better assure that humane standards will be met.

SECTIONS 24 and 25 incorporate by reference the standards for enclosures which are established by the National Wildlife Rehabilitation Association and International Wildlife Rehabilitation Council. This will

The Iowa wildlife rehabilitation regulations ensure that facilities are in compliance with International Wildlife Rehabilitation and National Wildlife Rehabilitation Association minimum standards.

Summary of Factual Data and Analytical Methodologies: Wildlife rehabilitation is the act of providing temporary care for injured, sick or orphaned wildlife with the goal of releasing them back into the wild. Animals released back into the wild must have the ability to recognize and find appropriate foods, socialize with members of their own species and exhibit normal behaviors such as fear of humans and predator avoidance.

The Wildlife Rehabilitation Advisory Committee makes recommendations to, advises and cooperates with the department on wildlife rehabilitation program development, regulations, research, and education. The Committee represents licensed wildlife rehabilitators in Wisconsin. This rule proposal will expand their role advising on related captive wildlife topics and change their name to "council" instead of committee.

These statutes will interpret statutory authority by making a clear statement that the disposition of wild animals that are not capable of being released and having a chance of survival can be determined by the department, as well as rehabilitators, and creates a specific prohibition for the possession of wild animals in violation of a department determination. This is already established by statute but is important to restate in these rules because some wildlife rehabilitators utilize this chapter as a summary of regulations.

The creation of subpermittees will allow advanced licensees the ability to have qualified individuals assisting with rehabilitation activities either on-site or off-site of the licensee's facility. As part of the proposed rule change, subpermittees will be subject to the same restrictions as basic licensees. These restrictions involve the types of animals that can be rehabilitated (those that are dangerous or difficult to handle), as well as restriction on who is allowed to conduct euthanasia. The creation of subpermittees also clarifies the role of volunteers. For instance, a volunteer working with a basic license holder would not be able to work at a location away from the basic license holder's facility or in any way other than under the licensee's direct supervision. This is intended to improve clarity about the roles of volunteers and assistants who are not licensed, increase their level of supervision, and result in more consistently humane care.

The proposal establishes a note to make readers aware that the rehabilitation of skunks, wolves and wolf-dog hybrids is prohibited, and directs readers to the department's website for additional information on the rehabilitation of deer and threatened or endangered species. These provisions should improve the usefulness of this chapter to readers.

These rules establish requirements for basic and advanced licensees to add new species to their license authority. The requirements are designed to better assure that the licensee has experience with those species before working on them.

These rules will require wildlife rehabilitation license applicants to indicate prior experience in wildlife rehabilitation and/or animal care, certify that they have read and understand a code of ethics for wildlife rehabilitators, and provide documentation of compliance with local ordinances.

These rules will establish continuing education requirements which must be met before renewing basic or advanced licenses, and will add that taking and passing an exam is required to apply for an advanced license.

This proposal will incorporate by reference the Minimum Standards for Wildlife Rehabilitation (or equivalent enclosures) for the size and construction of enclosures used to contain wild animals established by the National Wildlife Rehabilitation Association and the International Wildlife Rehabilitation Council. These standards for wildlife rehabilitation are based on accepted norms in biology, medicine, behavior, natural history, and, of course, wildlife rehabilitation. Under current rules enclosures are generally required to be of sufficient construction to contain the animal, of a size that is adequate for the

provide more specific guidance to license applicants and will assure consistently better care and housing of animals.

SECTION 26 clarifies that the department, as well as wildlife rehabilitators, can make the determination that an animal is not capable of being released and having a chance of survival in the wild. The department's authority is already established in Ch. 169 Stats. but is re-stated in these rules to provide clarity.

SECTIONS 27 to 30 establish that, when responding to an oil spill, rehabilitators who are licensed in another state may assist in Wisconsin on a temporary basis. These sections also clarify how a rehabilitator must respond when they take possession of an animal they know or reasonably suspect has been exposed to rabies and other diseases, and updates a related cross-reference to Ch. ATCP 10. SECTION 27 establishes a time frame during which a relationship with a new consulting veterinarian must be established if a current veterinarian is no longer able to perform veterinary services for the rehabilitator. Finally, language in SECTION 27 clarifies that failing to meet the requirements for the care and treatment of wildlife is a prohibited action.

SECTIONS 31 and 32 establish that quarterly reporting of activity with the following additional species is required; fisher, marten, wolverine, weasel, elk, white-tailed deer, and moose. These sections also update the list of animals for which quarterly reports to the department are required so that it includes wild or feral swine, mute swans, and wolf-dog hybrids at times when rehabilitation of those species is not prohibited under s. NR 19.72 (2).

SECTIONS 33 designates a specific person in the department to whom applicants to become advanced wildlife rehabilitation sponsors shall apply. The section also requires both the department and the wildlife rehabilitation advisory committee to review applications and documents describing the applicant's experience with wildlife rehabilitation.

SECTION 34 establishes that the sponsor who applies to advise or consult a basic licensee must either be actively rehabilitating the species that the basic licensee will work with, or must have the facilities necessary to work with that species.

SECTION 36 establishes that, in addition to situations of risk to public health, the department may also modify license conditions when there is a threat to animal health or welfare.

Federal Regulatory Analysis: Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. Under international treaty and Federal law, the possession of migratory birds is also regulated by the United States Fish & Wildlife Service. Additionally, federal regulations do apply to bald eagles and federally listed endangered or threatened species. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

Comparison with rules in Adjacent States: Wisconsin's surrounding states also have regulations in place establishing some type of licensure and which are designed to assure humane care of animals and manage the use of wildlife resources which are held in the public trust. Wildlife rehabilitation regulations vary from state-to-state but are generally comparable to Wisconsin's approach.

Michigan wildlife rehabilitation regulations require all new applicants to pass the International Wildlife Rehabilitation basic skills course prior to applying for a wildlife rehabilitation permit. Permits are valid for 5 years and continuing education credits are required prior to a permit renewal. Rehabilitation facilities must be in compliance with the International Wildlife Rehabilitation and National Wildlife Rehabilitation Association minimum standards.

The Minnesota wildlife rehabilitation regulations specify three classes of licenses. A passing score of an exam is required prior to obtaining the next level permit. Continuing education credits are required to renew licenses or apply for a subsequent license. Each permit level is allowed to have a specified number of in-shelter assistants who are authorized to assist in rehabilitation activities.

animal, and free of sharp edges or other hazards. These specific requirements will make it significantly easier for applicants to construct their facilities with a high level of certainty that they will be approved by the department and result in providing humane care. Additionally, applicants for wildlife rehabilitation licenses will need to provide a complete caging/enclosure report with pictures of their enclosures when their rehabilitation license applications are submitted. Under this proposal, the department will have enough flexibility that it would be able to approve enclosures that technically do not meet these standards but which clearly will result in providing humane care, perhaps as a result of design of other ideas and improvements that were not considered in development of standards.

This proposal will establish that, for purposes of responding to an oil spill or other disaster, a person licensed to rehabilitate wildlife in another state may temporarily assist with rehabilitation in this state. This will facilitate the efficient approval of volunteers who may be needed in this type of an emergency situation. These rules will also correct a cross-reference with rules promulgated by the Department of Agriculture, Trade and Consumer Protection which establish procedures that must be followed if an animal is suspected of having been exposed to rabies.

Current statutes and rule require rehabilitators to keep records of animals received, the condition of the animals and the disposition of each animal. For certain species, quarterly reporting to the department is required. Through this proposal, the department will expand the requirements to include quarterly reporting of elk, deer, moose, fisher, marten, wolverine, weasel, bobcat, lynx and cougars. Quarterly reporting for the possession of mute swans, wild or feral swine, and wolves or wolf-dog hybrids would also be required if rehabilitating those species is allowed.

Wildlife rehabilitation experience is required of an advanced license holder who wishes to sponsor basic license holders. This proposal requires that the advanced license holder be able to document or otherwise prove to the department that they have experience rehabilitating the species being considered and be approved by the department and the Wildlife Rehabilitation Advisory Council to be sponsors.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis: The department will solicit comments on an economic impact analysis of this proposal during July 2015. During that period the department will post a preliminary analysis on its website and distribute the proposed rule and analysis to parties it determines would be interested. A copy of the analysis will be posted on the department's website at <http://dnr.wi.gov> and can be located by searching for the keywords "administrative rules".

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector.

Effects on Small Business: Wildlife rehabilitation is typically performed by non-profit organizations or individuals who are not reimbursed by government funding or by fees paid for services. These rules, and the legislation which grants the department rule making authority, will have no economic effect on small businesses. These rules are applicable to wildlife rehabilitators and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. The proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.114(6) or 227.14(2g).

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov> or by searching the keywords "administrative rules" on the department's website. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to scott.loomans@wisconsin.gov. Comments may be submitted until August 31. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

Report to
Legislative Council Rules Clearinghouse
Ch. NR 19 Wis. Adm. Code
Natural Resources Board Order WM-10-13

Wisconsin Statutory Authority

The department's authority to authorize and regulate the rehabilitation of wild animals is established in s. 169.24 Stats. The department is directed by s. 169.24(2) Stats to, "promulgate rules to establish the qualifications required to obtain a rehabilitation license, the types of activities authorized by a rehabilitation license and the standards, limitations, and requirements for rehabilitation licenses."

Federal Authority

Not applicable

Court Decisions Directly Relevant

None

Analysis of the Rule – Rule Effect – Reason for the Rule

This subchapter was adopted in 2004 to establish consistent standards for the rehabilitation of wildlife, ensure that all persons engaged in wildlife rehabilitation are qualified, and to ensure that rehabilitators provide humane care and housing for wildlife being rehabilitated. These Proposed revisions will clarify existing rules and establish new requirements for people licensed to rehabilitate wild animals based on what the department has learned after ten years of experience administering the subchapter. Specifically, these rules would:

SECTION 1 establishes a definition for the word "cage" to clarify that it can mean any type of enclosure.

SECTIONS 2 and 4 establish definitions of direct and indirect supervision to clarify that the actual presence of the licensee or consulting veterinarian is required in certain situations. These sections also define that a "subpermittee" is a person who is working in a limited capacity under the supervision of the holder of an advanced license for wildlife rehabilitation.

SECTION 3 updates a cross reference to American veterinary medical association standards so that it will always refer to the current standards.

SECTION 5 simplifies the definition of "volunteer".

SECTIONS 6 and 35 update the name of the Wildlife Rehabilitation Advisory Committee, the group of volunteers appointed by the secretary to advise the department on wildlife rehabilitation so that it is now a "council" and expand the council's charge to include advisory roles related to wildlife health and other captive wildlife matters. Use of the word council reflects that this is a long term, rather than a temporary, advisory body.

SECTION 7 provides information in a note so readers are aware that rehabilitation of skunks and wolves is not allowed and directing people to the location on the department's website where rehabilitation

restrictions and requirements related to deer, wolves and threatened and endangered species are explained.

SECTION 8 clarifies that wild animal rehabilitation is restricted only to those species which are listed on the rehabilitator's license and establishes a process by which additional species may be added to a license.

SECTION 9 requires an applicant for a rehabilitation license to describe their previous rehabilitation and animal care experience when applying for a license.

SECTION 10 establishes the conditions under which volunteers may assist basic license holders with the rehabilitation of wild animals, including that volunteers may provide only basic care under the direct supervision of the licensee.

SECTION 11 establishes that holders of a basic license for wildlife rehabilitation may not utilize the assistance of subpermittees.

SECTIONS 12 to 14 require the signature of a veterinarian to assure that applicants for an advanced wildlife rehabilitation license meet the minimum criteria for the license. These sections also require a description of prior wildlife rehabilitation experience and successfully completing a written exam which evaluates their knowledge as part of the licensing process. This is already a requirement for basic licensees.

SECTION 15 establishes that volunteers can assist advanced license holders in rehabilitating wildlife and establishes the conditions and requirements.

SECTION 16 specifically establishes that subpermittees can assist a person who is licensed as an advanced rehabilitator, including at a location other than that of the advanced license holder. This section establishes reporting and other requirements for subpermittees and establishes that advanced licensees are responsible for the activities of volunteers.

SECTION 17 establishes a state requirement that consulting veterinarians comply with the Animal Medicinal Drug Use Clarification Act of 1994. This is already a requirement of federal law. This section also requires that applicants for wildlife rehabilitation licenses read a code of ethics for wildlife rehabilitation,

SECTION 18 clarifies that, when providing documentation that facilities are allowed under local zoning, the documentation can be supplied by the applicant instead of the local unit of government. The requirement to show that facilities are allowed under local zoning is also an existing statutory requirement.

SECTIONS 19 to 21 establish requirements for non-residents who wish to apply for a license to rehabilitate wild animals in Wisconsin. The requirements are similar to the ones which apply to resident applicants. As a condition of license renewal for residents, this section requires applicants to obtain and show proof of continuing education.

SECTION 22 establishes that, in addition to preparing a test, the wildlife rehabilitation council may select an existing examination that is used to evaluate applicants for wildlife rehabilitation licenses.

SECTION 23 requires wildlife rehabilitation license applicants to provide information about their enclosures used to confine animals to make the licensing process more efficient and to better assure that humane standards will be met.

SECTIONS 24 and 25 incorporate by reference the standards for enclosures which are established by the National Wildlife Rehabilitation Association and International Wildlife Rehabilitation Council. This will provide more specific guidance to license applicants and will assure consistently better care and housing of animals.

SECTION 26 clarifies that the department, as well as wildlife rehabilitators, can make the determination that an animal is not capable of being released and having a chance of survival in the wild. The department's authority is already established in Ch. 169 Stats. but is re-stated in these rules to provide clarity.

SECTIONS 27 to 30 establish that, when responding to an oil spill, rehabilitators who are licensed in another state may assist in Wisconsin on a temporary basis. These sections also clarify how a rehabilitator must respond when they take possession of an animal they know or reasonably suspect has been exposed to rabies and other diseases, and updates a related cross-reference to Ch. ATCP 10. SECTION 27 establishes a time frame during which a relationship with a new consulting veterinarian must be established if a current veterinarian is no longer able to perform veterinary services for the rehabilitator. Finally, language in SECTION 27 clarifies that failing to meet the requirements for the care and treatment of wildlife is a prohibited action.

SECTIONS 31 and 32 establish that quarterly reporting of activity with the following additional species is required; fisher, marten, wolverine, weasel, elk, white-tailed deer, and moose. These sections also update the list of animals for which quarterly reports to the department are required so that it includes wild or feral swine, mute swans, and wolf-dog hybrids at times when rehabilitation of those species is not prohibited under s. NR 19.72 (2).

SECTIONS 33 designates a specific person in the department to whom applicants to become advanced wildlife rehabilitation sponsors shall apply. The section also requires both the department and the wildlife rehabilitation advisory committee to review applications and documents describing the applicant's experience with wildlife rehabilitation.

SECTION 34 establishes that the sponsor who applies to advise or consult a basic licensee must either be actively rehabilitating the species that the basic licensee will work with, or must have the facilities necessary to work with that species.

SECTION 36 establishes that, in addition to situations of risk to public health, the department may also modify license conditions when there is a threat to animal health or welfare.

Description of any Forms

None

Name and Telephone Number of Agency Contacts

Scott Loomans, Bureau of Wildlife Management – (608) 267-2452
Chandra Harvey, Bureau of Legal Services – (608) 266-7588
Amanda Kamps, Bureau of Wildlife Management – (715) 359-1959

Submitted on _____

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

The statement of scope for this rule, SS 026-13, was published in Register No. 687, on March 31, 2013. This permanent rule was approved by the Governor on _____.

The Wisconsin Natural Resources Board proposes an order to amend Ch. NR 19.71 (4) and (13), 19.73 (3) (a) 1., 19.74 (1) (a), (b) and (d), 19.74 (2) (Intro.), 19.74 (Note), 19.75 (1), (2) and (Note), 19.77 (2) (a), 19.78 (1) (Intro.), 19.79 and (Note), 19.80 (2) (b) 3., 19.81, 19.82, 19.84; to repeal and recreate 19.71 (10), 19.73 (2) (d) and (3) (d); and to create NR 19.71 (2m), (3m), (6m) and (9g), 19.72 (2) (Note), 19.73 (1) (d) and (e), 19.73 (2) (a) 1m., 19.73 (2) (e), 19.73 (3) (a) 1m., 19.73 (3) (a) 2m. and (e), 19.74 (1) (e), 19.74 (2) (a) to (e) and (3), 19.76 (2m) and (Note), 19.77 (2) (a) (Note), 19.78 (9) to (12), 19.79 (2) and 19.80 (2) (b) 5. to 8 and (Note), 19.81 (3) and (Note), relating to wildlife rehabilitation.

WM-10-13

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: The department's authority to authorize and regulate the rehabilitation of wild animals is established in s. 169.24 Stats. The department is directed by s. 169.24(2) Stats to, "promulgate rules to establish the qualifications required to obtain a rehabilitation license, the types of activities authorized by a rehabilitation license and the standards, limitations, and requirements for rehabilitation licenses."

All rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: These rules interpret statutes related to captive wildlife, especially s. 169.24.

Related Statute or Rule: No other rules currently being promulgated are directly related to this proposal and these proposed rules are not a response to recently enacted statutes.

Plain Language Rule Analysis: This subchapter was adopted in 2004 to establish consistent standards for the rehabilitation of wildlife, ensure that all persons engaged in wildlife rehabilitation are qualified, and to ensure that rehabilitators provide humane care and housing for wildlife being rehabilitated. These proposed revisions will clarify existing rules and establish new requirements for people licensed to rehabilitate wild animals based on what the department has learned after ten years of experience administering the subchapter. Specifically, these rules would:

SECTION 1 establishes a definition for the word "cage" to clarify that it can mean any type of enclosure.

SECTIONS 2 and 4 establish definitions of direct and indirect supervision to clarify that the actual presence of the licensee or consulting veterinarian is required in certain situations. These sections also define that a "subpermittee" is a person who is working in a limited capacity under the supervision of the holder of an advanced license for wildlife rehabilitation.

SECTION 3 updates a cross reference to American veterinary medical association standards so that it will always refer to the current standards.

SECTION 5 simplifies the definition of “volunteer”.

SECTIONS 6 and 35 update the name of the Wildlife Rehabilitation Advisory Committee, the group of volunteers appointed by the secretary to advise the department on wildlife rehabilitation so that it is now a “council” and expand the council’s charge to include advisory roles related to wildlife health and other captive wildlife matters. Use of the word council reflects that this is a long term, rather than a temporary, advisory body.

SECTION 7 provides information in a note so readers are aware that rehabilitation of skunks and wolves is not allowed and directing people to the location on the department’s website where rehabilitation restrictions and requirements related to deer, wolves and threatened and endangered species are explained.

SECTIONS 8 clarifies that wild animal rehabilitation is restricted only to those species which are listed on the rehabilitator’s license and establishes a process by which additional species may be added to a license.

SECTION 9 requires an applicant for a rehabilitation license to describe their previous rehabilitation and animal care experience when applying for a license.

SECTION 10 establishes the conditions under which volunteers may assist basic license holders with the rehabilitation of wild animals, including that volunteers may provide only basic care under the direct supervision of the licensee.

SECTION 11 establishes that holders of a basic license for wildlife rehabilitation may not utilize the assistance of subpermittees.

SECTIONS 12 to 14 require the signature of a veterinarian to assure that applicants for an advanced wildlife rehabilitation license meet the minimum criteria for the license. These sections also require a description of prior wildlife rehabilitation experience and successfully completing a written exam which evaluates their knowledge as part of the licensing process. This is already a requirement for basic licensees.

SECTION 15 establishes that volunteers can assist advanced license holders in rehabilitating wildlife and establishes the conditions and requirements.

SECTION 16 specifically establishes that subpermittees can assist a person who is licensed as an advanced rehabilitator, including at a location other than that of the advanced license holder. This section establishes reporting and other requirements for subpermittees and establishes that advanced licensees are responsible for the activities of volunteers.

SECTION 17 establishes a state requirement that consulting veterinarians comply with the Animal Medicinal Drug Use Clarification Act of 1994. This is already a requirement of federal law. This section also requires that applicants for wildlife rehabilitation licenses read a code of ethics for wildlife rehabilitation,

SECTION 18 clarifies that, when providing documentation that facilities are allowed under local zoning, the documentation can be supplied by the applicant instead of the local unit of government. The

requirement to show that facilities are allowed under local zoning is also an existing statutory requirement.

SECTIONS 19 to 21 establish requirements for non-residents who wish to apply for a license to rehabilitate wild animals in Wisconsin. The requirements are similar to the ones which apply to resident applicants. As a condition of license renewal for residents, this section requires applicants to obtain and show proof of continuing education.

SECTION 22 establishes that, in addition to preparing a test, the wildlife rehabilitation council may select an existing examination that is used to evaluate applicants for wildlife rehabilitation licenses.

SECTION 23 requires wildlife rehabilitation license applicants to provide information about their enclosures used to confine animals to make the licensing process more efficient and to better assure that humane standards will be met.

SECTIONS 24 and 25 incorporate by reference the standards for enclosures which are established by the National Wildlife Rehabilitation Association and International Wildlife Rehabilitation Council. This will provide more specific guidance to license applicants and will assure consistently better care and housing of animals.

SECTION 26 clarifies that the department, as well as wildlife rehabilitators, can make the determination that an animal is not capable of being released and having a chance of survival in the wild. The department's authority is already established in Ch. 169 Stats. but is re-stated in these rules to provide clarity.

SECTIONS 27 to 30 establish that, when responding to an oil spill, rehabilitators who are licensed in another state may assist in Wisconsin on a temporary basis. These sections also clarify how a rehabilitator must respond when they take possession of an animal they know or reasonably suspect has been exposed to rabies and other diseases, and updates a related cross-reference to Ch. ATCP 10. SECTION 27 establishes a time frame during which a relationship with a new consulting veterinarian must be established if a current veterinarian is no longer able to perform veterinary services for the rehabilitator. Finally, language in SECTION 27 clarifies that failing to meet the requirements for the care and treatment of wildlife is a prohibited action.

SECTIONS 31 and 32 establish that quarterly reporting of activity with the following additional species is required; fisher, marten, wolverine, weasel, elk, white-tailed deer, and moose. These sections also update the list of animals for which quarterly reports to the department are required so that it includes wild or feral swine, mute swans, and wolf-dog hybrids at times when rehabilitation of those species is not prohibited under s. NR 19.72 (2).

SECTIONS 33 designates a specific person in the department to whom applicants to become advanced wildlife rehabilitation sponsors shall apply. The section also requires both the department and the wildlife rehabilitation advisory committee to review applications and documents describing the applicant's experience with wildlife rehabilitation.

SECTION 34 establishes that the sponsor who applies to advise or consult a basic licensee must either be actively rehabilitating the species that the basic licensee will work with, or must have the facilities necessary to work with that species.

SECTION 36 establishes that, in addition to situations of risk to public health, the department may also modify license conditions when there is a threat to animal health or welfare.

Federal Regulatory Analysis: Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. Under international treaty and Federal law, the possession of migratory birds is also regulated by the United States Fish & Wildlife Service. Additionally, federal regulations do apply to bald eagles and federally listed endangered or threatened species. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

Comparison with rules in Adjacent States: Wisconsin's surrounding states also have regulations in place establishing some type of licensure and which are designed to assure humane care of animals and manage the use of wildlife resources which are held in the public trust. Wildlife rehabilitation regulations vary from state-to-state but are generally comparable to Wisconsin's approach.

Michigan wildlife rehabilitation regulations require all new applicants to pass the International Wildlife Rehabilitation basic skills course prior to applying for a wildlife rehabilitation permit. Permits are valid for 5 years and continuing education credits are required prior to a permit renewal. Rehabilitation facilities must be in compliance with the International Wildlife Rehabilitation and National Wildlife Rehabilitation Association minimum standards.

The Minnesota wildlife rehabilitation regulations specify three classes of licenses. A passing score of an exam is required prior to obtaining the next level permit. Continuing education credits are required to renew licenses or apply for a subsequent license. Each permit level is allowed to have a specified number of in-shelter assistants who are authorized to assist in rehabilitation activities.

The Iowa wildlife rehabilitation regulations ensure that facilities are in compliance with International Wildlife Rehabilitation and National Wildlife Rehabilitation Association minimum standards.

Summary of Factual Data and Analytical Methodologies: Wildlife rehabilitation is the act of providing temporary care for injured, sick or orphaned wildlife with the goal of releasing them back into the wild. Animals released back into the wild must have the ability to recognize and find appropriate foods, socialize with members of their own species and exhibit normal behaviors such as fear of humans and predator avoidance.

The Wildlife Rehabilitation Advisory Committee makes recommendations to, advises and cooperates with the department on wildlife rehabilitation program development, regulations, research, and education. The Committee represents licensed wildlife rehabilitators in Wisconsin. This rule proposal will expand their role advising on related captive wildlife topics and change their name to "council" instead of committee.

The creation of subpermittees will allow advanced licensees the ability to have qualified individuals assisting with rehabilitation activities either on-site or off-site of the licensee's facility. As part of the proposed rule change, subpermittees will be subject to the same restrictions as basic licensees. These restrictions involve the types of animals that can be rehabilitated (those that are dangerous or difficult to handle), as well as restriction on who is allowed to conduct euthanasia. The creation of subpermittees also clarifies the role of volunteers. For instance, a volunteer working with a basic license holder would not be able to work at a location away from the basic license holder's facility or in any way other than under the licensee's direct supervision. This is intended to improve clarity about the roles of volunteers and assistants who are not licensed, increase their level of supervision, and result in more consistently humane care.

The proposal establishes a note to make readers aware that the rehabilitation of skunks, wolves and wolf-dog hybrids is prohibited, and directs readers to the department's website for additional information on the rehabilitation of deer and threatened or endangered species. These provisions should improve the usefulness of this chapter to readers.

These rules establish requirements for basic and advanced licensees to add new species to their license authority. The requirements are designed to better assure that the licensee has experience with those species before working on them.

These rules will require wildlife rehabilitation license applicants to indicate prior experience in wildlife rehabilitation and/or animal care, certify that they have read and understand a code of ethics for wildlife rehabilitators, and provide documentation of compliance with local ordinances.

These rules will establish continuing education requirements which must be met before renewing basic or advanced licenses, and will add that taking and passing an exam is required to apply for an advanced license.

This proposal will incorporate by reference the Minimum Standards for Wildlife Rehabilitation (or equivalent enclosures) for the size and construction of enclosures used to contain wild animals established by the National Wildlife Rehabilitation Association and the International Wildlife Rehabilitation Council. These standards for wildlife rehabilitation are based on accepted norms in biology, medicine, behavior, natural history, and, of course, wildlife rehabilitation. Under current rules enclosures are generally required to be of sufficient construction to contain the animal, of a size that is adequate for the animal, and free of sharp edges or other hazards. These specific requirements will make it significantly easier for applicants to construct their facilities with a high level of certainty that they will be approved by the department and result in providing humane care. Additionally, applicants for wildlife rehabilitation licenses will need to provide a complete caging/enclosure report with pictures of their enclosures when their rehabilitation license applications are submitted. Under this proposal, the department will have enough flexibility that it would be able to approve enclosures that technically do not meet these standards but which clearly will result in providing humane care, perhaps as a result of design of other ideas and improvements that were not considered in development of standards.

These rules will interpret statutory authority by making a clear statement that the disposition of wild animals that are not capable of being released and having a chance of survival can be determined by the department, as well as rehabilitators. This is already established by statute but is important to restate in these rules because some wildlife rehabilitators utilize this chapter as a summary of regulations.

This proposal will establish that, for purposes of responding to an oil spill or other disaster, a person licensed to rehabilitate wildlife in another state may temporarily assist with rehabilitation in this state. This will facilitate the efficient approval of volunteers who may be needed in this type of an emergency situation. These rules will also correct a cross-reference with rules promulgated by the Department of Agriculture, Trade and Consumer Protection which establish procedures that must be followed if an animal is suspected of having been exposed to rabies. These rules clarify that failing to meet the requirements for the care and treatment of wildlife is a prohibited action.

Current statutes and rule require rehabilitators to keep records of animals received, the condition of the animals and the disposition of each animal. For certain species, quarterly reporting to the department is required. Through this proposal, the department will expand the requirements to include quarterly reporting of elk, deer, moose, fisher, marten, wolverine, weasel, bobcat, lynx and cougars. Quarterly reporting for the possession of mute swans, wild or feral swine, and wolves or wolf-dog hybrids would also be required if rehabilitating those species is allowed.

Wildlife rehabilitation experience is required of an advanced license holder who wishes to sponsor basic license holders. This proposal requires that the advanced license holder be able to document or otherwise prove to the department that they have experience rehabilitating the species being considered and be approved by the department and the Wildlife Rehabilitation Advisory Council to be sponsors.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis: The department will solicit comments on an economic impact analysis of this proposal during July 2015. During that period the department will post a preliminary analysis on its website and distribute the proposed rule and analysis to parties it determines would be interested. A copy of the analysis will be posted on the department's website at <http://dnr.wi.gov> and can be located by searching for the keywords "administrative rules".

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector.

Effects on Small Business: Wildlife rehabilitation is typically performed by non-profit organizations or individuals who are not reimbursed by government funding or by fees paid for services. These rules, and the legislation which grants the department rule making authority, will have no economic effect on small businesses. These rules are applicable to wildlife rehabilitators and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. The proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.114(6) or 227.14(2g).

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

Deadline for Written Comments: Written comments may be submitted to the agency contact person, listed above, through August 31, 2015.

SECTION 1. NR 19.71 (2m) is created to read:

NR 19.71 (2m) "Cage" means any structure in which animals are confined for rehabilitation purposes.

SECTION 2. NR 19.71 (3m) is created to read:

NR 19.71 (3m) "Direct supervision" means the actual presence of the licensee or consulting veterinarian.

SECTION 3. NR 19.71 (4) is amended to read:

NR 19.71 (4) "Euthanasia" means the humane killing of a wildlife wild animal in accordance with the current American veterinary medical association standards contained in the 2000 Report most recent report of the AVMA Panel on Euthanasia.

Note: Copies of the 2000 Report Reports of the AVMA Panel on Euthanasia, JAVA, Vol. 248, No. 5, dated March 1, 2004, are available for inspection at the offices of the Secretary of State, 30 W. Mifflin Street, Madison, WI, the Legislative Reference Bureau, One E. Main Street, Madison, WI, or the department.

SECTION 4. NR 19.71 (6m) and (9g) are created to read:

NR 19.71 (6m) "Indirect supervision" means a licensee need not be on the premises but shall give either written or verbal instructions for treatment of an animal, is readily available by telephone or other forms of immediate communication, and has assumed responsibility for the rehabilitation care provided by a person working under the licensee's direction.

(9g) "Subpermittee" means any person subject to the conditions and limits established in s. NR 19.73 (3)(e) and who is working in a limited capacity under the supervision of an advanced licensee on wildlife rehabilitation activities.

SECTION 5. NR 19.71 (10) is repealed and recreated to read:

NR 19.71 (10) "Volunteer" means any person at a licensee's facility who is contributing to the activities of the facility or who is under the direction of and is known to the licensee.

SECTION 6. NR 19.71 (13) is amended to read:

NR 19.71 (13) "Wildlife rehabilitation advisory committee council" means a group of volunteers appointed by the secretary or secretary's designee to advise and provide recommendations about wildlife rehabilitation, wildlife health, and captive wildlife to the department.

SECTION 7. NR 19.72 (2) (Note) is created to read:

NR 19.72 (2) Note: Deer rehabilitation information can be found at <http://dnr.wi.gov/> or will be available upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921. The rehabilitation of skunks is prohibited under s. NR 1.18 (3) (c). The possession and rehabilitation of species which are listed as threatened or endangered as established in s. NR 27.03 requires authorization from the Bureau of Natural Heritage Conservation. Pursuant to ss. Ch. 169.085 and 169.11 (1) (b) Wis. Stats., the department does not allow rehabilitation of wolves or wolf-dog hybrids.

SECTION 8. NR 19.73 (1) (d) and (e) are created to read:

NR 19.73 (1) (d) *Species.* The department shall list on the license the species authorized for rehabilitation by a basic or an advanced licensee.

(e) *Species additions.* No person may add species to their license unless all of the following have occurred:

1. The licensee has submitted to the department a caging report as required under s. NR 19.76 (2m), pictures of pens/enclosures, and documentation indicating the licensee's rehabilitation experience or knowledge with the new species. Experience or knowledge with the new species shall include at least 100 hours of hands-on experience gained within the previous two years and 25 of those hours may be fulfilled by participation in seminars or courses relating to the new species. The department may require that licensees demonstrate specific experience or knowledge of species that it determines to be sensitive or difficult to rehabilitate.

2. The department has reviewed and approved the addition.

3. An additional facility inspection to determine compliance with standards established under s. NR 19.77 has been conducted if the department has determined such an inspection is necessary.

4. A basic licensee possesses a sponsorship agreement with an advanced licensee.

SECTION 9. NR 19.73 (2) (a) 1m. is created to read:

NR 19.73 (2) (a) (1m) Submit a completed license application that describes prior wildlife rehabilitation and animal care experience to the department.

SECTION 10. NR 19.73 (2) (d) is repealed and recreated to read:

NR 19.73 (2) (d) *Volunteers*. Volunteers may assist basic license holders with the rehabilitation of wildlife provided that all of the following conditions apply:

1. Basic licensees have completed one full year of licensed wildlife rehabilitation before volunteers may be authorized to assist with wildlife rehabilitation activities.

2. All volunteer information including name, address, and telephone number has been provided to the department.

3. The department is notified quarterly of any changes to their list of volunteers and any changes in contact information of their volunteers.

4. Volunteers only provide basic care to species identified on the basic license.

5. Volunteers only operate at the facility of the licensee and under the direct supervision of the basic licensee.

6. License holders accept responsibility for the actions and activities of volunteers and shall be responsible for any violations by volunteers in violation of this chapter or Ch. 169 Stats.

SECTION 11. NR 19.73 (2) (e) is created to read:

NR 19.73 (2) (e) *Subpermittees*. Basic license holders shall not list subpermittees on their license.

SECTION 12. NR 19.73 (3) (a) 1. is amended to read:

NR 19.73 (3) (a) 1. Possess a basic evaluation form signed by the applicant's advanced licensee sponsor or sponsors and consulting veterinarian or veterinarians stating that the applicant has been a licensed basic rehabilitator for a minimum of 2 years and has satisfactorily engaged in the practice of wildlife rehabilitation.

SECTION 13. NR 19.73 (3) (a) 1m. is created to read:

NR 19.73 (3) (a) 1m. Submit a completed license application form that describes prior wildlife rehabilitation experience to the department.

SECTION 14. NR 19.73 (3) (a) 2m. is created to read:

NR 19.73 (3) (a) 2m. Pass an examination meeting the requirements of s. NR 19.75.

SECTION 15. NR 19.73 (3) (d) is repealed and recreated to read:

NR 19.73 (3) (d) *Volunteers.* Volunteers may assist advanced license holders with the rehabilitation of wildlife provided that all of the following conditions apply:

1. All volunteer information including name, address, and telephone number has been provided to the department.
2. The department is notified quarterly of any changes to the licensee's list of volunteers and any changes in contact information of their volunteers.
3. Volunteers only provide basic care to species identified on the advanced license.
4. Volunteers only operate at the facility of the licensee and under the direct or indirect supervision of the advanced licensee.
5. License holders accept responsibility for the actions and activities of volunteers and shall be responsible for any violations by volunteers in violation of this chapter or Ch. 169 Stats.

SECTION 16. NR 19.73 (3) (e) is created to read:

NR 19.73 (3) (e) *Subpermittees.* Subpermittees may be authorized to assist with the rehabilitation of wildlife under the authority of an advanced licensee's license and subject to the restrictions of basic license holders under sub. (2) provided that all of the following conditions apply:

1. All subpermittee information including name, address, and telephone number has been provided to the Department.
2. Advanced licensees notify the department quarterly of any changes to their list of subpermittees and any changes in contact information of their subpermittees.
3. Subpermittees are listed on all of the advanced licensee's permits and licenses by the species for which the subpermittees provide rehabilitation care.
4. Subpermittees operating at a location other than the advanced licensee's facility retain a copy of the advanced licensee's license which shall be provided to a department agent upon request.
5. Advanced licensees accept responsibility for the actions and activities of their subpermittees and shall be responsible for any violations incurred of these rules or ch. 169, Stats.
6. Advanced licensees that utilize subpermittees who operate at a location other than the advanced licensee's facility shall be responsible for establishing that subpermittees facilities meet the standards established in s. NR 19.77.
7. Subpermittees operating at a location other than the advanced licensee's facility submit, to both the advanced licensee and the department, a caging report and pictures of every rehabilitation pen/enclosure at their location.

8. Subpermittees who operate at a location other than the advanced licensee's facility are located no more than 60 miles from the main facility of the advanced licensee.

SECTION 17. NR 19.74 (1) (a), (b) and (d) are amended to read:

NR 19.71 (1) (a) A signed consulting veterinarian agreement from a veterinarian who is willing to consult and assist the applicant with care and treatment of wildlife being rehabilitated, and who is in compliance with the Animal Medicinal Drug Use Clarification Act of 1994.

(b) ~~A~~ For basic licenses, a signed sponsorship agreement from an advanced licensee who has agreed to sponsor the basic applicant.

(d) Certification that the applicant has read and understands this subchapter and the code of ethics and that the applicant agrees to comply with all provisions of this subchapter and code of ethics.

SECTION 18. NR 19.74 (1) (e) is created to read:

NR 19.74 (1) (e) Written assurance from the applicant that the facility is in compliance with local ordinances and zoning regulations.

SECTION 19. NR 19.74 (2) (Intro.) is amended to read:

NR 19.74 (2) The department may issue the appropriate rehabilitation license to an individual possessing a valid rehabilitators license or permit from another state or province, provided that the minimum requirements of the basic or advanced rehabilitators licenses described in this subchapter are met. Applicants shall:

SECTION 20. NR 19.74 (2) (a) to (e) and (3) are created to read:

NR 19.74 (2) (a) Pass an examination meeting the requirements of s. NR 19.75.

(b) Possess a signed consulting veterinarian agreement from a veterinarian who is willing to consult and assist the applicant with care and treatment of wildlife being rehabilitated.

(c) Possess a signed letter of recommendation from a consulting veterinarian and a rehabilitator, previous sponsor, employer, or other individual which indicates compliance with s. NR 19.73 (2) or (3). A letter of recommendation shall include and reference specific training and experiences comparable to information on a basic level evaluation form.

(d) Sign a certification that the applicant has read and understands this subchapter and that the applicant agrees to comply with all provisions of this subchapter.

(e) Allow an inspection of facilities to assure that the applicant's facilities meet the requirements of s. NR 19.77.

(3) License Renewal. An applicant for renewal of any rehabilitation license shall submit proof of having obtained at least one continuing education credit during the preceding license period. Qualifying continuing education credits are:

(a) National Wildlife Rehabilitators Association, International Wildlife Rehabilitation Council, or Wisconsin Wildlife Rehabilitator's Association workshops, classes, or conferences.

(b) Participation in a research project, coursework, specialized rehabilitation care, or other activities which have been approved by the department.

SECTION 21. NR 19.74 (Note) is amended to read:

Note: Wildlife rehabilitation application, evaluation form, sponsorship agreement, and veterinary agreements, and code of ethics will be available at <http://dnr.wi.gov/> or upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921 or by calling ~~(608) 266-8204~~, 1-888-936-7463.

SECTION 22. NR 19.75 (1), (2) and (Note) are amended to read:

NR 19.75 (1) A person desiring a basic or an advanced license to rehabilitate wildlife in Wisconsin shall take a written examination, provided and administered by the department, and score 80% or greater.

(2) The examination shall be prepared or selected by the wildlife rehabilitation advisory ~~committees~~ council, subject to the approval of the department, and administered by a representative of the department.

Note: The wildlife rehabilitation study guide will be available at <http://dnr.wi.gov/> or upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921 or by calling ~~(608) 266-8204~~, 1-888-936-7463.

SECTION 23. NR 19.76 (2m) and Note are created to read:

NR 19.76 (2m) Before an inspection, the applicant must complete and submit to the department a caging report which includes pictures of each cage or enclosure at the applicant's facility.

Note: Wildlife rehabilitation caging report is available at <http://dnr.wi.gov/> or upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921 or by calling 1-888-936-7463.

SECTION 24. NR 19.77 (2) (a) is amended to read:

NR 19.77 (2) ENCLOSURE SIZE AND CONSTRUCTION. (a) Enclosures shall be structurally sound, of sufficient strength for species involved, and maintained in good repair to prevent escape or injury to wildlife being rehabilitated. All structures built after July 1, 2016 shall be in compliance with the Minimum Standards of the National Wildlife Rehabilitation Association/International Wildlife Rehabilitation Council except that, if enclosures are structurally sound, of sufficient strength for species involved, and maintained in good repair to prevent escape or injury, the department may determine standards have been met which fulfill the requirements of this par.

SECTION 25. NR 19.77 (2) (a) (Note) is created to read:

Note: National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council minimum standards for enclosures are available at <http://dnr.wi.gov/> or upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921 or by calling 1-888-936-7463.

SECTION 26. NR 19.78 (1) (Intro.) is amended to read:

NR 19.78 Care and treatment of wildlife. (1) Any orphaned, sick or injured wildlife, ~~except endangered or threatened species,~~ that the licensee or the department determines is not capable of being rehabilitated or having a reasonable chance of survival in the wild shall be treated under one of the following options:

- (a) Euthanized.
- (b) Turned over to the department.
- (c) Disposed of as directed by the department.
- (d) Retained for the purpose of long-term care at the direction of the department.

SECTION 27. NR 19.78 (9) to (12) are created to read:

NR 19.78 (9) For the purpose of responding to an oil spill, a currently licensed rehabilitator from another state may, under the approval of the secretary or their designee, temporarily assist in Wisconsin with the rehabilitation of wildlife affected by an oil spill in this state.

(10) A licensee shall quarantine all animals reported under s. 19.79 (2) and animals shall be handled as directed by the department, including conducting rabies testing at the direction and in the presence of the department or its agents.

(11) If a licensee's relationship with a consulting veterinarian under s. 19.74 (1) (a) is terminated, the licensee may not admit new patients until a new consulting veterinarian is obtained. The licensee shall establish a new relationship with a consulting veterinarian and notify the department within 10 business days.

(12) In the event that the department makes a determination which directs what the disposition of a wild animal shall be, no person may fail to comply.

SECTION 28. NR 19.79 is amended to read:

NR 19.79 Infectious disease reporting and response. A licensee or consulting veterinarian shall report animal diseases as required by ~~s. ATCP 10.02~~ s. ATCP 10.03 if diagnosed in wildlife being rehabilitated and to the department's wildlife health program.

SECTION 29. NR 19.79 (2) is created to read:

NR 19.79 (2) If a licensee knows or reasonably suspects that a rabies-vector species mammal in their care may have or has been exposed to rabies, or that a human or domestic animal has been bitten or scratched by a possible rabies-vector species in the licensee's possession, the licensee shall make reports required under s. 19.79, quarantine the animal, and handle the animal as directed by their local or county public health department of the Wisconsin State Laboratory of Hygiene, which may include submitting the animal for rabies by the Wisconsin State Laboratory of Hygiene.

SECTION 30. NR 19.79 (Note) is amended to read:

Note: The wildlife health program may be contacted by calling ~~(608)-266-8204~~ 1-888-936-7463.

SECTION 31. NR 19.80 (2) (b) 3. is amended to read:

NR 19.80 (2) (b) 3. Mustelidae (badger, mink, otter, skunk, fisher, marten, wolverine, weasel).

SECTION 32. NR 19.80 (2) (b) 5. to 8 and (Note) are created to read:

NR 19.80 (2) (b) 5. Cervidae (elk, deer, moose)

6. Suidae (pure wild strains of swine commonly known by the name European, Eurasian, Russian or hybrids with domestic strains and animals which are confined but which exhibit characteristics of being in an untamed state, and as established in Ch. NR 16.11 Wis. Admin. Code)

7. Anatidae (mute swans)

8. 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 as established in Ch. NR 16.11 Wis. Admin. Code)

Note: The department can restrict the rehabilitation of species when necessary to control the spread of disease, to protect public health, or to prevent harmful environmental impacts. Pursuant to ss. Ch. 169.085 and 169.11 (1) (b) Wis. Stats., the department does not allow rehabilitation of wolves or wolf-dog hybrids.

SECTION 33. NR 19.81 is amended to read:

NR 19.81 Qualifications of sponsors. Advanced licensees may volunteer to sponsor, ~~or~~ and provide consultation and advice to basic licensees. Potential sponsors will be reviewed by the wildlife rehabilitation advisory council and the department. A person desiring to be an advanced sponsor shall do all of the following:

(1) Submit a request to the wildlife rehabilitation ~~advisory committee established in s. NR 19.82~~ program manager requesting designation as a sponsor.

(2) Have documented experience rehabilitating those wildlife species which the basic licensee is authorized to possess.

SECTION 34. NR 19.81 (3) and (Note) are created to read:

NR 19.81 (3) Be actively rehabilitating the species the basic licensee is authorized for, or have a facility prepared to rehabilitate the species in compliance with NR 19.77.

Note: Contact information for the wildlife rehabilitation program manager may be obtained by calling 1-888-WDNR INFO.

SECTION 35. NR 19.82 is amended to read:

NR 19.82 Wildlife rehabilitation advisory ~~committee~~ council. (1) The secretary shall appoint persons experienced with wildlife biology, rehabilitation, law enforcement, and veterinary medicine to a wildlife rehabilitation advisory ~~committee~~ council.

(2) The wildlife rehabilitation advisory ~~committee~~ council shall assist the department with development of wildlife rehabilitation examinations, facility inspections, and recommendations which may be used in department decision making as it pertains to wildlife rehabilitation, wildlife health, or captive wildlife activities.

SECTION 36. NR 19.84 is amended to read:

NR 19.84 Modifications. The department may amend or add conditions to licenses issued under this subchapter at any time if there is a risk to public or animal health and human or animal welfare or there is a risk to the health and welfare of the environment.

SECTION 37. EFFECTIVE DATE. 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 38. 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 _____
Cathy Stepp, Secretary

(SEAL)