

Report From Agency

REPORT TO LEGISLATURE

NR 12 & 16 , Wis. Adm. Code
Harmful Wild Animals

Board Order No. WM-21-07
Clearinghouse Rule No. 09-052

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

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

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

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

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

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

Section 2 corrects a typographical error

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Summary of Public Comments:

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

Comments received through public hearing process

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

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

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

Written Comments

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

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

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

Lori Fowler, ARF's German Shepherd Rescue, expressed support for the rule but concern that the pen standards for wolf-dog hybrids are stringent and expensive to meet. The department agrees that pen requirements will result in a significant investment for owners and established a 2014 compliance date in order to allow a generous amount of time for people to acquire materials and construct enclosures.

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

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

Modifications Made: Modifications made were in response to comments by the Legislative Council Clearinghouse comments.

Appearances at the Public Hearing

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

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

Changes to Rule Analysis and Fiscal Estimate: Minor language updates were made. The fiscal effect remains the same.

Response to Legislative Council Rules Clearinghouse Report: Comments the department received from the Legislative Council Clearinghouse have been incorporated.

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