

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

The State of Wisconsin Natural Resources Board proposes an order to repeal NR 16(title), subch. I of NR 16 and 19.07; to renumber subch. II of NR 16; to amend NR 19.05(title) and (1) and 19.11(title) and (1) (intro.); to repeal and recreate NR 19.26; and to create ch. NR 16 relating to captive wildlife and frogs.

WM-07-03

Summary Prepared by Department of Natural Resources

Statutory Authority: ss. 29.039(1), 90.21(6), 169.11(1)(a), 169.15(5), 169.18(5), 169.19(6), 169.23(3), 169.25(6), 169.26(4), 169.27(4), 169.36(7), 169.39(2) and (3), and 227.11(2)(a), Stats.

Statutes Interpreted: ss. 90.21(2) and (5), 169.11(1), 169.12(1) and (4), 169.14(2), 169.15(4), 169.18(2) and (3), 169.19(2) and (3), 169.23(2), 169.25(1),(2),(3),(4) and (5), 169.26(1)(2) and (3), 169.27(1)(2) and (3), 169.31(1)(a), and 169.36, Stats.

2001 Wisconsin Act 56 removed Wisconsin's captive wildlife laws from ch. 29, Stats., and created ch. 169, Stats. As of January 1, 2003, game farms, fur farms and other holders of live captive wildlife will be subject to regulation under ch. 169, Stats. This will include new license requirements and requirements of operation. This rule implements those license requirements and requirements of operation. Highlights of the implementation rules follow.

Captive Wild Animal Farms. The rule creates additional requirements for animals held on captive wild animal farms including the requirement that animals are to be held in appropriately sized pens at all times. Limited exceptions are provided when animals are confined or controlled on a temporary basis in a different manner for the purpose of health care or treatment, training, movement from one enclosure to another or special handling needs.

Harmful Wild Animals. Consistent with the mandate of s. 169.11, Stats., bears and cougars are designated as harmful wild animals.

Reptiles and Amphibians. The rules regulating the possession and sale of reptiles and amphibians, whether live or dead are moved from ch. NR 19 with the exception of turtles taken pursuant to NR 19.275, 21.13 or 22.13 and frogs taken pursuant to NR 19.26. A clarification is made indicating that dead turtles so taken may be sold during the open season without violating the rules on possession or sale of reptiles.

Wild Fur Farms. Standards are created for determining when lands held for fur farming purposes are contiguous. A minimum size limit of 40 acres for fur farms is created. The ability to possess live muskrat, beaver, coyote, raccoon, opossum, weasel and mink is limited to temporary possession for the purpose of sale. Further possession requires a captive wild animal farm license. A quota for otters is established. A prohibition of harvesting badger, bobcat, fisher, fox, lynx, marten, rabbit and wolf under the authority of the wild fur farm license is created.

Bird Hunting Preserves. Standards are created for determining when lands qualify for a bird hunting preserve license. A minimum size limit of 40 acres for bird hunting preserves is created. The prohibition on hunting within one quarter mile of a public hunting ground managed for pheasants is continued, but the prohibition does not apply if the public hunting ground managed for pheasants is created after the bird hunting preserve is licensed.

Stocking. Ring-necked pheasants and gray partridge do not require a stocking license when stocked on private lands.

Exhibitions. A requirement that pen standards be followed is established.

Humane Care and Housing. General humane care standards are established which include cage sizes, requirements for food, water, shelter and environmental enrichment. Pen specifications for transportation cages are also established.

Farm-raised White-tailed Deer Fence Specifications. The rule establishes an eight foot height requirement for all new fences. It also phases in a requirement that deer farms be double fenced unless the deer farm is enrolled in the chronic wasting disease herd monitoring program, herd surveillance program or has filed a deer harvest plan.

Records and Reports. The department may refuse to renew a license for licensees who without good cause fail to submit required records. Deadlines and methods of submission are established.

SECTION 1. NR 16 (TITLE) AND SUBCHAPTER I OF CH. NR 16 ARE REPEALED.

SECTION 2. SUBCHAPTER II CH. OF NR 16 IS RENUMBERED SUBCH. III OF CH. NR 19.

SECTION 3. CHAPTER NR 16 IS CREATED TO READ:

Chapter NR 16 Captive Wildlife

NR 16.01 Definitions. In this chapter:

- (1) "Adult" means any animal that has reached the age of one year.
- (2) "Amphibian" means cold-blooded, smooth-skinned vertebrates of the class Amphibia and includes all life stages.
- (3) "Department" means the department of natural resources.
- (4) "Department lands" means lands under the management and control of the department.
- (5) "Enrichment" means activity that creates a beneficial environment for the well being of the captive wild animal.
- (6) "Exercise enclosure" means any structure, pen or cage used to restrict a captive wild animal to a limited amount of space for the purpose of exercise and enrichment.
- (7) "Farm-raised deer" has the meaning given in s. 95.001(1)(ag), Stats.
- (8) "Heavily galvanized" means a zinc coating weight of 230 g/m² or 0.8 oz/ft².
- (9) "Herptile" means amphibians and reptiles collectively.
- (10) "High tensile" means a tensile strength of 1235 to 1450 mega pascals or 179000 to 210000 lb/in².
- (11) "Hunt" or "hunting" includes shooting, shooting at, pursuing, taking, capturing or killing or attempting to capture or kill any wild animal.
- (12) "Licensed facility" means any land, premises, shed, barn, building, trailer or other structure used to house captive wild animals held under the authority of a license issued under ch. 169, Stats.
- (13) "Medium tensile" means a tensile strength of 700 to 850 mega pascals or 101000 to 123000 lb/in².
- (14) "Mobile or traveling housing facility" means a transporting vehicle such as a truck, trailer or railway car, used to house captive wild animals while traveling for exhibition or public education purposes.
- (15) "Native" means indigenous and occurring or having occurred naturally within the boundaries of this state regardless of whether a particular specimen originates outside of this state.
- (16) "Outdoor housing facility" means any structure, pens, building, land or premise housing captive wild animals in which temperatures may not be controlled within set limits.
- (17) "Pen" means any cage, fenced-in plot or other enclosure in which captive wild animals are held.
- (18) "Pheasant management zone" means that area identified in s. NR 10.34.

(19) "Primary enclosure" means any structure used as the principal housing facility to confine a captive wild animal to a limited amount of space such as a room, pen, run, cage, compartment, pool or hutch, including shelter structures.

(20) "Protected wild animals" means animals described in s. NR 19.001(14).

(21) "Reptile" means cold-blooded, scaled vertebrates of the class Reptilia and includes all life stages.

(22) "Resident deer" means a white-tailed deer 2 years of age or older that has resided in the licensed acreage area for not less than 2 years.

(23) "Sheltered housing facility" means a housing facility, which provides the captive wild animals with shelter; protection from the elements; and protection from temperature extremes at all times. A sheltered housing facility may consist of runs or pens totally enclosed in a barn or building, or of connecting inside/outside runs or pens with the inside pens in a totally enclosed building.

(24) "Solid fence" means a fence that meets all of the standards of s. NR 16.45(1)(a) to (j) that is covered with a fabric or other solid material that prevents deer on opposite sides of the fence from making visual or physical contact.

(25) "Sporting club" means a non-profit organization whose primary purpose is wildlife related outdoor recreation.

(26) "Transportation enclosure" means any structure or device used to restrict a captive wild animal to a limited amount of space for transporting the captive wild animal from one location to another.

(27) "Unprotected wild animals" means animals described in s. NR 19.001(17).

(28) "Waterfowl" means any migratory bird of family Anatidae (wild ducks, geese, brant and swans).

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

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

(2) FELIDAE. The species felis concolor commonly known as cougars.

NR 16.12 Reptiles and amphibians. (1) APPLICABILITY. This section applies to the collection, possession and exhibition of live or dead native wild reptiles and live or dead native wild amphibians in Wisconsin.

(2) POSSESSION RESTRICTED. No person may take from the wild or possess any live or dead native amphibians or reptiles or their eggs, except as provided under sub. (3) and s. NR 19.26, or turtles taken under the authority of ss. NR 19.275, 21.13 and 22.13.

(3) POSSESSION EXEMPTIONS FOR NATIVE AMPHIBIANS AND REPTILES. (a) *Endangered and threatened species.* Endangered and threatened amphibians and reptiles may only be possessed as provided under s. 29.604(6), Stats.

(b) *Possession exemptions and additional restrictions.* 1. A person may take or possess up to 5 individuals or eggs of each species of native amphibian, lizard and snake that are not endangered or threatened, except as provided under subds. 2. to 11.

2. No person may take or possess bullsnakes of the species *Pituophis melanoleucus sayi*, racers of the species *Coluber constrictor* or black rat snakes of the species *Elaphe obsoleta obsoleta* taken from within the borders of the state. Persons may possess up to 2 of each of these species if legally obtained from out-of-state.

3. A person may only take or possess up to 2 individuals of the following snake species: Fox snakes of the species *Elaphe vulpina vulpina* and eastern milk snakes of the species *Lampropeltis triangulum triangulum*.

4. A person may possess more than the legal possession limit of lizards or snakes that result from live birth or eggs delivered while in captivity. All offspring that bring the possessed total for that species to more than the legal possession limit established in subds. 1., 2. and 3., shall be given away within 3 months of their birth or hatching. These offspring may not be sold, bartered or traded. The release of offspring to the wild is not allowed unless a written request to release is submitted to the department and a license or other authorization is issued by the department as provided under ss. 169.06 and 169.23, Stats.

5. A person may take or possess up to one native amphibian egg mass or the larvae from that egg mass. These may not be sold and shall be returned to the same body of water that they were taken from immediately after transforming to the adult form, except that up to 5 transformed amphibians may be possessed.

6. A person may take and possess more than 5 native leopard frogs of the species *Rana pipiens*, 5 mudpuppies of the species *Necturus maculosus*, and 5 tiger salamanders of the species *Ambystoma tigrinum*, or native amphibians and reptiles subject to s. NR 16.13 (2)(a) if authorized by the department by a class A captive wild animal farm license issued under s. 169.15, Stats.

7. A non-resident may not take or possess any native amphibian, lizards, snakes or their eggs except as authorized by s. 169.04(3) or 169.12(3), Stats.

8. Publicly owned museums and American Zoo and Aquarium Association accredited institutions are exempt from possession limits.

9. Accredited colleges, universities and other educational or research institutions are exempt from the possession limits of this section for the purpose of research and education.

10. A person may take and possess more than 5 individual specimens of any native amphibian not listed as threatened or endangered, which are purchased or collected as part of a shipment of live bait by a licensed bait dealer or registered fish farmer.

11. A person may possess an unlimited number of atypically colored or patterned native amphibians and reptiles, e.g. albinos, striped snakes that are typically blotched.

(4) EXHIBITING. The exhibiting of live native reptiles and amphibians possessed under the authority of sub. (3)(b) and s. NR 19.275(2), does not require a license under s. 169.07, Stats., when those captive wild animals are exhibited exclusively for noncommercial, educational purposes.

NR 16.13 Sale and purchase of reptiles and amphibians. (1) APPLICABILITY. This section applies to the sale of native wild reptiles and native wild amphibians in Wisconsin.

(2) SALE. The sale of native amphibians and reptiles is prohibited except as provided in s. 169.12, Stats., or any of the following:

(a) *Out-of-state collection.* Native amphibians and reptiles legally collected out-of-state or purchased from out-of-state may be sold out-of-state or to an educational or research institutions in-state if the seller possesses a class A captive wild animal farm license issued under s. 169.15, Stats., to possess and sell those species.

(b) *Turtles.* Dead turtles and their parts harvested, killed and possessed in accordance with ss. NR 19.275, 21.13 and 22.13 may be sold during the open season.

Note: A class A captive wild animal farm license is not required to sell legally harvested dead turtles or their parts during the open season.

(3) PURCHASE. The purchase of native amphibians and reptiles is prohibited except as provided in pars. (a) to (c), and under s. 169.12, Stats.

(a) *Leopard frogs, mudpuppies and tiger salamanders.* Native leopard frogs of the species *Rana pipiens*, mudpuppies of the species *Necturus maculosus* or tiger salamanders of the species *Ambystoma tigrinum* collected within Wisconsin may be purchased from a seller that has been specifically authorized by a class A captive wild animal farm license issued under s. 169.15, Stats., or a bait dealers license issued under s. 29.509, Stats., to possess and sell these species.

Note: Native reptiles and amphibians obtained by purchase count toward possession limits established in s. NR 16.12.

(b) *Out-of-state collection.* Educational or research institutions may purchase native amphibians and reptiles legally collected out-of-state from an out-of-state seller or by the holder of a class A captive wild animal farm license issued under s. 169.15, Stats., who is authorized to possess or sell those species in-state.

(c) *Turtles.* Dead turtles and their parts harvested, killed and possessed in accordance with ss. NR 19.275, 21.13 and 22.13 may be purchased during the open season.

NR 16.15 Captive wild animal farm. (1) APPLICATION. This section is developed pursuant to s. 169.15, Stats., to establish qualifications and conditions for a captive wild animal farm and applies to all captive wild animal farms including commercial operations and hobbyists.

(2) PEN REQUIREMENT. (a) *Confinement.* No person subject to ch. 169, Stats., may possess captive wild animals unless the animals held in captivity are confined at all times to appropriate pens meeting the specifications of ss. NR 16.30 to 16.38 except as otherwise authorized by this chapter.

(b) *Proper care.* No person subject to ch. 169, Stats., may possess captive wild animals unless the animals held in captivity are provided proper care meeting the environmental enrichment requirements of s. NR 16.30(7), and the animal health and husbandry requirements of s. NR 16.30 (8).

(c) *Variation approval.* Variations in pen construction other than specified in ss. NR 16.30 to 16.38 shall be submitted to the department and may be approved by the department if found to comply with the intent and purpose of this section.

(d) *Waterfowl.* All waterfowl bred, propagated or held on a captive wild animal farm shall be enclosed within a covered pen throughout the open season for hunting waterfowl in the state when written or oral notice is given to the licensee by the department or its agents.

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

1. Mute swans that are pinioned or sexually neutered by 4 weeks of age shall be confined but do not require a covered pen.
2. Mute swans that are both sexually neutered and pinioned by 4 weeks of age need not be confined.

(f) *Compliance with local regulations.* No initial captive wild animal farm application may be approved for the possession of harmful wild animals unless the application is accompanied by written assurance that the application is in compliance with local ordinances and zoning regulations.

NR 16.18 Fur farms, purpose. (1) APPLICATION. This section is developed pursuant to s. 169.18, Stats., to establish qualifications and conditions for wild fur farm licenses.

(2) SINGLE PARCEL. (a) *Land owned.* In order to qualify as a single parcel for an application by an owner of land, a tract of land shall meet the following standards:

1. The owner of record of all tracts or portions of land comprising a single parcel shall be identical except for spouses qualifying as joint owners under the Wisconsin marital property law.
2. All portions of the land comprising the single parcel shall be contiguous.
3. Parcels or tracts of land may constitute a single parcel if they do not touch but are separated only by a town, county or state highway.
4. Calculation of the 640 acre maximum includes bodies of water in which the bed is owned by the applicant or which are entirely surrounded by lands owned by the applicant.
5. Applicants who are owners of land included in the application may lease additional contiguous parcels provided the total does not exceed 640 acres.

(b) *Land leased.* In order to qualify as a single parcel for an application by a lessee of land, the tract of land shall meet the following standards:

1. The applicant shall provide proof of a lease specifically authorizing the right to establish a wild fur farm for the term of the license. The lease shall be in writing. Leases for a term exceeding one year shall meet the requirements of s. 706.02, Stats.
2. All portions of the land included in the lease shall be contiguous.
3. Separate tracts of land covered by the lease may constitute a single parcel if they do not touch but are separated only by a town, county or state highway.
4. Calculation of the 640 acre maximum includes bodies of water in which the bed is leased by the applicant or which are entirely surrounded by lands leased by the applicant.

(3) ELIGIBILITY REQUIREMENTS. Except as authorized by s. 169.18 (3)(b), Stats., in order to be eligible for a wild fur farm license, the applicant shall own or lease at least 40 acres of land in a single parcel. If multiple, noncontiguous parcels are sought to be licensed by an applicant, the applicant shall obtain a separate wild fur farm license for each parcel.

(4) AUTHORIZATION. The wild fur farm license authorizes the taking of beaver, coyote, mink, muskrat, otter, opossum, raccoon, skunk and weasel on the licensed facility.

(5) LIMITATION. (a) The wild fur farm license does not authorize the taking or possession of badger, bobcat, fisher, fox, lynx, marten, rabbit or wolf. No person may harvest, possess or sell these species except under the authority of chs. NR 10 and NR 12 and ch. 29, Stats.

(b) All skunks taken shall be immediately killed in a humane manner and may not be sold live.

(6) PUBLIC RIGHTS. The issuance of a wild fur farm license does not affect any public right of hunting, fishing or navigation on navigable waters included within the licensed premises.

(7) OTTER QUOTA. The number of otter which may be taken in any given year under the authority of the wild fur farm license may not exceed the number allowed an individual trapper by s. NR 10.145.

Note: This provision does not limit the number of otter that may be taken on a licensed facility by individuals trapping under authority of a trapping license and valid otter tag issued under ch. NR 10. A wild animal nuisance or damage permit may also be applied for pursuant to ch. NR 12 and s. 29.885, Stats.

(8) TAGGING. Otter taken under the authority of the wild fur farm license shall be tagged with or accompanied by a validated otter carcass tag provided by the department prior to being removed from the licensed premises. Additional tagging requirements are as follows:

(a) *Field tagging.* 1. When an otter is killed and before it is carried by hand or transported in any manner, the licensee shall immediately validate the otter carcass tag issued by the department by slitting, tearing or punching the tag in the manner indicated by the department and attach the tag to the otter carcass in the manner indicated by the department.

2. When a live otter is captured and kept for a live sale, transfer or shipment and before it is carried by hand or transported in any manner, the licensee shall immediately validate the otter carcass tag issued by the department by slitting, tearing or punching the tag in the manner indicated by the department. The tag shall be kept in possession of the person transporting the live otter.

(b) *Tag retention.* 1. The tag shall remain attached to the pelt of any otter that is killed and only removed by a fur dresser or taxidermist at the time of preparation.

2. The tag shall accompany the cage used to contain a live otter until the otter is killed or sold. If a caged live otter is killed on the wild fur farm on which taken, the tag shall be immediately attached to the otter's carcass and remain attached as specified in subd. 1.

3. If a caged live otter is sold or otherwise transferred alive to another person authorized to possess a live captive wild otter, the tag shall accompany the transportation cage used to contain a live otter and shall be retained for a period of 3 years by the person to whom the live otter was sold or otherwise transferred.

(c) *Transportation and possession.* No person may transport or possess an otter, or an untanned pelt of an otter harvested on a wild fur farm unless it has been tagged in accordance with pars. (a) and (b).

(9) OTHER REQUIREMENTS AND LIMITATIONS. (a) *Dog training and trialing.* A wild fur farm license does not authorize dog training or trialing using captive wild animals.

(b) *Propagation.* A wild fur farm license does not authorize the propagation of fur bearing animals in captivity.

(c) *Possession of live wild animals.* Temporary possession of live captive wild animals authorized under this license is allowed for a period of 48 hours. Further possession requires either the permission of the department or a separate license issued under ch. 169, Stats., that authorizes continued possession of that species of live captive wild animal.

(d) *Guests.* Persons authorized by the licensee to take live fur bearing animals on the licensed premises may not possess the live animals off the licensed premises unless authorized by a separate license issued under ch. 169, Stats., that authorizes continued possession of that species of live captive wild animal.

NR 16.19 Bird hunting preserve licenses. (1) APPLICATION. This section is developed pursuant to s. 169.19, Stats., to establish qualifications and conditions for class A and class B bird hunting preserve licenses.

(2) LESSEE. If the land to be licensed as a bird hunting preserve is leased, the applicant shall provide proof of a lease specifically authorizing the right to establish a bird hunting preserve for the term of

the license. The lease shall be in writing. Leases for a term exceeding one year shall meet the requirements of s. 706.02, Stats.

(3) SIZE OF HUNTING AREA. No bird hunting preserve license may be issued for any land less than 40 contiguous acres where the discharge of firearms is legal, or area larger than 640 total acres.

(4) LOCATION RESTRICTION. No bird hunting preserve license may be issued for pheasants for any land less than one-quarter mile from the exterior boundaries of a state or federal wildlife area, public hunting grounds or refuge which is managed in whole or in part for pheasants except that this provision does not apply to areas in which the management for pheasants begins after the bird hunting preserve has been licensed. Except as provided in s. 169.31(3)(bn), Stats., all lands under one license shall be contiguous.

(5) PEN REQUIREMENTS. Pens used to confine native captive wild birds possessed for use under s. 169.19, Stats., shall meet the requirements of ss. NR 16.30, 16.35 and 16.38. Non-native captive wild birds possessed for use under s. 169.19, Stats., are exempt from the requirements of ss. NR 16.30, 16.35 and 16.38.

(6) ADDITIONAL STOCKING REQUIREMENTS. All wild birds stocked under the authority of a class A or B bird hunting preserve license shall be of high quality stock, fully feathered and not less than 12 weeks of age.

(7) HUNTING RESTRICTIONS. (a) A person hunting anything other than the birds listed on the bird hunting preserve license and stocked on the bird hunting preserve is required to have all applicable approvals issued and required under ch. 29, Stats.

(b) A person hunting anything other than the birds listed on the bird hunting preserve license is subject to all season restrictions, bag limits and other conditions or restrictions established by the department under ch. 29, Stats., and rules promulgated thereunder.

NR 16.23 Stocking license. (1) APPLICATION. This section is developed pursuant to s. 169.23, Stats., to establish qualifications, conditions and exemptions for stocking licenses.

(2) SPECIES. (a) *Species.* Only those species authorized by the department and specified on the stocking license may be released into the wild.

(b) *Stocking exemptions.* No stocking license is required to stock the following species on private lands provided that the requirements of s. 169.06(1)(d), Stats., are met:

1. Ring-necked pheasants.
2. Gray partridge.

(3) LOCATION. Except as provided in sub. (2)(b), the locations at which stocking is allowed are restricted to those listed, authorized and approved on the license.

NR 16.26 Nonprofit educational exhibitors. (1) APPLICATION. This section is developed pursuant to s. 169.26, Stats., to establish qualifications and conditions for nonprofit educational exhibitors.

(2) GENERAL EXHIBIT REQUIREMENTS. Nonprofit educational exhibitors shall comply with all the requirements of ss. NR 16.30 to 16.38.

(3) EXCEPTIONS TO PEN REQUIREMENTS. All interactive sessions with captive wild animals shall comply with the requirements of s. NR 16.35(7).

NR 16.27 Nonresident temporary exhibitors. (1) APPLICATION. This section is developed pursuant to s. 169.27, Stats., to establish qualifications and conditions for nonresident temporary exhibitors.

(2) GENERAL EXHIBIT REQUIREMENTS. Nonresident temporary exhibitors shall comply with all the requirements s. NR 16.35 (1) to (9).

(3) DOCUMENTS. Applicants shall provide the following documents when applying for a license:
(a) Written proof of authority to possess captive wild animals from the state of residence.
(b) Copies of all federal permits required to possess the captive wild animal being exhibited.
(c) Copies of any health certificates required by federal and state law to ship or transport animals across state boundaries.

(4) APPLICATION SUBMISSION. Applicants shall apply for the license at least 20 business days prior to entering the state with any captive wild animals for which an exhibiting license is required.

(5) EXCEPTIONS TO PEN REQUIREMENTS. All interactive sessions with captive wild animals shall comply with the requirements of s. NR 16.35(7).

NR 16.30 Pen specifications, humane handling, care, treatment and transportation of captive wild animals (1) APPLICABILITY. This section applies to captive wild animals that are required to be held under the authority of a ch. 169, Stats., license.

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

(b) *Housing site.* Facilities and areas used for storing animal food or bedding shall be free of any accumulation of trash, waste material, refuse, weeds and other discarded materials.

(c) *Surfaces.* 1. The surfaces of facilities including houses, dens and other fixtures and objects within the primary enclosure shall be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled. Interior surfaces and any surfaces that come in contact with captive wild animals shall be all of the following:

a. Free of excessive rust that prevents cleaning and sanitation, or that affects the structural strength of the surface.

b. Free of jagged edges or sharp points that might injure the animals.

2. All surfaces shall be maintained and cleaned. Surfaces of facilities, including houses, dens and other fixtures and objects within the facility that may not be readily cleaned and sanitized, shall be replaced when worn or soiled.

3. Raised floors shall be constructed in a manner that protects the captive wild animals' feet and legs from injury, and that do not allow the animals' feet to pass through any openings in the floor. If the floor of the enclosure is constructed of wire, a solid resting surface or surfaces that are large enough to hold all the occupants of the enclosure at the same time comfortably shall be provided.

(d) *Drainage and waste disposal.* Facility owners shall provide for regular and frequent collection, removal and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes and dead animals, in a manner that minimizes contamination and disease risks. Standing puddles of water in captive wild animal enclosures shall be drained or mopped up after cleaning or periods of rainfall so that the animals stay dry. Trash containers in facilities and in food storage and food preparation areas shall be leakproof and shall have tightly fitted lids on them unless the caretaker is present.

(e) *Storage.* Supplies of food and bedding shall be stored in a manner that protects the supplies from spoilage, contamination and vermin infestation. The supplies shall be stored in a manner that allows cleaning underneath and around the supplies. Foods requiring refrigeration shall be stored accordingly, and all food shall be stored in a manner that prevents contamination and deterioration of its nutritive value. All open supplies of food shall be kept in leakproof containers with tightly fitting lids to prevent contamination and spoilage.

(f) *Pest control.* An effective program for the control of insects, external parasites and birds and mammals that are pests, shall be established and maintained to promote the health of the captive wild animals and reduce contamination.

(3) GENERAL PEN AND SHELTER REQUIREMENTS. (a) *Pen specifications.* 1. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each captive wild animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress or abnormal behavior patterns.

2. All captive wild animals housed in the same primary enclosure shall be compatible. Captive wild animals with a vicious or aggressive disposition shall be housed separately.

(b) *Shelter from the elements.* Outdoor facilities for captive wild animals shall include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand and lie in a normal manner and to turn about freely. Metal barrels, cars, refrigerators, freezers and similar objects may not be used as shelter structures. In addition to the shelter structures, one or more separate outside areas of shade shall be provided, large enough to contain all the captive wild animals at one time and protect them from the sun. Shelters in outdoor facilities for captive wild animals shall contain a roof, 4 sides and a floor and shall:

1. Provide the captive wild animals with adequate protection and shelter from the cold and heat.

2. Provide the captive wild animals with protection from the sun, wind, rain or snow.

3. Be provided with a wind break and rain break at the entrance.

4. Contain clean, dry bedding material if the ambient temperature is below 50°F (10°C). Additional clean, dry bedding is required when the temperature is 35°F (1.7°C) or lower.

5. The sheltered part of a facility shall be sufficiently ventilated when captive wild animals are present to provide for their health and well being, and to minimize odors, drafts, ammonia levels and moisture condensation. Ventilation shall be provided by windows, doors, vents, fans or air conditioning.

(c) *Outdoor sheltering for captive wild birds.* Shelters for captive wild birds in outdoor facilities may consist of natural vegetation which provides protection from the effects of sun, wind, rain or snow.

(4) MINIMUM SPECIFIC HOUSING FACILITY REQUIREMENTS FOR SPECIFIED CAPTIVE WILD ANIMALS. (a) *Large captive wild animals.* The confinement of harmful wild animals as defined in s. NR 16.11, bobcat, lynx, timber wolf, coyote, fox and fisher shall comply with the following:

1. Primary enclosures shall be designed and constructed of suitable materials so that they are structurally sound for the species contained. They shall be kept in good repair.

2. The minimum size and height of enclosures shall be:

a. Bear pens shall be a minimum of 400 square feet. No more than 2 bear may be held in a 400 square foot pen. A minimum of at least 200 additional square feet is required for each additional bear. The pen height shall be a minimum of 8 feet. A tank or pool with a minimum of 150 gallons of water shall be provided when bears are not in hibernation. The space for the tank or pool of water shall be in addition to the required minimum square feet.

b. Cougar pens shall be a minimum of 200 square feet. No more than one cougar may be held in a 200 square foot pen. A minimum of at least 100 additional square feet is required for each additional cougar. The pen height shall be a minimum of 8 feet. Resting surfaces which are large enough to hold all the occupants of the primary enclosure at the same time comfortably shall be provided. The resting surfaces shall be elevated, impervious to moisture, and be able to be easily cleaned and sanitized, or easily replaced when soiled or worn.

c. Bobcat and lynx pens shall be a minimum of 144 square feet. No more than 2 animals may be held in a 144 square foot pen. A minimum of at least 50 additional square feet is required for each additional animal. The pen height shall be a minimum of 8 feet. Resting surfaces which are large enough to hold all the occupants of the primary enclosure at the same time comfortably shall be provided. The resting surfaces shall be elevated, impervious to moisture, and be able to be easily cleaned and sanitized, or easily replaced when soiled or worn.

d. Timber wolf pens shall be a minimum of 300 square feet. No more than 2 wolves may be held in a 300 square foot pen. A minimum of at least 100 additional square feet is required for each additional wolf. The pen height shall be a minimum of 6 feet.

e. Coyote pens shall be a minimum of 144 square feet. No more than 2 coyotes may be held in a 144 square foot pen. A minimum of at least 50 additional square feet is required for each additional coyote. The pen height shall be a minimum of 6 feet.

f. Fox and fisher pens shall be a minimum of 120 square feet. No more than 2 animals may be held in a 144 square foot pen. A minimum of at least 50 additional square feet is required for each additional animal. The pen height shall be a minimum of 6 feet.

(b) *Raptors (eagles, hawks, falcons, and owls)*. The confinement of raptors shall comply with the following:

1. Primary enclosures shall be designed and constructed of suitable materials so that they are structurally sound for the species contained. They shall be kept in good repair.
2. The minimum size and height of enclosures shall meet the following:
 - a. Kestrel, burrowing owl, saw-whet owl and screech owl pens shall be a minimum of 36 square feet with a height of 7 feet for flighted birds and 9 square feet with a height of 3 square feet for nonflighted birds.
 - b. Buteos, horned owl, barn owl, barred owl and goshawks pens shall be a minimum of 72 square feet with a height of 7 feet for flighted birds and 36 square feet with a height of 7 feet for nonflighted birds.
 - c. Eagles, vulture and osprey pens shall be a minimum of 400 square feet with a height of 9 feet for flighted birds and 120 square feet with a height of 9 square feet for nonflighted birds.
3. Each pen shall have a hutch or a shelter box, 2 or more perches of the appropriate size for the raptors feet and a water pan for drinking and bathing.
4. When more than 2 birds are held in the same enclosure, the pen shall be increased by 50% of subd. 2.a. to c. for each additional bird.

(c) *Other captive wild animals*. The confinement of raccoons, badger, beaver and otter shall comply with the following:

1. Primary enclosures shall be designed and constructed of suitable materials so that they are structurally sound for the species contained. They shall be kept in good repair.
2. The minimum size and height of enclosures shall be:
 - a. Raccoon pens shall be a minimum of 80 square feet. No more than 2 raccoons may be held in an 80 square foot pen. A minimum of at least 16 additional square feet is required for each additional raccoon. The pen height shall be a minimum of 8 feet. Raccoons shall have continuous access to fresh water when outdoor temperature is above freezing and shall be provided with a climbing apparatus.

Note: Continuous access to fresh water for raccoons does not require providing running water.

b. Badger pens shall be a minimum of 100 square feet. No more than 2 badgers may be held in a 100 square foot pen. A minimum of at least 50 additional square feet is required for each additional badger. The pen height shall be a minimum of 6 feet.

c. Beaver pens shall be a minimum of 100 square feet. No more than 2 beaver may be held in a 100 square foot pen. A minimum of at least 20 additional square feet is required for each additional beaver. The pen height shall be a minimum of 6 feet. A tank or pool with a minimum of 250 gallons of clean open water shall be provided for up to 2 beaver. Each additional individual or pair of beaver shall be provided a minimum of an additional 250 gallons of clean open water. The space for the tank or pool of water shall be in addition to the required minimum square feet.

d. Otter pens shall be a minimum of 100 square feet. No more than 2 otter may be held in a 100 square foot pen. A minimum of at least 20 additional square feet is required for each additional otter. The pen height shall be a minimum of 6 feet. A tank or pool with a minimum of 50 gallons of open water shall be provided. The space for the tank or pool of water shall be in addition to the required minimum square feet.

(5) EXCEPTIONS TO THE PEN REQUIREMENTS FOR SPECIFIED FACILITIES LICENSED PRIOR TO THE EFFECTIVE DATE OF THIS RULE ... [REVISOR INSERT DATE]. Existing facilities for bear, cougar, lynx, bobcat, timber wolf, coyote, fox and fisher with approved pens have 5 years from the effective date of this rule ... [revisor insert date] to bring pens into compliance with sub. (4)(a) if the following are provided:

(a) *Exercise enclosure*. An exercise enclosure is constructed that meets the minimum requirements of a primary enclosure established in sub. (4)(a).

(b) *Access to exercise enclosure*. The captive wild animals are provided access to the exercise area on a regular basis but not less than 4 hours every other day, except during periods of hibernation.

(6) EXCEPTIONS TO PEN REQUIREMENTS FOR SPECIAL HANDLING. Captive wild animals may be confined or controlled on a temporary basis in a different manner for the purpose of health care or treatment, training, movement from one enclosure to another or special handling needs.

(7) ENVIRONMENTAL ENRICHMENT. (a) *All captive wild animals*. The physical environment in the primary or exercise enclosure for captive wild animals shall be enriched by providing means of expressing

species typical activities. Species differences should be considered when determining the type or methods of enrichment. Examples of environmental enrichment include providing perches, climbing apparatus, foraging or task oriented feeding methods.

(b) *Bears, cougars, bobcat and lynx.* License holders shall develop, document and follow an appropriate plan for environment enhancement adequate to promote the psychological well being of these captive wild animals. The plan shall be in accordance with the currently accepted professional standards as cited in appropriate professional journals or reference guides, and as directed by the attending veterinarian. This plan shall be made available to any authorized department agent upon request.

(8) ANIMAL HEALTH AND HUSBANDRY STANDARDS. (a) *Feeding.* Captive wild animals shall be fed at least once each day, unless otherwise restricted by a veterinarian or as otherwise required to provide adequate care. The food shall be uncontaminated, wholesome, palatable and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet shall be appropriate for the individual animal's age and condition.

(b) *Watering.* If potable water is not continually available to the captive wild animals, it shall be offered to the animals as often as necessary to ensure their health and well being, but not less than twice daily for at least one hour each time, unless restricted by a veterinarian.

(c) *Food and water receptacles.* Receptacles shall be readily accessible to all captive wild animals and shall be located so as to minimize contamination by excreta and pests, and be protected from rain and snow. Receptacles shall be made of a durable material that may be easily cleaned and sanitized or be disposable.

(9) ADDITIONAL PEN STANDARDS. (a) *Mothers with infants.* Mothers with infants less than 6 months of age may be maintained together in primary enclosures that meet the floor area space required for an individual animal.

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

1. The outside walls of the primary enclosure are made of a sturdy, durable, solid material such as concrete, wood, metal, plastic or glass and are high enough and constructed in a manner that restricts contact with or entry by humans.

2. The housing facility is surrounded by a natural barrier that restricts the enclosed species to the housing facility and protects them from contact with unauthorized humans that are outside the housing facility, and have been approved by the department.

(c) *Open top pens.* Pens for bear, cougar, bobcat, lynx, timber wolf and coyote shall meet the following requirements:

1. Bear pens with open tops shall be a minimum of 1000 square feet. The walls shall be a minimum of 8 feet in height with an additional 3 feet at the top slanted inward at a 30 to 45 degree angle.

2. Cougar, bobcat, lynx, timber wolf and coyote pens with open tops shall be a minimum of 1000 square feet. The walls shall be a minimum of 10 feet in height with an additional 4 feet at the top slanted in at a 30 to 45 degree angle.

NR 16.35 Exhibition of captive wild animals. (1) APPLICABILITY. This section applies to exhibition of live captive wild animals under the authority of a captive wild animal farm license provided in s. 169.15, Stats.; nonprofit educational exhibiting license provided in s. 169.25, Stats.; and nonresident temporary exhibiting license provided in s. 169.27, Stats.

(2) PEN REQUIREMENT. (a) *Pen size.* All captive wild animals shall be confined at all times to pens meeting the specifications and requirements of s. NR 16.30 except as otherwise provided by this chapter.

(b) *Proper care.* All captive wild animals held in captivity shall be provided proper care meeting the environmental enrichment requirements of s. NR 16.30(7), and the animal health and husbandry requirements of s. NR 16.30(8).

(3) CLEANING, SANITIZATION, HOUSEKEEPING AND PEST CONTROL. (a) *Waste.* Excreta and food waste shall be removed from primary enclosures and from under primary enclosures as often as necessary to prevent an excessive accumulation.

(b) *Cleaning.* Primary enclosures and food and water receptacles shall be cleaned and sanitized at least once every 2 weeks and more often if necessary to prevent an accumulation of dirt, debris, food waste, excreta and other disease hazards. Pens, runs and outdoor housing areas using materials that may not be sanitized, such as gravel, sand, grass, earth or absorbent bedding, shall be sanitized by removing the contaminated material as necessary to prevent odors, diseases, pests, insects and vermin infestation.

(4) TRAVELING WILDLIFE EXHIBITS. Except as allowed under sub. (7), all captive wild animals being exhibited shall be confined at all times to pens meeting the specifications of s. NR 16.38.

(5) DISPLAY OF LICENSE. Any person who is authorized to exhibit captive wild animals shall publicly display a copy of the license at the place of the exhibit.

(6) LABELS. Each pen shall be labeled for the information of the public with the proper common name, in English, of the captive wild animals confined in the pen.

(7) EXCEPTIONS TO PEN REQUIREMENTS. Captive wild animals, except large captive wild animals subject to s. NR 16.30(4)(a) that are greater than 3 months of age and venomous snakes, may be used in interactive sessions outside of the enclosure provided:

(a) *Compliance with federal regulations.* The licensee, unless exempt under 9 CFR 2.1, is licensed by United States department of agriculture under 9 CFR 2.1 to exhibit animals.

(b) *Handling of animals during interactive sessions.* The licensee follows all of the requirements identified in 9 CFR 2.131.

(8) GUARD RAILS. Pens containing animals listed in s. NR 16.30 (4) shall be surrounded on the side or sides where the public may approach them by substantial guard rails not less than 3 feet in height. Guard rails shall be well supported and fully enclosed with not greater than 6 inch square fencing and shall be erected not less than 3 feet from the pens in which the captive wild animals are confined. Pens, guard rails and fencing shall be kept in good repair at all times and all gates and doors shall be kept securely locked.

(9) HARMFUL WILD ANIMALS. Harmful wild animal as defined in s. NR 16.11, shall only be exhibited at the location authorized on the license. Any exhibition of a harmful wild animal at an alternate location requires special written approval from the department.

NR 16.38 Pen specifications for transportation. (1) TRANSPORTATION ENCLOSURES. Any person subject to ch. 169, Stats., may not transport a live captive wild animal unless the following requirements are met:

(a) *Construction of transportation enclosures.* The captive wild animal shall be contained in a transportation enclosure such as a compartment, transport cage, carton or crate. Transportation enclosures used to transport captive wild animals shall be constructed to meet all of the following requirements:

1. The transportation enclosure is strong enough to contain the captive wild animals securely and comfortably and to withstand the normal rigors of transportation.

2. Transportation enclosures used to transport live captive wild animals shall be large enough to ensure that each animal contained in the transportation enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position.

3. The interior of the transportation enclosure shall have no sharp points or edges and no protrusions that could injure the captive wild animal contained within it.

4. The captive wild animal is at all times securely contained within the enclosure and may not put any part of its body outside the enclosure in a way that could result in injury to itself, to handlers, or to persons or animals nearby.

5. The captive wild animal may be easily and quickly removed from the enclosure in an emergency.

6. Unless the enclosure is permanently affixed to the conveyance, adequate devices such as handles or handholds are provided on its exterior which ensure that anyone handling the enclosure will not come into physical contact with the captive wild animal contained inside.

7. The transportation enclosure shall have ventilation openings located on at least 2 opposing walls of the transportation enclosure and the openings shall be at least 16% of the surface area of each wall, and the total combined surface area of the ventilation openings shall be at least 14% of the total combined surface area of all the walls of the transportation enclosure.

8. The transportation enclosure has a solid bottom or a slatted or wire mesh floor designed and constructed so that the captive wild animals' feet and legs are not allowed to pass between the slats or through the holes in the mesh.

9. Transportation enclosures used to transport captive wild animals shall be positioned in the transportation conveyance so as to provide protection from the elements.

(b) *Cleaning of transportation enclosures.* A transportation enclosure used to hold or transport captive wild animals in commerce shall be cleaned and sanitized before each use. If the captive wild animals are in transit for more than 24 hours, the enclosures shall be cleaned to prevent the soiling of the animals by body wastes. If it becomes necessary to remove the captive wild animal from the enclosure in order to clean, or to move the animal to another enclosure, this procedure shall be completed in a way that safeguards the animal from injury and prevents escape.

(c) *Compatibility.* 1. Live captive wild animals transported in the same transportation enclosure shall be of the same species and be maintained in compatible groups.

2. Captive wild animals that are overly aggressive or exhibit a vicious disposition shall be transported individually in a transportation enclosure.

NR 16.45 Farm-raised deer; white-tailed deer, specifications. (1) FENCING SPECIFICATION. Any person who keeps farm-raised deer that are white-tailed deer shall keep the farm-raised deer enclosed by a perimeter fence that meets all of the following requirements:

(a) *Fencing height and material.* The fence shall be at least 8 feet high measured from the ground to the top horizontal wire and shall be a high tensile fence that satisfies par. (b), a woven wire fence that satisfies par. (c) or, if made of other materials, is of a design and level of strength that provides equivalent retentive capacity. Fences constructed and approved prior to January 1, 2003 need only be 7'10" in height. All fences shall extend all the way to the ground.

(b) *High tensile fence.* A high tensile fence satisfies the requirements of this subsection if all the following apply:

1. The horizontal line wires are not less than 2.5 millimeters in size and are heavily galvanized high tensile wire.

2. The vertical stay wires are not less than 2.5 millimeters in size and are heavily galvanized medium tensile wire.

3. The knot wire is not less than 2.24 millimeters in size and is heavily galvanized mild steel.

4. The distance between vertical stay wires is not more than 6 inches.

5. The distance between horizontal line wires is not more than 4 inches in the bottom foot of the fence, is not more than 6.5 inches in the next 2 feet of the fence and is not more than 8.5 inches in the rest of the fence.

6. The posts are not more than 20 feet apart.

(c) *Woven wire fence.* A woven wire fence shall satisfy the requirements of this subsection if all of the following apply:

1. The wire is 14½ gauge or heavier.

2. If the wire is 14½ gauge, the mesh is not larger than 36 square inches.

3. If the wire is heavier than 14½ gauge, the mesh is not larger than 48 square inches.

4. The distance between horizontal line wires is not more than 4 inches in the bottom foot of the fence, is not more than 6.5 inches in the next 2 feet of the fence and is not more than 8.5 inches in the rest of the fence.

5. The posts are not more than 12 feet apart.

(d) *Wooden posts.* If the fence is made of wooden posts, all of the following shall apply:

1. The post shall be at least 12 feet long.

2. The top of the line posts shall, if rectangular, be at least 3.5 inches in the smallest dimension or, if round, at least 3.5 inches in diameter.

3. The top of the corner and gate posts shall, if rectangular, be at least 5.5 inches in the smallest dimension or, if round, at least 5.5 inches in diameter.

4. The wires shall be held securely to the inside of the posts, allowing for free movement of the horizontal line wires, using 9 gauge staples of at least 1.5 inch size.

(e) *Steel or iron posts.* If the fence is made with steel or iron posts, the posts shall be at least 12 feet long.

(f) *Installation of wire.* The wires are installed on the side of the fence toward the farm-raised white-tailed deer except at corners.

(g) *Additions to fences.* Additions to an existing perimeter fence or portion of an existing perimeter fence shall meet the 8 foot height requirement if constructed after January 1, 2003.

(h) *Gates.* All gates shall remain closed and secured to prevent unauthorized access and opening of the gates, except when authorized persons or equipment are traveling through the gates.

(i) *Corridors.* A corridor at least 4 feet wide shall be maintained along the inside or outside of all perimeter fences to allow regular inspections of the fence by the deer farm operator or the department with the use of a vehicle.

(2) SPECIAL FENCING REQUIREMENTS; DOUBLE FENCES. (a) *Deer farms with perimeter fences less than 80 acres in size.* No person may maintain a perimeter fence that encloses less than 80 acres that contains farm-raised white-tailed deer unless one of the following applies:

1. The deer farm is enrolled in the chronic wasting disease herd monitoring program established by s. ATCP 10.67.

2. The farm-raised white-tailed deer are enclosed by double perimeter fences or by one solid perimeter fence meeting the following standards:

a. If a double perimeter fence is used, both shall meet the requirements established in sub. (1)(a) to (i) and the 2 fences shall be at least 8 feet but not more than 16 feet apart.

b. Solid perimeter fences shall meet the requirements established in sub. (1)(a) to (i) and the lower 7 feet of the fence shall be covered with solid material that prevents animals on opposite sides of the fence from making visual or physical contact. The solid perimeter fence shall contain at least one single strand electrified wire on the inside or the outside of the entire length of the perimeter fence at a height of 3 feet and shall be at a distance of 2 feet from the main fence.

(b) *Deer farms with perimeter fences 80 acres or greater in size.* No person may maintain a perimeter fence that encloses 80 acres or greater that contains farm-raised white-tailed deer unless one of the following apply:

1. The deer farm is enrolled in the chronic wasting disease herd monitoring program established by s. ATCP 10.67.

2. The farm-raised deer farm is enrolled in the hunting preserve chronic wasting disease surveillance program if established by ch. ATCP 10.

3. The farm-raised deer farm files a deer harvest plan on forms supplied by the department to sample and test annually a minimum of 10% of the resident deer population, but not less than one deer, for chronic wasting disease during the first 3 consecutive years and 5% annually thereafter. Test results shall be provided to the department annually.

Note: Forms may be obtained from the Department's Bureau of Customer Service and Licensing, P. O. Box 7924, Madison, WI 53707, Phone (608) 266-2621, Fax (608) 264-6130.

4. Captive farm-raised white-tailed deer are enclosed by double perimeter fences or at least one solid perimeter fence meeting the following standards:

a. If a double perimeter fence is used, both shall meet the requirements established in sub. (1)(a) to (i) and the 2 fences shall be at least 8 feet but not more than 16 feet apart.

(c) *Solid perimeter fences.* Solid fences shall meet the requirements established in sub. (1)(a) to (i) and the lower 7 feet of the fence shall be covered with solid material that prevents animals on opposite sides of the fence from making visual or physical contact. The solid perimeter fence shall contain at least one single strand electrified wire on the inside or the outside of the entire length of the perimeter fence at a height of 3 feet and shall be at a distance of 2 feet from the main fence.

(d) *Revocation of fence certification.* Failure to remain enrolled in or comply with the chronic wasting disease monitoring, surveillance monitoring, deer harvest plan as described in par. (a) or (b) or fencing plan as described in sub. (5)(c), may result in the revocation of a fence certification.

(3) MINIMUM SIZE. A farm-raised white-tailed deer farm exterior fence may not enclose less than ½ acre or 21,780 square feet.

(4) EXCEPTIONS. The use of materials, other than those specified in this section for deer farm boundary fence construction may be permitted by the department if the materials are found to exceed minimum specifications and the fence is sufficient to hold the deer inside the enclosure.

(5) FENCING COMPLIANCE EXTENTION. (a) *Time period to bring deer farms with perimeter fences less than 80 acres in size fences into compliance with sub (2).* Farm-raised deer farms with white-tailed deer with perimeter fences less than 80 acres in size shall have until January 1, 2004 to enter the chronic wasting disease herd monitoring program established by s. ATCP 10.67 or to file a fencing plan with the department on forms supplied by the department and until June 30, 2004 to comply with the fencing plan.

Note: Forms may be obtained from the Department's Bureau of Customer Service and Licensing, P. O. Box 7924, Madison, WI 53707, Phone (608) 266-2621, Fax (608) 264-6130.

(b) *Time period to bring deer farms with perimeter fences 80 acres or greater in size fences into compliance with sub. (2).* Farm-raised deer farms with white-tailed deer with perimeter fences 80 acres or greater in size shall have until January 1, 2004 to enter the chronic wasting disease monitoring program established by s. ATCP 10.67, herd surveillance program established by ch. ATCP 10, deer harvest plan established in sub. (2)(b)3. or file a fencing plan with the department on forms supplied by the department and until December 31, 2004 to comply with the fencing plan.

Note: Forms may be obtained from the Department's Bureau of Customer Service and Licensing, P. O. Box 7924, Madison, WI 53707, Phone (608) 266-2621, Fax (608) 264-6130.

(c) *Fencing plan.* The fencing plan shall include all of the following:

1. Name and address of the farm-raised white-tailed deer farmer.
2. Location of the fenced facility if different than the address in subd. 1.
3. Farm-raised white-tailed deer farm registration number.
4. Number of fenced acres containing white-tailed deer not in the chronic wasting disease herd monitoring program as established by s. ATCP 10.67, surveillance program as established by ch. ATCP 10 or a deer harvest plan established in sub. (2)(b)3.
5. Plans for double or solid fencing of the property.
6. Signed statement that the double or solid fence will be installed by either:
 - a. June 30, 2004 for perimeter fences less than 80 acres in size.
 - b. December 31, 2004 for perimeter fences 80 acres or greater in size.

(6) NOTICE OF FENCE EXPANSION OR REPLACEMENT. No person may enclose white-tailed deer within any fenced enclosure which has had the perimeter fence expanded or replaced after its initial fence inspection certificate has been issued without first filling a notice and description of the expansion or replacement with the department prior to enclosing any white-tailed deer within the new fence. The department shall inspect and approve the new fence before it can be used to enclose farm-raised deer that are white-tailed deer. The notice shall include the following:

- (a) Name and address of the farm-raised white-tailed deer farmer.
- (b) Location of the facility if different then the address in par. (a).
- (c) Farm-raised white-tailed deer farm registration number.
- (d) Number of additional fenced acres that will containing white-tailed deer.
- (e) Lineal footage of replaced or additional fencing.
- (f) Description of the type of fences to be installed.
- (g) Expected construction beginning and ending dates and desired date to enclosed deer within the fence.
- (h) Status of enrollment in chronic wasting disease herd monitoring program as established by s. ATCP 10.67, surveillance program as established by ch. ATCP 10 or a deer harvest plan established in sub. (2)(b)3.

Note: Routine maintenance and minor repairs to existing wire, posts and gates, that do not result in the total replacement of a section of perimeter fence, do not need to be reported to the department and if constructed and approved prior to January 1, 2003, may remain at a 7'10" in height. Notice of fence expansion does not need to occur before construction begins.

(7) REPORTING OF FENCE FAILURES AND ESCAPES. Any time a fence required by s. 90.21, Stats., fails to comply with the requirements of this section or from which a farm-raised deer that is a white-tailed deer escapes, the person issued the fence certificate shall notify the department of the fence failure or escape. The notification shall take place immediately if possible but not later than 24 hours after the person is aware the fence failure or escape has occurred and shall include what action will be taken.

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

(8) EXEMPTIONS FOR CERTAIN PERSONS, ZOOS AND INSTITUTIONS. Each of the following is exempt from the requirements under par. (1)(a) if approved by the department and subs. (2), (3), (5) and (6):

- (a) A veterinarian, for the purpose of providing medical treatment to a farm-raised deer that is a white-tailed deer.
- (b) A public zoo as defined under s. 169.01(28), Stats.
- (c) Research conducted under a license issued under s. 169.25, Stats.
- (d) A licensed rehabilitator, for rehabilitation purposes as authorized under s. 169.24, Stats.
- (e) A person who is licensed under s. 95.68 or 95.71, Stats., and who is possessing the farm-raised deer under the authority of the license.
- (f) A person who is licensed under s. 95.69, Stats., and who possesses the farm-raised deer for 10 days or less and solely for the purpose of resale or slaughter.

NR 16.46 Removal of wild white-tailed deer. (1) REMOVAL OF WILD DEER. Prior to the issuance of a fence inspection certificate as provided by s. 90.21(2), Stats., all wild white-tailed deer remaining in a fenced area after the fence surrounding the area is completely closed may be sold as authorized under s. 90.2(4), Stats., or shall be killed in one of the following ways as determined by the department:

- (a) *Permit.* Under the authority of a written permit issued to the landowner or persons designated by the department to shoot the wild white-tailed deer within the fence.
- (b) *Department employees.* By department employees.

(2) DISPOSAL OF WILD WHITE-TAILED DEER. All deer killed shall be disposed of as directed by the department at the expense of the applicant.

NR 16.50 Records and reports. (1) MAINTENANCE AND SUBMITTAL. (a) General requirements. Copies of records or reports required to be kept under this chapter or under s. 169.36, Stats., shall be furnished to the department by required deadlines or upon request.

(b) *Submission as a condition of renewal.* Any of the following licenses issued pursuant to ch. 169, Stats., may not be renewed when the licensee fails without good cause to submit all records required by s. 169.36, Stats., by required deadlines or within 10 days of a request for the records:

1. Captive wild animal farm license.
2. Wild fur farm license.
3. Bird hunting preserve license.
4. Rehabilitation license.
5. Stocking license.
6. Scientific research license.
7. Nonprofit educational exhibiting license.
8. Nonresident temporary exhibiting license.
9. Validation license.

(c) *Submission of quarterly reports.* Each person required to hold a license which is subject to s. 169.36(9)(b), Stats., shall provide a copy of the quarterly records required to be maintained for that license to the department as follows:

1. Quarterly submission of records shall be provided to the department by April 30, July 31, October 31 and January 31 each year, and shall consist of a copy of all required records that shall be maintained during the 3 previous months.

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

- a. Canidae (coyotes, foxes, wolves).
- b. Ursidae (bears).
- c. Mustelidae (badger, mink, otter, weasel, skunk).
- d. Felidae (bobcat, lynx, cougars).

(2) DISPLAY OF LICENSE OR PROOF OF ORIGIN REQUIRED. (a) *Live captive wild animals.* Any person in possession of live captive wild animals for which a person is required to be licensed under ch. 169, Stats., shall have in the person's possession or at the licensed facility a copy of the license and make the license available to any authorized department agent upon request.

(b) *Animal carcasses.* No person may possess the carcasses of any captive wild animals obtained from any person required to be licensed under ch. 169, Stats., unless they possess the following information in writing from the person from whom the animals were obtained:

1. The complete name and address and the number of any license issued under ch. 169, Stats., of the person from whom the captive wild animals were purchased, received or otherwise acquired.
2. The date of the transaction and the number and species of the captive wild animals.

(3) ADDITIONAL RECORD-KEEPING REQUIREMENTS. (a) *Captive wild animal farm license.* The holder of a captive wild animal farm license shall keep complete and accurate records of all harvesting activities for all wild native amphibian or reptile species collected or obtained in-state or from out-of-state.

1. Records shall include: licensee's name, license number, and address.
2. Harvest records shall be completed the day of the harvest or collection and include:

- a. Date of harvest or collection.
 - b. Species and number or pounds of each amphibian species harvested by county of harvest.
 - c. Species and number of each reptile species harvested or collected by county of harvest.
3. All buying and selling records required under s. 169.36(1), Stats., that pertain to reptiles and amphibians shall also include the species bought and sold, the number of each reptile species bought and sold and the number or pounds of each amphibian species bought and sold, the date of the transaction, and the name and address of the person or business the licensee is buying from or selling to.

(b) *Bird hunting preserve license.* Each person required to hold a bird hunting preserve license shall keep a daily record of all pheasant and quail stocked or released on the property. Daily records shall include:

1. Date of activity.
2. Number of birds stocked by species.
3. Number of birds killed or harvested by species.

(c) *Wild fur farms.* 1. In addition to the records required under s. 169.36(2), Stats., no person may remove live fur bearing animals or the carcasses of fur bearing animals of the species authorized under s. NR 16.18(4) from the licensed premises of any wild fur farm unless the following information related to the harvest and transfer of the animals is first recorded in the licensee's records:

- a. The complete name and address of the person who harvested the animals.
- b. The date the animals were harvested.
- c. The species and number of the animals harvested.
- d. The complete name and address of the person to whom the animals were transferred.
- e. The date, species and number of animals sold or transferred.

2. Persons authorized by the licensee to take live fur bearing animals on the licensed premises may not possess these live animals off the licensed premises unless authorized by a captive wild animal farm license or other license that authorizes the possession of the live captive wild animals.

(d) *Stocking license.* Each person required to hold a stocking license shall keep a correct and complete record of the following:

1. For each transaction in which live captive wild animals are purchased or otherwise acquired or received:
 - a. The complete name and address of the person from whom the animals were purchased or acquired.
 - b. The number of any license issued under ch. 169, Stats., held by the seller.
 - c. The date of the transaction and the number, sex and species of the animals purchased or obtained.
2. For each stocking or release:

- a. The date and location of the stocking or release.
- b. The number, sex and species of the captive wild animals stocked or released.
- (e) *Nonresident temporary exhibiting license.* Each person required to hold a nonresident temporary exhibiting license shall keep a correct and complete record of all of the following information:
 - 1. The dates during which captive wild animals are brought into and held in this state for exhibition purposes.
 - 2. The nature or purpose of the exhibition.
 - 3. The location of the exhibition.
 - 4. The number and species of animals being exhibited.

(4) REPORTS TO MUNICIPALITIES. When requested by a municipality, any person who introduces, stocks or releases any captive wild animals under s. 169.06(1), Stats., shall provide the information required in s. 169.06(2), Stats., to that municipality within 72 hours.

SECTION 4. NR 19.05(TITLE) AND (1) ARE AMENDED TO READ:

NR 19.05 (title) Release and importation of fish and wildlife. (1) ~~It shall be unlawful for any No~~ person, persons, firm or corporation to may bring into the state to introduce or release or cause to be introduced or released in any manner into the inland or outlying waters, ~~forests or fields of this state any variety or species of wild animal, hybrid of a wild animal, and any bird or fish or the eggs or spawn thereof,~~ without first applying for in writing and receiving a written permit from the department or its duly authorized agents. ~~Such~~ The permit shall be granted only after the department or its agents investigates and inspects ~~the wild animals, hybrids of wild animals, or birds or fish, or the eggs or spawn thereof as it deems necessary to determine that such the~~ introduction or release will not be detrimental in any manner to the conservation of the natural resources of the state. Inspection may include removal of reasonable samples of fish and eggs for biological examination. The responsibility of licensees holding private fish hatchery licenses is stated in ~~s. ss.~~ ss. 29.735 and 29.736, Stats.

SECTION 5. NR 19.07 IS REPEALED.

SECTION 6. NR 19.11(TITLE) AND (1)(INTRO.) ARE AMENDED TO READ:

NR 19.11 (title) Scientific collectors permits and scientific research licenses. (1)(intro.) DEFINITIONS. For the purposes of implementing ~~s. ss. 29.614 and 169.25,~~ Stats., and within this section, the following definitions apply:

SECTION 7. NR 19.26 IS REPEALED AND RECREATED TO READ:

NR 19.26 Season and restricitons for taking frogs. (1) The open season for frogs runs from the Saturday nearest to May 1 to December 31.

- (2)** No person may take frogs with the aid of a firearm or air gun.
- (3)** Possession limits for frogs are established in s. NR 16.12.

SECTION 8. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 9. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 25, 2003.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)