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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Environment and Natural Resources (SC-ENR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

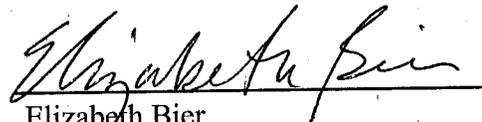
Committee on Environment and Natural Resources

Clearinghouse Rule 05-104

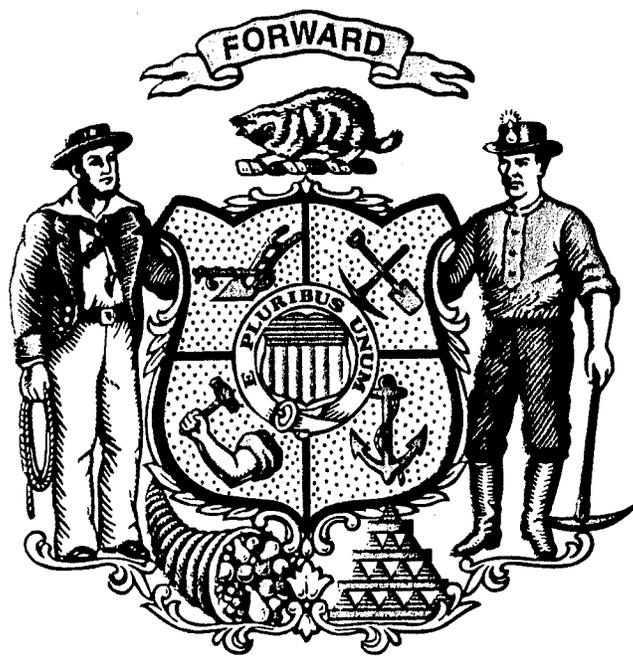
Relating to hound dog training and trialing on captive wild animals.
Submitted by Department of Natural Resources.

February 01, 2007 Referred to Committee on Environment and Natural Resources.

March 7, 2007 No action taken.



Elizabeth Bier
Committee Clerk



**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. WM-51-04

Legislative Council Rules Clearinghouse Number 05-104

Subject of Rules hound dog training and trialing
on captive wild animals

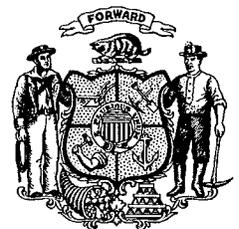
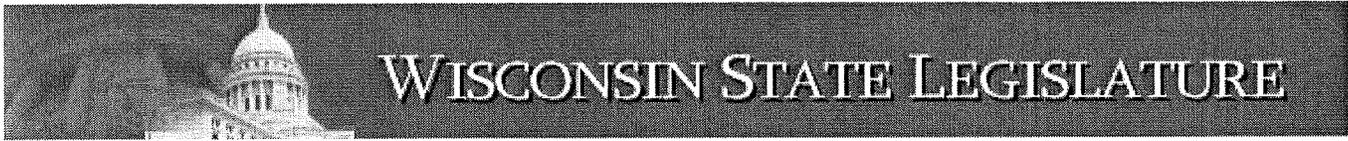
Date of Transmittal to Presiding Officers January 30, 2007

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LS/5, 101 South Webster

Telephone: 266-1959
e-mail: turnec@dnr.state.wi.us

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner



Fiscal Estimate — 2003 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-51-04

Subject
Hound dog training, including large acreage training enclosures

Fiscal Effect

State: No State Fiscal Effect

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

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
 Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations
s. 20.370 (1)(mu) and (3)(mu)

Assumptions Used in Arriving at Fiscal Estimate

This rule order develops standards and regulations regarding the use of bear, bobcat, coyote, fox, rabbit, and raccoon for dog training and trial purposes. Specifically, this rule creates standards for large acreage training enclosures, where captive coyote, fox and rabbit are used to train hounds to track and pursue game.

The primary fiscal impact on the department will be increased staff time required to inspect these training enclosures and issuing enclosure permits. Local wildlife and law enforcement staff already spend time issuing hound dog training and trial licenses, however the workload associated with enclosure inspections will be additive to existing work activities.

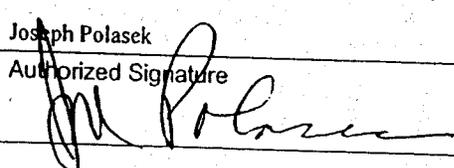
According to current information there are approximately 9 enclosures in the state that use captive coyote or fox in enclosures for dog training purposes, and the number of rabbit training enclosures is unknown. It is not anticipated that the number of inspections for fox or coyote would be that significant, but the permits would need to be renewed approximately every three years and a reinspection would need to take place. The inspection of rabbit facilities may require more effort considering the potential number of enclosures in existence and the low cost and area required for an enclosure. However, considering most of the rabbit enclosures are small, the time to inspect the pens will be less than with the larger coyote and fox enclosures. The fiscal impact of inspecting rabbit training enclosures is therefore indeterminate.

Cost of enforcement is not included in this analysis as it is impossible to determine without prior experience.

Finally, the idea of a license or permit issued over the state's Automated Licensing System (ALIS) is not currently possible, but should the functionality be added or acquired, annual and startup costs would add to the cost of implementing these rules.

Long-Range Fiscal Implications

In other states such as Missouri, the presence of training enclosures has increased significantly over the past decade. If the number of enclosures increase significantly in the future the estimate of annual staff time and effort may increase.

Prepared By: Joseph Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 9-06-06

Fiscal Estimate — 2003 Session

Page 2 Assumptions Narrative Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number

Assumptions Used in Arriving at Fiscal Estimate – Continued

Assuming a wildlife manager and a warden will need to inspect a facility and the fence, based on the amount of time needed to assess and inspect a captive deer farm and issue a fence inspection certificate, we can estimate that:

2 employees x 4.7 hours (\$40 / hour) = \$376 (salary and fringe)

40 miles round trip x .35/mile = \$14 + supplies (\$36) = \$50

That equates to \$426 per facility.

All current pens will need an inspection every three years, and if we assume that each year another pen is built, over a ten year period that equates to approximately \$2,300 (\$2,030 salary, \$270 supplies) on average annually (range \$426 to \$5,112 depending on the year and number of inspections) for coyote and fox enclosures.

If we assume it will take half the time for rabbit enclosure inspections, and we estimate that there may be 20 inspections annually, it would equate to \$220 per facility (\$188 in salary and fringe, \$32 is supply costs) x 20 facilities = \$4,400.

Since a recordkeeping system is already in place for other captive wildlife licenses, such as bird hunting preserves and captive wild animal farms, the cost of adding an additional type of license (hound training enclosure permit) is not significant.

Fiscal Estimate Worksheet — 2003 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-51-04

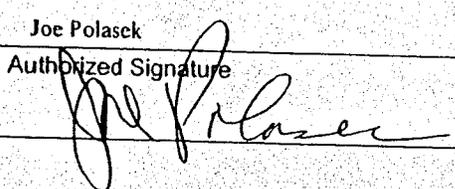
Subject
 Hound dog training, including large acreage training enclosures

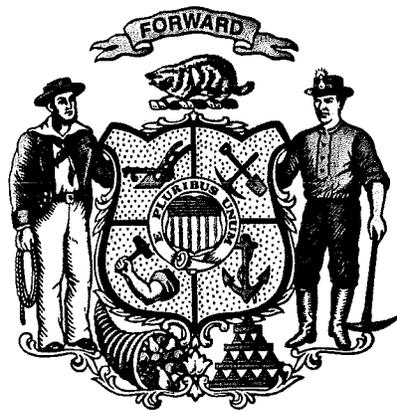
One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes	\$	5,790	\$ -
(FTE Position Changes)		(FTE)	(FTE)
State Operations — Other Costs		910	-
Local Assistance			-
Aids to Individuals or Organizations			-
Total State Costs by Category	\$	6,700	\$ -
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR	\$		\$ -
FED			-
PRO/PRS			-
SEG/SEG-S		6,700	-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g. tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$ 0	\$ - 0

Net Annualized Fiscal Impact

	State		Local	
Net Change in Costs	\$	6,700	\$	0
Net Change in Revenues	\$	0	\$	0

Prepared By: Joe Polasck	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 9-06-06





LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **05-104**

AN ORDER to repeal NR 17.03 (2) (d) 1. to 4. and (g), and 17.11 (title) and (intro.); to renumber NR 17.001 (1) and 17.11 (1) to (4); to amend NR 12.10 (1) (b) 2., 16.30 (1), 17.02 (1), 17.03 (1) and (2) (a) and (d), and 17.07 (1); to repeal and recreate NR 17.02 (3) and 17.07 (3); and to create NR 12.10 (1) (a) 5. and (b) 5., 16.30 (1), 17.00 (1), (1e), (5m) and note, (6m), (7m) and (8m), 17.045, 17.047, 17.11 (title), (intro.), (2) and (3), relating to hound dog training and trialing on captive wild animals.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

11-10-2005 RECEIVED BY LEGISLATIVE COUNCIL.

12-09-2005 REPORT SENT TO AGENCY.

RNS:MM



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

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Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 05-104

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

2. Form, Style and Placement in Administrative Code

- a. In s. NR 17.02 (3) (b) 3., the introduction should conclude with the following language: “The cage shall be constructed so that all of the following requirements are met:”.
- b. The NOTE following s. NR 17.045 (1) (e) pertains to the requirements in par. (d) of that subsection and therefore should be moved to appear immediately after that paragraph.
- c. In s. NR 17.045 (3) (h), the first sentence does not grammatically lead into the following subunits and, therefore, should be renumbered as subd. 1. The remaining subdivisions should be renumbered accordingly. [See also the first sentence of s. NR 17.047.]
- d. In s. NR 17.045 (4) (intro.), the phrase “all of” should be inserted before the phrase “the following.”
- e. SECTION 22 should read: “NR 17.11 (title) is repealed and recreated to read:”. SECTION 23 then should read: “NR 17.11 (intro.) is repealed.”
- f. Section NR 17.11 (1) (intro.) is structurally confusing. Is a portion of the rule missing?

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

- a. In s. NR 12.10 (1) (b) 2., the phrase “after release of the animal” should be added after “12 hours.”

b. In s. NR 12.10 (1) (b) 5., it is unclear what is meant by the phrase “that confine or restrict the movements of the animal.” Is it the intent of this language to allow a person to relocate a rabbit without written authorization only to enclosed land from which the rabbit cannot escape? If so, the rule should be rewritten to clearly convey this intent.

c. It appears that in s. NR 16.30 (1), the phrase “are required to be held under the authority of” should be replaced with “may be held only pursuant to.”

d. In the new NOTE following s. NR 16.30 (1), the phrase “and requirements for” should be inserted immediately before “humane handling.”

e. In s. NR 17.001 (1e), “areas” should be changed to “area.”

f. In s. NR 17.001 (1m), where must the members of the club be “identified in writing”? Must written identification be provided to the department? Also, the word “which” should be replaced by the word “who.”

g. In s. NR 17.001 (7m), “that” should be changed to “who” and “with” should be changed to “who has.” Also, the defined term should be “owner” or “operator” and should be used as appropriate throughout ch. NR 17. The slashed alternative should be avoided.

h. In s. NR 17.02 (3) and 17.07 (3) (a), should “used” be replaced with a term that indicates that the captive animals must be kept or housed, as well as used for training purposes, only within the type of enclosure described? In other words, if they are not being actively used for training at a certain time, may the animals be kept in a different type of enclosure such as a cage?

i. Should s. NR 17.02 (3) (b) 7. and 17.07 (3) (b) 7. specify that the animal shall have access to fresh water at all times? If not, should the rule specify when or how often access to fresh water should be provided?

j. In s. NR 17.03 (2) (d), does the word “Those” refer to an owner, an operator, a member, or some or all of these individuals or entities? This should be clarified.

k. The entire rule should be reviewed for conformance to proper drafting of mandatory and permissive actions. For example, in the last sentence of s. NR 17.045 (1) (a), “no person shall” should be changed to “no person may,” and in s. NR 17.045 (2) (a), the language stating that “every person...is required to possess a valid hound dog training license” should be rewritten utilizing the phrase “shall possess.” [See s. 1.01 (2), Manual.]

l. The passive voice should be avoided when possible. For example, the second and third sentences of s. NR 17.045 (1) (a) should be rewritten as follows: “The department shall inspect every hound dog training enclosure for which it has received a permit application. The department shall issue a permit to an applicant if it finds that the facility meets the requirements of this section and s. NR 17.11.”

m. Section NR 17.045 (1) (b) is problematic in several respects. First, it requires any person operating a hound dog training enclosure prior to the effective date of the rule to apply for

“a dog training permit under this section.” However, the section referred to does not contain any information regarding “dog training permits.” Rather, it sets forth requirements for “hound dog training licenses,” “dog club training licenses” and “hound dog trial licenses.” Is the rule intended to require any person operating a hound dog training enclosure prior to the effective date of the rule to apply for a hound dog training enclosure permit or one of the licenses listed above? Second, the rule requires a person to “apply” for a permit no later than December 31, 2006. Should the rule specify a date after which a hound dog training enclosure may not be used without a valid permit?

n. The material in the NOTE following s. NR 17.045 (1) (f) is substantive in nature and should be placed in the text of the rule. [See s. 1.09 (1), Manual.] In addition, it should be rewritten in a form that begins “A hound dog training enclosure permit shall be valid until....”

o. The title to s. NR 17.045 (3) (a) should indicate that “cover” requirements are included in the paragraph.

p. In s. NR 17.045 (3) (c), it appears that “Hounds” should be changed to “Dogs,” since hound is not a defined term, and by limiting the prohibition to “hounds,” it could be argued that dogs that do not belong to an officially recognized breed referred to as “hound” are not covered by the prohibition.

q. The rule should specify whether a separate permit is required for a small enclosure referred to in s. NR 17.045 (3) (e) 2. Also, should the rule define “inexperienced dog”?

r. In the second sentence of s. NR 17.045 (3) (f) 1. a., “bottom” should be inserted before “12-inch section of fence.”

s. The NOTE following s. NR 17.045 (3) (f), should indicate how prior approval of fences may be obtained from the department.

t. In s. NR 17.045 (3) (h) 1., the terms “device” and “escape areas” should not be used unless those terms refer to something that is not included in the definition of “captive animal refuge area.” If those terms refer to something not included in that definition, those terms should be defined.

u. The rule should specify how an owner or operator will be informed of any health management procedures that are required under s. NR 17.045 (4).

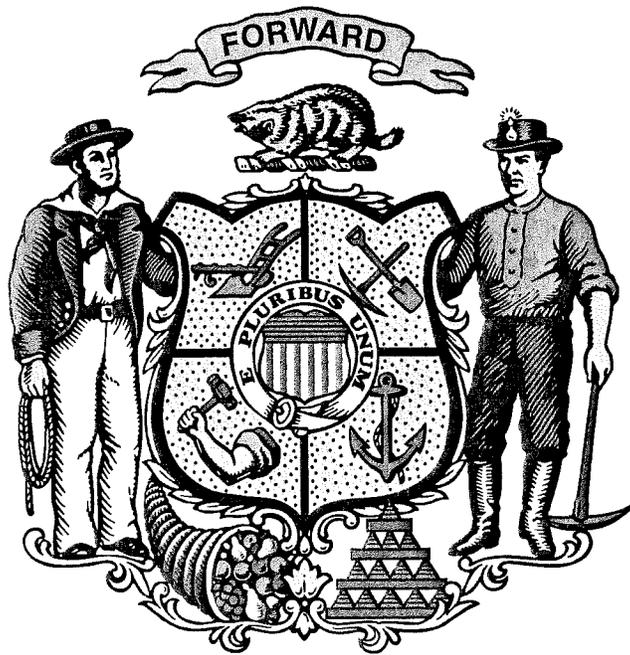
v. Should s. NR 17.045 (6) (b) contain special provisions regarding the number of dogs that may be released into a smaller enclosure referred to in s. NR 17.045 (3) (e) 2.?

w. The use of the term “may” in s. NR 17.045 (8) (c) implies that the department has discretion whether to grant a person an opportunity to bring an enclosure into compliance prior to the issuance of a citation. The rule should set forth standards the department must follow in determining whether a person will be given this “opportunity.”

x. In the second sentence of s. NR 17.047 (3), “imported captive animals” should be changed to “an imported captive animal.” In addition, the rule should specify how department

authorization of importation may be obtained and the standards the department will follow when evaluating requests for importation.

y. In s NR 17.07 (3) (b) 2., "raccoon" should not be capitalized.



REPORT TO LEGISLATURE

NR 12, 16 and 17, Wis. Adm. Code
Hound dog training and trialing on captive wild animals

Board Order No. WM-51-04
Clearinghouse Rule No. 05-104

Basis and Purpose of the Proposed Rule

2003 Wisconsin Act 239 provided the ability to use captive coyote, fox and bobcat to training hunting dogs (hounds). The goal of this rule is to allow dog trainers to utilize captive bobcat, bear, coyote, fox, rabbit and raccoon for training hounds as allowed in s. 169.20(2), Stats., while still ensuring the health, safety and quality of life and welfare of the dogs and the captive wild animals as required by s. 169.39, Stats., and to ensure that the health and safety of native free-ranging populations by reducing the risk for disease transmission.

It is the goal of this rule to allow dog trainers to utilize captive bobcat, bear, coyote, fox, rabbit and raccoon for training hounds as allowed in s. 169.20(2), Stats., while still ensuring the health safety, quality of life, and welfare of the dogs and the captive wild animals as required by s. 169.39, Stats., and to ensure that the health and safety of native free-ranging populations by reducing the risk for disease transmission.

Specifically, these rules allow for the permitted use of nuisance trapped coyotes in licensed dog training enclosures. The condition that the department must authorize the release of nuisance coyote into an enclosure will provide the department with an additional check to help prevent the trafficking of wild animals. From our meetings, we realize that the release of nuisance raccoons within a fence that is not intended to prevent their escape occurs in Wisconsin, as does the release of nuisance raccoons and coyotes into the wild for pursuit by hounds. In the interest of humane treatment for the nuisance animals, we propose in this rule that any nuisance animal live captured and released under our nuisance animal authority, whether released into a location that does not prevent their escape or that is released into the wild, may not be pursued for 2 hours. However, to accommodate hound trainers who utilize nuisance raccoons to introduce game to young dogs, we have included an exception to this 2 hour requirement that would allow the release for trailing hounds once the raccoon has climbed to safety using the same standards (10 feet off the ground) that are in place for the use of captive raccoons.

These rules also allow for exceptions to the current pen specifications, humane handling, care, treatment and transportation of coyote, fox and bobcat in ch. NR 16. This exemption allows these species to be housed in training enclosures or cages and allows for new standards to be developed in NR 17 (the dog training and trialing chapter). The rule also clarifies that a captive raccoon, bear or bobcat may not be housed in training cages for more than 72 hours before it must be returned to the animal's appropriate primary enclosure defined under NR ch. 16.

Additionally, this rule order creates new definitions pertaining to hound dog training enclosures. Specifically, these sections correctly identify the species authorized for use in these enclosures. A definition is created for "captive animal refuge areas" and "hound dog training enclosures". Finally, these sections clarify terms with special meanings as it pertains to ch. NR 17, such as "club" and "owner or operator".

The rule goes on to clarify that bobcat, coyote and fox may be used under the authority of a hound dog training, dog club or dog trial license. Additionally, rather than attempting to amend the section on dog training, we have repealed the existing language, and incorporated a majority of the old language into this recreated section. Specifically, and most importantly, this section establishes that only coyote, fox and rabbits may be used in hound dog training enclosures and that bobcat, raccoon and bear may only be

used within training cages and may not be used within training enclosures. Finally, this section creates consistent training periods for all hound dog training exercises. No more than 16 hours of training within a 24 hour period and also provide 8 consecutive hours when no training may occur. These training periods are aimed to provide periods of continuous pursuit for the benefit of training hounds while still providing adequate rest periods for the captive animals.

The most significant portion of this rule is the creation of the conditions under which coyotes, fox and to a lesser degree rabbits can be used within hound dog training enclosures and establishes a special hound dog training permit. Specifically, this section of the rule establishes the enclosure size and fencing requirements, the density of captive wild animals, housing and care requirements, disease prevention, and dog use and licensing requirements.

"Puppy Pens" or "starter enclosures" are typically smaller in area and are used to train young dogs to recognize game and show interest in the pursuit. Fifteen acres is established as the minimum size enclosure for fox and coyote starter enclosures permitted after October 1, 2006. The department determined that it is difficult to determine a dog's age or the experience level of a dog. This makes enforcement impossible. Therefore, via this rule, the department requires that both a larger pen and starter pen be available, so the owner or operator or designee may ascertain the experience level of the hound and properly assign the hound to the appropriate training enclosure. Therefore, we recommend in this rule that if an individual intends to have a starter enclosure, the owner or operator must also provide a legal large acreage enclosure within 2 miles of the small enclosure. This will help to ensure that experienced dogs are not used in a smaller enclosure, to help ensure the safety of both dogs and captive animals.

This rule order requires that, other than the acreage requirement, all current facilities will have to obtain an enclosure permit and comply with all provisions including fence specifications and animal densities. Regarding enclosure size, all enclosures shall be at least 75 acres in size with one exception. All existing facilities that are operating legally under the authority of a hound dog or dog club training license, that are at least 60 acres in size, shall be grandfathered under this rule and will be allowed to obtain and renew their hound dog training enclosure permit. However, once the enclosure permit expires and is not renewed, the grandfathered enclosure may not be reissued unless the 75 acre requirement is met.

The rule also establishes the legal sources for obtaining captive coyote, fox, bobcat, raccoon and rabbits for use in dog training and trialing activity. The intent of these rules is to help assure that captive animals with diseases are not introduced into this state.

Finally, the rule establishes record and reporting requirements for hound dog training and trialing. Conservation wardens are unable to attend every training activity; therefore the department must rely on accurate records and reports to help maintain the integrity of these activities. These record keeping requirements also help assure that animals can be tracked in the event of a disease occurrence, or in the event that a violation is reported.

Summary of Public Comments

Two public hearings were held to gather public input on the proposed rule, WM-51-04, regarding hound dog training enclosures and the use of captive wildlife for hound dog training. One meeting was held in Wausau on January 10, 2006 and the other meeting was held in Madison on January 12, 2006. Each hearing was led by a hearing officer and a short presentation was given on the proposed rule by the department. Attendees were given copies of the hearing notice and the rule proposal, and were asked to fill out an appearance slip and indicate their position (oppose, support, neutral) and any comments. Other information, such as a frequently asked questions handout, was also available for the public.

At the conclusion of the public hearings and public comment period (January 13, 2006) comments reflected the following support and opposition for the proposal. In Wausau: approximately 48 people attended the hearing; 24 people went on record as supporting the proposed rule and 6 went on record as

opposing it. In Madison: approximately 30 people attended; 16 people went on record supporting the proposed rule and 6 people went on record opposing it.

The department received 105 written comments (via letter and email) on this issue. Fifteen comments were in support of the rule and 10 were opposed. Eighty indicated that they were opposed to training hound dogs on captive wildlife but wanted to support the regulation of this activity if it was going to occur.

Table 1. Comments received by the department.

Comment Origin	Number of Comments	Support	Oppose	Oppose training on captive wildlife, support regulation
Wausau Public Hearing	30	24	6	0
Madison Public Hearing	22	16	6	0
Written	105	15	10	80

Comments and suggestions received on the rule during the hearing process are as follows:

- NR 17.047(1)2 – coyotes, raccoons, and rabbits. The Wisconsin Wildlife Federation and other individuals requested that nuisance raccoons should be used for training.
- NR 12.10(1)(b)2 – “12 hours” change to until animal is safe. The Wisconsin Wildlife Federation and individual hound trainers did not want to have to wait twelve hours to track a nuisance trapped wild raccoons that were being released into wild.
- State regulatory analysis- IL does allow training of hounds on captive coyote. This is not an issue, rather a suggested clarification to the background material.
- Section 8 – Hound dog training permit on ALIS. There is an interest in selling permits related to this activity through the state's Automated Licensing System.
- Additional fencing on the outside of fence not common. The Wisconsin Wildlife Federation commented that requiring an apron at the bottom of fenced enclosures is excessive and unnecessary.
- Reporting requirements and quarterly reports. Some hound trainers wanted to know whether a report would be required if they had no activity occurring in their pen in a quarter.
- Section 18, acclimation period for rabbits. Some people wondered why there was only a 2-day acclimation period for rabbits, and suggested it should be the same as required for coyotes and fox (7 days).
- Some people thought that trainers shouldn't be able to use nuisance wild raccoons for training hounds.
- Size of training cage. There was concern that the training cages for bear, bobcat and raccoon were too small for such a long period of time, as trials can last all weekend.
- Minimum age of handlers. Rabbit trainers were concerned about this because the AKC has a Jr. Handlers Club, which starts at age 9.
- There was concern that pregnant animals may be put in training enclosures.
- Record keeping requirements. Comments were received that this was too burdensome for private operations if they only intended to train their own dogs. This mostly applied to rabbit training enclosures.
- It was thought that 9 months was too young for a captive wild animal to be chased.
- There was a concern for the maximum age of captive wildlife. This relates to an animal that is too old to successfully evade dogs remaining in an enclosure.

- Some thought we should not allow this activity and that we should consider more than the hound trainers interests and consider ethics.
- There was concern that the acreage for the rabbit pen was too small.
- Enclosures should prevent trespass, for the safety of curious children, etc.
- Some were concerned that the dogs would not have proper identification at all times.
- Some trainers did not want an adjacent large acreage enclosure to be a requirement before a puppy pen could be opened, due to the difficulty of acquiring adjacent land. They wanted a mileage provision or something under same ownership to be acceptable.
- Grandfathering game. Some hound trainers were concerned that their existing animals would have to be dispatched with the adoption of these new rules.
- Many people wanted to make rules generally more restrictive.
- The Alliance for Animals and others stated that it was impossible to write rules that would be implemented in a humane manner.
- There was a concern that there was a disregard of the life and welfare of the captive animals used for training for financial gain.
- Section 18.NR 17.045 (3)(h). "Refuge areas. No person may molest, harass or chase a captive coyote, fox or rabbit utilizing a refuge or barrier area." Those who train rabbits stated that it would be next to impossible to utilize a rabbit for training unless they were allowed to do some brush beating. This is a practice that is necessary to make a hiding rabbit available for tracking by dogs. Some rabbit trainers wanted the current rules that pertained to their sport to remain the same.
- There were a number of comments that the training period allowed for captive wildlife suggested in this rule was far too long. Currently, the proposed rule allows for training sixteen hours per day. Suggestions received via comments ranged from allowing training for 4 hours per day to a general disapproval of the sixteen hours.
- There was a great deal of interest in and concern from a number of individuals on both sides of the issue regarding the ability of the department to oversee and enforce the proposed regulations. Aside from a concern over the general ability to enforce these regulations, this included concern for the number of inspections per year, animal welfare, and continuity of standards across the state. A pressing concern was where the department would find the funding for this workload. Many suggested charging for the hound dog training enclosure permit.
- Finally, there was a comment that the department should take this opportunity to remove sunset dates from NR 17, pertaining to the training of hounds on rabbits and raccoons within the northern restricted zone.

In addition to these comments, there were 245 written comments received in the form of a form e-mail or letter that requested modifications to the rule in order to enhance humane care and housing standards of the captive animals used in training. They are as follows:

- NR 17.001(1m) the dog training club definition should be changed to require at least one club member to be at least 18 years of age rather than "...at least two or more individuals who are at least 12 years of age..." 12 year olds are too young to safely handle and be responsible for the care of captive wild animals
- NR 17.02(3) Care & Housing- This section must define when an animal is allowed out of the small "training" cage and into the larger housing pen containing food, shelter, and water
- NR 17.02(3)(b)5. to prevent injury dogs should be kept a minimum of 3 feet from the training cage containing the wild animal, not just 1 foot from the training cage
- NR 17.02(3)(b)8. should be amended to read "roll cages may not be used for dog training with bear, bobcat, raccoon, coyote, fox or other wildlife in the roll cage",
- NR 17.045(3)(h)1. construction specifications for refuge areas should require potable water,
- NR 17.045(5) Additional provisions: The use of young animals 9 months of age is unacceptable. The captive wildlife age used to train hounds should be changed to at least 18 months of age
- NR 17.045(5)(c) only a licensed veterinarian should be allowed to spay or neuter these animals
- NR 17.047(1)(b) should be stricken. "Nuisance" animals should not be used in hound hunting enclosures
- NR 17.11(3)(a) should include ability for DNR to revoke a trial license

Department Response to Public Comments

Department animal health specialist, biologists, and law enforcement has thoroughly reviewed the public comments received on WM-51-04. The department has attempted to draft a rule that allows training while providing humane care and housing for captive animals. As a result of public hearing comments the department modified the rule as follows:

1) *Pursuit of nuisance trapped wild animals.* Under existing rules in NR 12.10, nuisance wild animals may be live trapped and relocated by landowners or agents of landowners and released in more appropriate locations. These animals, such as raccoons, may be temporarily possessed for the purpose of relocation, but not more than 24 hours. In an effort to ensure the safety and welfare of the animals released into new surroundings, the department proposed a 12 hour grace period where individuals would be prevented from releasing hounds into an area where one of these nuisance animals was released. Although there was support from those opposed to the use of nuisance animals for hound training there was general disapproval by those who trap and currently use wild nuisance animals to train hounds to track. Typically, young dogs are released shortly after the nuisance animal is set free from the cage. Hound trainers wanted to see language added that a hound could not be released until the captive animal reached safety. This is hard to define and difficult to enforce. Therefore, as a compromise, the department proposes reducing the amount of time before a hound could be released from 12 to 2 hours. However, to accommodate hound trainers who utilize nuisance raccoons to introduce game to young dogs, we have included an exception to this 2 hour requirement that would allow the release for trailing hounds once the raccoon has climbed to safety using the same standards (10 feet off the ground) that are in place for the use of captive raccoons.

2) *Definition of a dog training club.* The definition that was created in the proposed rule would have prohibited anyone under the age of 12 from participating in hound dog training activities. During the hearing process the department was informed that there is a AKC youth program to get children interested and involved in rabbit trailing with hounds. We have changed our definition to allow a club to consist of more than one individual, and one the members must be at least 12 years of age (by statute, anyone under 18 years of age would need a parent or guardians consent). Therefore, as long as one club member is of legal age for training a club could consist of younger members.

Note: After initial submittal of the department's final rule proposal there was concern from those who hunt with dogs that the rule prohibited youth under the age of 12 from participating in hound training/hunting. That was not the intent, and the department has modified the rule language and added a note to the rule to help clarify our intent.

3) *Housing for bear, bobcat and raccoons used in training activities.* The department clarified that when these three species are not being used for training, they must be housed in primary enclosures according to s. NR 16.30, Wis. Adm. Code. Additionally, in response to concerns over housing these animals in smaller transportation/training cages where only postural movements must be considered in the size of the cage, the department has sought to find a compromise. Opponents desired larger cages, rather than requiring larger cages for training the department has modified the rules pertaining to training periods and the amount of time an animal can be housed in a training enclosure. The number of hours a day that captive animals may be used for active training is 12 hours, and the maximum number of hours that a raccoon, bear or bobcat can be kept in a training cage (whether active training is taking place or not) is 72 hours.

4) *Training periods.* This rule attempts, for the first time, to regulate training enclosures. The department must rely on enclosure owners as well as staff biologists to determine a starting point to provide training opportunities while also ensuring the humane care of the captive wild animals used for training. The department received comments that 16 hours was simply too long. We also received comments that 12 hours would not allow existing training enclosures to remain financially stable. Considering the other requirements in this rule that account for escape and refuge for animals, and the requirements for water and shade for non-enclosure training (cages) the department feels that 16 hours is an appropriate starting

point for this regulation package. The rule does require at least 8 consecutive hour period when no training may take place during an 24 hour period.

5) *Roll cages* (Figure 1.). This has been a contentious issue since the first dog training rules were implemented in 2002. Bear were never authorized for use in "bear-balls" or roll cages. In this rule, bobcats were also prohibited from being used in these apparatuses due to the close contact possible between the cage and the pursuit animal. Raccoons were not specifically mentioned as being prohibited from use in a roll cage but the department did get significant concern regarding the use of roll cages for raccoons. Roll cages are a valued and common training tool for hound hunters, and the department feels they can be used in a way to prevent captive raccoons from being harmed. The rules authorize their use provided that the dog and raccoon are physically separated by barrier or cage design.

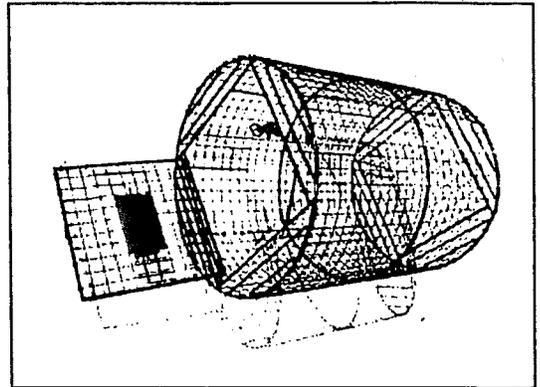


Figure 1. Raccoon roll cage.

6) *Age of hound training enclosure owners/operators.* From the beginning of this process there was a desire to assure that if training is taking place in an enclosure, that there be a responsible and capable individual present that is physically capable of restraining the dogs, assuring that accurate records are taken, and that the rules are understood and adhered to. In the previously submitted version of the rule, we recommended that at least one individual, be it the trainer, dog owner, owner or operator be at least 18 years of age. This 18 year old age requirement was to help assure appropriate care and management of the facility and adequate supervision during training exercises.

Note: This was another point of contention with those recording their opposition including the Conservation Congress. While youth are admittedly capable of hunting at age 12, and may do so unsupervised at age 14, hunting does not require the management of a facility, record-keeping or being responsible for the actions and compliance of rules by others. This is not intended to be an indictment of hound enclosure users. Rather, the few reports that have surfaced relating to humane care and treatment of animals are a testament to their care for their dogs and the captive animals. However, these rules in a large part are left up to the enclosures themselves to police. The department also realizes that as these rules are implemented, increased scrutiny will be focused on the permitted enclosures. Adult supervision is a way to help critics gain comfort with the appropriate management and operation of these facilities. However, we have revisited the issue and have modified the rule from "18-year old present" to "individual designated by the owner or operator who is knowledgeable of hound dog training rules and is capable of controlling the dogs"

This modification upholds the true intent of the rule without selecting an arbitrary age. When we took a look at the rule, the intent was to have a responsible person at the enclosure to assure that the rules were being followed and that could step in if need be. Our rule required an 18 year old to be present, without clarifying their required skills. Even an 18 year old may not be aware of the rules or able to restrain/control the hounds if need be. This language now helps to ensure a capable person is present.

7) *Refuge areas.* Our rule proposed a blanket prohibition against molesting, harassing or chasing a captive coyote, fox or rabbit utilizing a refuge or barrier area. However, we discovered that those who train rabbits stated that it would be next to impossible to utilize a rabbit for training unless they were allowed to do some brush beating. This is a practice that is necessary to make a hiding rabbit available for tracking by dogs. Therefore this rule includes an exception to allow rabbit trainers to chase rabbits from brush piles to facilitate training.

8) *Other species.* A hound dog training enclosure is intended for one purpose and one purpose only, to train dogs to pursue fox, coyote or rabbits. Also, with the exception for unintentional reproduction of rabbits, propagation is not allowed under a hound dog training, trialing or club license (s. 169.20 and 169.21, Stats.), and may not occur within a training enclosure according to this rule. Therefore, we have

clarified in this rule that a training enclosure may not be also licensed as a Captive Wild Animal Farm under ch. 169, Stats. Also, the mixing of species within an enclosure is not allowed. Granted it is inevitable that in some circumstances wild animals such as deer may find their way in and eventually out of the enclosure, but at no time may multiple captive wild animal species be maintained in the same enclosure.

Note: Again, opposition was presented by the form letters and the Conservation Congress. This provision is dealing primarily with fox and coyotes within the same enclosure. Biologists, hunters and trappers can provide evidence of territoriality and competition between the two species in the wild. The department does not intend to authorize a similar competition for even more limited resources and territory by allowing these species to be kept and pursued within a training enclosure. Although multiple species are reported in enclosures in other parts of the United States, these are often larger enclosures that encompass 100s and sometimes 1,000s of acres. Should the department receive a permit request for a significantly larger enclosure, this rule could be revisited at a later date. However, no known enclosures in the state are larger than 80 acres currently.

9) *Killing of captive coyote, fox and bobcat.* Under the authority of a hound dog training license the licensee may kill the captive animal used for training. However, it is not the intent of the rule or hound training within an enclosure to allow the killing of the enclosed coyote, fox or bobcat. However, there may be the need to dispatch a captive animal, for instance should a captive coyote fall become ill or debilitated. The rule has been clarified to only allow the enclosure owner or operator to kill a captive animal under a hound dog training enclosure permit.

10) *Older captive wild animals.* If a facility is run according to these rules, elderly coyotes and fox should be an issue that needs to be dealt with. At some point as was expressed at the hearings a coyote will not be able to keep up with the chase and as a result an owner may need to remove the coyote. This rule clarifies that not only injured, but debilitated animals as well, may not be maintained within a training enclosure.

11) *Surgical modifications of captive animals.* Surgical procedures involve a health risk to the captive wild animal. These rules require that any modification of these animals, such as docking tails, be done by a licensed veterinarian and that a written record veterinary involvement be maintained.

12) *Location of puppy training enclosures.* The rule that went out for public review indicated that a training enclosure for inexperienced dogs must be located on the same or adjacent property to a larger acreage training enclosure. This was put in place to prevent the training of experienced dogs in smaller pens out of convenience. Although these small enclosures are called puppy pens, it is common to train older dogs to track game if they are starting later in their life or have not received adequate training. We still feel that there should be access to both sized enclosures to prevent misuse of the smaller enclosures. However, we are sympathetic to trainers who may be land locked on the same or adjacent property. Therefore, we originally recommended that the rule be modified to allow a puppy training pen to be located up to ¼ mile away from the larger enclosure.

13) *Alternative fence designs.* Similar to the rules currently in place for deer farm fences, we have added a provision to this rule that clarifies that these are minimum fence standards and that alternate materials or designs may be permitted by the department if we determine that the designs exceed minimum specifications and the fence is sufficient to hold the coyote, fox or rabbit.

14) *Humane spaying and castration of captive animals.* The rule has been modified to add that if spaying or castration is required, due to the presence of multiple sexes of captive animals within the enclosure, to prevent reproduction, that it be conducted by a licensed veterinarian. These are surgical procedures that require anesthetic drugs legally available only to medical professionals and should be conducted by a licensed veterinarian to assure the health and welfare of the captive animal.

15) *Existing captive animals.* The existing enclosures in the state already have animals within their enclosures. We have clarified that these animals are allowed to be retained, provided that the numbers of

animals in the enclosures do not exceed the maximum number of captive animals allowed for the size enclosure (2/15 acres). Also, the rule clarifies that they have until December 31, 2007 to trap and identify the animals if they are not already individually identified.

16) *Recordkeeping exemptions.* With the number of enclosures and the limited staff, we realize that law enforcement will generally not be able to be present at the enclosures during training to assure that the rules are being followed, therefore, the department must rely on records to verify that the facilities are being used properly. We also, realize that there are a number of rabbit training enclosures that are operated for personal use and not open to the public. While it is still valuable to have records on the amount of use, such as the number of dogs in the enclosure and the number of hours trained each day, asking a family to keep track of themselves by recording their name and phone number is excessive. Therefore, we have exempted the enclosure owner and their immediate family members living with them from recording their name and address or phone number each time they release dogs into the enclosure. However, we still require that they identify how many dogs and hours are spent training in a given day.

Note: The rule was clarified to prevent personally identifiable information of enclosure from being available to individuals other than department representatives. Additionally, the rule was clarified to identify those items for which quarterly reports are required: any death, transfer, acquisition, or other information identified by the department on the report form.

17) Finally, as a result of comments made through the hearing process and considering we are modifying s. NR 17.04(3), Wis. Adm. Code, and this rule relates to dog training, the department recommends the elimination of sunset dates from s. NR 17. In the Northern Restricted zone, dog training on and captive or free roaming animals is prohibited May 1 – June 30. However, dog training on rabbits and raccoons has been permitted on all non-department lands in the Northern Restricted Zone from May 1 to June 30, under the authority of a hound dog training or hound dog trial license. This has been allowed during a 3-year period which sunsets on December 31, 2006. The department has assessed this provision and has determined that it should continue.

From the public hearing comment summary there are also a number of changes that were recommend that the department does not propose to implement. These suggestions include:

- The Wisconsin Wildlife Federation and other individuals requested that nuisance raccoons should be used for training.

Very little has changed in this rule as it pertains to raccoon training, the department has not been approached in the last three years with concerns that the availability of raccoons for training has been a problem. Raccoons are available for use in training in cages from Wild Fur Farms and Captive Wild Animal Farms and allowing another species to be taken from the wild is a concern. Concessions have been made for nuisance coyotes and rabbits due to availability concerns. If it is determined over the next few years that in state raccoon availability is a concern we can revisit the issue at that time.

- Additional fencing on the outside of fence not common. The Wisconsin Wildlife Federation commented that requiring an apron at the bottom of fenced enclosures is excessive and unnecessary.

Although it may not be common, the need to keep animals from digging into enclosure is desired. The rule has been written so that an electric wire can be used in place of the apron to keep wild animals away from the fence. If alternate designs can be proven effective, the rule has been modified to allow alternate pen designs to be approved. However, any alternative design must have a way of keeping wild animals from either coming into contact with the fence or from excavating under the fence.

- Section 18, acclimation period for rabbits. Some people wondered why there was only a 2-day acclimation period for rabbits, and suggested it should be the same as required for coyotes and fox (7 days).

Rabbits are a prey species with cover being their defense from predators and pursuit. Provided adequate barrier areas are provided 2 days should be sufficient for rabbits to become familiar with escape areas.

- It was thought that 9 months was too young for a captive wild animal to be chased.

At 9 months of age it becomes increasingly difficult to determine the ages of coyotes and foxes with the naked eye. At nine months coyotes and fox have obtained their adult proportions and is able to evade trailing hounds. Therefore, 9 months seems to be a reasonable age to establish in the rule.

- There was concern that the acreage for the rabbit pen was too small.

Although it appears small, with adequate cover a .5 acre pen can house and provide cover for rabbits and allow single young dogs (typically small breeds such as beagles and dachshunds) to find scent and track rabbits. There are many individuals in the state that have of small pens on their property and we are not aware of complaints or problems arising from the use of these facilities for training young rabbit dogs.

- Enclosures should prevent trespass, for the safety of curious children, etc.

The rule already requires that the gates be secured when not being used to prevent unauthorized access.

- Some were concerned that the dogs would not have proper identification at all times.

There are state laws which establish proper identification and licensing (s. 95.21(2)(f), 174.05, 174.053, and 174.07(1), Stats.

- NR 17.02(3)(b)5. to prevent injury dogs should be kept a minimum of 3 feet from the training cage containing the wild animal, not just 1 foot from the training cage

The department does not have information that would suggest that there is any less stress to the animal if the dog is 1 or 3 feet from the cage. Again, this provision has been in place for a number of years with few complaints raised or issues brought forward.

In addition to suggested changes to the rule there were other procedural or administrative comments that could not be addressed in this rule.

- Hound dog training permit on ALIS. There is an interest in selling permits related to this activity through the state's Automated Licensing System.

The department is looking into ALIS issued dog training licenses. This would help us to better track license numbers and improve record keeping. This provision is specifically mentioned as we begin the establishment of the new Automated Licensing Contract.

- Many people wanted to make rules generally more restrictive. Also, the Alliance for Animals and others stated that it was impossible to write rules that would be implemented in a humane manner.

The department has attempted to promulgate rules that would allow training and as much as possible with animals within the same enclosure, ensure humane care and treatment. There may be areas of these rules that could be improved, and we may need to revisit sections of the proposed rule. However, at this time, we have worked over the past year to develop rules for activities where there was previously no regulation.

- There was a great deal of interest in and concern from a number of individuals on both sides of the issue regarding the ability of the department to oversee and enforce the proposed regulations.

Aside from a concern over the general ability to enforce these regulations, this included concern for the number of inspections per year, animal welfare, and continuity of standards across the state. A pressing concern was where the department would find the funding for this workload. Many suggested charging for the hound dog training enclosure permit.

The department has also identified concerns about funding for additional resources to inspect facilities, however with an authorizing statute the department does not have the authority to establish a fee for the hound dog training enclosure permit.

Modifications Made

Modifications made as a result of the public hearing are detailed in the section above.

This rule order has been modified to reflect the changes the Natural Resources Board requested at their September 2006 meeting. Specifically, WM-51-04 was modified to:

1. Exempt the Peck puppy training enclosure from the minimum 15-acre size requirement.
2. Provide for a maximum of 16 hours of training in a 24-hour period for captive coyotes and fox.
3. Remove the 1-foot distance requirement when training using raccoons within roll cages.
4. Require that any surgical modification (tail docking) of captive coyotes and fox be done by a veterinarian.
5. Require hound dog training enclosures to provide documentation that they have a veterinarian of record.
6. Correct fencing mesh size language to indicate that the mesh size must be 2 inches square.
7. Not require owners of coyote and fox training enclosures to meet new perimeter fencing standards until they are replacing their existing fence.

Appearances at the Public Hearing

January 10, 2006 - Wausau

In support:

Jerry Knuth, 911 4th Street, Plover, WI 54467
Chipper Masser, N3267 Highway 17, Merrill, WI 54452
Michael M. Lane, 921 Landfried Avenue, Mosinee, WI 54455
Brian L. Kolb, 2320 Pleasant Avenue, New Holstein, WI 53601
Pete Peck, 7580 Crystal Lake Road, Lodi, WI 53555
Dan Riley, 16294 250th Street, Cadott, WI
Marjorie Roach, S12491 U.S. Highway 12, Augusta, WI 54722
Linda Riley, 16294 250th Street, Cadott, WI 54727
Lawrence Gohlke, P.O. Box 120, Neshkoro, WI 54960
George W. Bartels, 6057 State Highway 54 West, Wis. Rapids, WI 54495
Gary Stanke, 4708 McIntosh Street, Wausau, WI 54403
Jim Leopold, 5608 Birchwood Drive, Wausau, WI 54401
Robbie Brooks, W6745 Highway F, Cascade, WI 53011
Steve Nitek, W8262 County I, Conrath, WI 54731
Ron Knitter, 8847 Galloway Drive, Wittenberg, WI 54499
John Birr, W6476 Midway Road, Hortonville, WI
James Wanta, 1629 Willow Road [no city given] 54475
Dennis Held, R18220 Konkel Road, Hatley, WI 54440
Joyce Held, R18220 Konkel Road, Hatley, WI 54440
Terry Lane, 2022 Springbrook Road, Mosinee, WI 54455
Carla J. Peck, 7680 Crystal Lake Road, Lodi, WI 53555
William E. Roach, S12491 Highway 12, Augusta, WI 54722
Tom Maltbey, 3566 Martin Road, Mosinee, WI

Bernie Meyer, 11981 Falcon Road, Marshfield, WI
Roger L. Deffner, 1803 Stewart Avenue, Wausau, WI 54401

In opposition:

Melissa Faris, 1235½ South 10th Avenue, Wausau, WI 54401
Wayne Schultz, 2301 N. 18th Street, Wausau, WI 54403
Jeff Krispel, 4147 N. 128th Avenue, Wausau, WI 54401
Gregory Hackel, 12240 3rd Lane, Athens, WI 54411
Katherine Borkenhagen, 2093 West Road, Mosinee, WI 54455

As interest may appear:

Shirley Meyer, 11981 Falcon Road, Marshfield, WI 54449
Cortney Hendrickson, 316 E. Kent Street, Wausau, WI 54403
Heather Marincel, 316 E. Kent Street, Wausau, WI 54403
Richard Burch, T-701 Pine Bluff Road, Wausau, WI 54403
Quentin Gottung, 312 Chicago Avenue, Wausau, WI 54403
John Jagerson, E367 County Road J, Wausau, WI 54403
Richard Boehmen, 2906 Eau Claire, Schofield, WI
Roger Wirkus, 1775 Orchid Lane, Wausau, WI
Clyde W. Schulz, 417 Division Street, Apt. #2, Wausau, WI 54403
Laura Grupe, 5907 Camp Phillips Road, #8, Weston, WI 54476
Tim Krause, W15271 County E, Curtiss, WI 54422
Don Roberts, T-128 Granite Heights Road, Wausau, WI 54403
Lee Lavake, 905 S. 22nd Avenue, Wausau, WI 54401
Dr. Norman F. Deffner, 3301 Barek Avenue, Wausau, WI 54401
Perry Boesl, N51 W26133 Autumn Tr. Pewaukee, WI 53072
Jeff Traska, 2901 E. Sell Street, Wausau, WI 54403

January 14, 2006 – Fitchburg

In support:

Jerry Knuth, 911 4th Street, Plover, WI 54467
Marjorie Roach, S12491 U.S. Highway 12, Augusta, WI 54722
Carla Peck, 7680 Crystal Lake Road, Lodi, WI 53555
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Tonia S. Miske, W8597 County Road U, Glenbeulah, WI 53023
Gary R. Voigt, N1428 Coolidge Road, Oconomowoc, WI 53066
James Etzel, 1767 Highway EE, Neosho, WI 53059
Mary Ellen Keeling, W2101 Washington Road, Oconomowoc, WI 53066
Susan Meyer, 2099 E. Moraine Drive, Kewaskum, WI 53040
Jim Laubmeier, 5233 Enchanted Valley Road, Cross Plains, WI
Judy Laubmeier, 5233 Enchanted Valley Road, Cross Plains, WI 53528
Jeff F. Fillo, P.O. Box 258022, Madison, WI 53725
David H. Punzel, 1751 S. Jargo Road, Deerfield, WI 53531
Gary Kramer, 4214 Barnett Street, Madison, WI 53704
David Pfarr, W4754 Bradley Road, Rio, WI 53960
Al Keeling, W2101 Washington Road, Oconomowoc, WI 53066
David "Pete" Peck, 7680 Crystal Lake Road, Lodi, WI 53555
Kevin Tews, N1509 Carcayon Road, Fort Atkinson, WI 53538
Corky Meyer, 2099 E. Moraine Drive, Kewaskum, WI 53040

In opposition:

Randy Houk, N9685 Nature Road, Eagle, WI 53119
R. Scott Bowey, P.O. Box 434, Eagle, WI 53119
Patricia Randolph, N328 3rd Avenue, Portage, WI 53901
Tina Kaske Sanchez, 404 Cardinal Crescent, Monona, WI 53716
Rick Marolt, 1015 Lawrence Street, Madison, WI 53715
David Madden, 5132 Voges Road, Madison, WI 53718

As interest may appear - none

Changes to Rule Analysis and Fiscal Estimate

Changes were made to reflect the changes made as a result of the public hearings and at the request of the Natural Resources Board. The fiscal estimate was revised to reflect the modifications were resulted in a State Fiscal Impact increasing from \$2,300 to \$6,700. Also, the statement that the cost of enforcement is not included in the analysis as it is impossible to determine the enforcement needed without prior experience.

Response to Legislative Council Rules Clearinghouse Report

All of the comments were accepted, except for 2.f. Although it appears that a portion of s. NR 17.11(1)(intro.) is missing, it is not. You need to refer to the Section headings in the rule which explain that, through renumbering, existing code language will remain in effect, except under a new numbering scheme in order to make room for the new code language.

Final Regulatory Flexibility Analysis

A.1. Describe the compliance and/or reporting requirements imposed on small business.

Small businesses, which operate large acreage training enclosures in this state, must obtain a hound dog training enclosure permit in addition to a hound dog training, dog club or dog trialing license in order to operate. Under the proposed rules the owner/operator of a hound dog training enclosure shall apply for and obtain an approved hound dog training enclosure permit from the department prior to using or releasing any captive wild animals or dogs into the enclosure for dog training or trialing purposes. A facility found to be in compliance with this section after inspection shall be issued a hound dog training enclosure permit by the department. A hound dog training enclosure shall meet the requirements of this rule and all reporting requirements. Enclosures that do not meet the requirements of this section shall not be issued a permit but may reapply for inspection after 30 days. No person shall train, trial or otherwise release dogs into an enclosure containing captive wild animals unless a valid hound dog training enclosure permit is possessed by the owner/operator of the enclosure. There is no fee for issuance of a hound dog training enclosure permit.

The compliance standards include: No initial enclosure permit application may be approved unless the application is accompanied by written assurance that the application is in compliance with local ordinances and zoning regulations.

All hound dog training enclosures shall provide the necessary natural or artificial habitat and meet the food, water and cover requirements of a coyote, fox or rabbit. Such conditions are subject to approval by the department. Any wild coyote or fox present in any new enclosure shall be removed.

No dogs may be released into an enclosure that is used to train dogs to pursue coyotes or fox until the 7th day following the release of a new coyote or fox into an enclosure. No dogs may be released into an enclosure that is used for training dogs to pursue rabbits until the 2nd day following the release of a new rabbit into the enclosure.

Hounds may not be released into an enclosure with the intent to kill or physically injure the captive coyote, fox or rabbit. Any coyote or fox injured during a dog training exercise shall be, submitted to a

veterinarian for treatment at the owner/operators expense, or euthanized and shall be reported to the department within 24 hours. Injured coyote, fox or rabbits are not to be maintained in the hound dog training enclosure.

Whenever dogs are released into or present in a hound dog training enclosure, the owner/operator of the enclosure or the individuals training the dogs shall be present at the enclosure and actively engaged in the training activity. Dogs may not be left unattended within an enclosure.

Except as provided for inexperienced dogs, the minimum size of a hound dog training enclosure for coyote and fox shall be 75 contiguous completely fenced acres without interior fences that divide the area into parcels less than 75 acres. Enclosure for inexperienced dogs may be less than 75 acres provided the owner/operator also holds a permit for a separate 75 acre facility for experienced dogs, but the enclosure may not be less than 20 acres in size and shall be on the same or an adjacent property. The minimum size for hound dog training enclosures for rabbits shall be .5 acres.

Perimeter fences used to confine coyote or fox within a hound dog training enclosure shall be a minimum of 6 feet in height, with a minimum of 12 inches of additional fence material bent inward at a 90 degree angle at the top and the bottom of the fence. The 12 inch section of fence must be in contact with the ground and secured to the ground to prevent coyotes and fox from entering or leaving the enclosure. In addition, the outside of the fence must either include a minimum of 12 inches of additional fence material bent outward at a 90 degree angle at the bottom of the fence, or a single strand electric fence may be used to prevent wild coyotes and fox from entering the enclosure. The fence material should be of sufficient design and strength to prevent captive coyote and fox from escape or wild coyote or fox from entering the enclosure. A corridor at least 4 feet wide shall be maintained on the inside or outside of the perimeter fence to allow for easy access and inspection of the fence by the owner/operator, operator and the department by use of an ATV or other vehicle. The corridor does not need to be located immediately adjacent to the fence but shall be close enough to the fence to allow easy access to and visual inspection of the fence.

Perimeter fences used to confine rabbits within a hound dog training enclosure shall be a minimum of 5 feet in height, including any part of the fence that is buried, or bent inward or outward at the bottom of the fence. The fence material should be of sufficient design and strength to prevent captive rabbits from escape or wild rabbits from entering the enclosure. A corridor at least 4 feet wide shall be maintained on the inside or outside of the perimeter fence to allow for easy access and inspection of the fence by the owner/operator, operator and the department by use of an ATV or other vehicle. The corridor does not need to be located immediately adjacent to the fence but shall be close enough to the fence to allow easy access to and visual inspection of the fence.

All gates shall remain closed and secured to prevent escape of captive animals and unauthorized access and opening of the gates, except when authorized persons, dogs or equipment are traveling through the gate.

No person may molest, harass or chase a captive coyote or fox utilizing a refuge area. Captive animal refuge areas shall be available or provided for coyote and fox at a rate of not less than 1 area for each captive animal within the enclosure and not less than one per full 15 acres. Each refuge area or device shall be readily available to any coyote or fox held inside the hound dog training enclosure and shall not be located immediately adjacent to any other such escape area or device. All minimum required captive animal refuge areas shall be evenly distributed throughout the enclosure. Also, sufficient barrier areas shall be provided for rabbits held within an enclosure to provide refuge and escape areas for all of the rabbits held within the enclosure.

No less than 2 coyote or fox may be present in a hound dog training enclosure, and no more than 2 coyote or fox may be present per each full 15 acres may be present in a hound dog training enclosure.

The department may require specific health management procedures as deemed necessary, including mandatory disease investigation, testing and disease reporting. In addition, inspection and/or treatment

by a licensed veterinarian when required shall be at the sole expense of the owner/operator of the hound dog training enclosure. In the event of disease outbreaks, costs associated with the testing, depopulating, cleaning and disinfecting shall be the sole expense of the owner/operator of the hound dog training enclosure. The owner/operator may not release or permit the release into a hound dog training enclosure of any wild animals or dogs that are diseased or have been exposed to diseased animals. The department may conduct disease testing and take samples of any species of wildlife within the hound dog training enclosure.

All captive coyote and fox released into a hound dog training enclosure shall be at least 9 months of age. Coyote and fox may not be released into a hound dog training enclosure unless first individually tagged, tattooed or otherwise permanently marked with the name of the owner/operator or with a unique number which is recorded in the records required to be kept under s. NR 17.11(5). When more than one coyote or fox is released into a hound dog training enclosure all additional animals of the same species that are of a different sex shall be spayed or neutered prior to release into the hound dog training enclosure.

Except for competitive field trials, the owner/operator of any hound dog training enclosure shall maintain a complete and accurate registry which shall include the name, and address or phone number of each person who releases dogs into the enclosure, and the date and time of each dog training activity including the number of dogs released. For organized competitive field trials occurring under a valid hound dog trial license, the owner/operator shall maintain a list of participants names and phone numbers. The registry shall be kept current, accurate and retained for three years from the date of the record, and shall be made available for inspection by the department.

The owner/operator of any hound dog training enclosure shall also maintain and report as required complete and accurate records on the number, species and source of all captive coyote, fox, and rabbit released into the hound dog training enclosure including the unique individual identification number of each coyote or fox, attached to each animal released. The rule has been modified to provide an exception from certain record requirements for private rabbit pen owners that are not open to the public. The following information shall be recorded or maintained in the owner/operators records and correspond to the individual animal identification number:

1. The name, address, phone number, and applicable license number of the person from whom the captive coyote, fox or rabbit were obtained.
2. The origin of the coyote, fox, or rabbit.
3. All veterinary care, inoculation records and copies of health certificates or certificates of veterinarian inspections.
4. The date of release into the enclosure.
5. The date of mortality or discovery of mortality of any coyote or fox.

The owner/operator of any hound dog training enclosure shall notify the department regarding any unusual mortality or detection of any disease involving any species of wildlife within the enclosure within 24 hours of becoming aware of the mortality or disease.

A.2. Can these compliance and/or reporting requirements be made less stringent for small business?

No. We have incorporated compliance and reporting requirements that seek to ensure the health of both captive and wild populations of animals in this state. At the same time we have attempted to incorporate standards that are not overly burdensome on the small businesses that would be directly impacted by these rules. In addition, we have used existing captive wildlife reporting and compliance requirements to serve as the precedent by which these standards were develop. Considering the statutory mandates to ensure the health, humane treatment and welfare of captive animals, and the need to reduce the risk of disease transmittance between captive and wild animals, we do not feel that less stringent requirements are appropriate.

B.1. Describe the schedules or deadlines for compliance or reporting imposed on small business.

A hound dog training enclosure permit shall remain valid until the date indicated on the permit provided the facility remains in compliance with this section. The length of time that the permit will be valid will coincide with the expiration date of the dog training or trialing license held by the owner/operator or club in order to reduce the number of dates an owner/operator will need to keep track of. When their three year training license expires, so does their enclosure permit and both must be renewed.

Any person operating a hound dog training enclosure prior to the effective date of this rule shall apply for a dog training enclosure permit under this section no later than December 31, 2006. Owner or operators of hound dog training enclosures that has applied for a permit under sub. (1)(b) by December 31, 2006 that do not meet the minimum structural or design requirements under this section shall bring their enclosures into compliance by December 31, 2007.

Existing enclosures. Hound dog training enclosures for coyote and fox operating under the authority of a hound dog training or dog club training license prior to December 31, 2005 shall comply with all provisions in this section. For those enclosures less than 75 acres, but at least 60 acres in size, licensed prior to December 31, 2005 shall be allowed to operate as long as the enclosure permit is renewed and all other conditions of the permit are met.

New enclosures. All individuals who were not operating a hound dog training enclosure under the authority of a hound dog training or dog club training license prior to the effective date of this rule must comply with all requirements of this rule relating to large acreage training enclosures.

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. A hound dog training or trial license may not be renewed when the licensee fails without good cause to submit all records required by s. 169.36, Stats., or this rule by required deadlines or within 10 days of a request for the records. 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 accurate and complete records of all transactions or activity involving any captive wild animals of the following families:
 - a. Canidae (coyotes, foxes).
 - b. Felidae (bobcat).

B.2. Can these schedules or deadlines be made less stringent for small business?

No. These schedules and deadlines have been written to provide time for compliance to the established rules. Extending these deadlines is not considered to be in the best interest of the captive wild animals used for training or in the best interest of the health of wild animal populations, and would be inconsistent with current statutory requirements (ch. 169, Stats.).

C. Can the compliance or reporting requirements for small business be consolidated or simplified?

We have incorporated compliance and reporting requirements that seek to ensure the health of both captive and wild populations of animals in this state. At the same time we have attempted to incorporate standards that are not overly burdensome on the small businesses that would be directly impacted by these rules. In addition, we have used existing captive wildlife reporting and compliance requirements to serve as the precedent by which these standards were developed. Considering the statutory mandates to ensure the health, humane treatment and welfare of captive animals, and the need to reduce the risk of disease transmittance between captive and wild animals, we do not feel that further consolidation or simplification is warranted.

D. Can performance standards be established for small businesses in lieu of design or operational standards?

Experiences of dog trainers involved in this process have submitted specifications for enclosures that appear to be effective in preventing escape of wild animals. Additionally, the other provisions such as minimum acreage and reporting requirements serve to help prevent mistreatment of captive animals and allow for humane care and housing of the animals used in training exercises. As a result, performance measures in addition to the minimum requirements do not appear to be appropriate. If research or experience suggests that different standards are effective in providing adequate protection of the captive animals and lessen the opportunity for diseases to be introduced into the wild a follow-up rule to amend the proposed rule could be promulgated and taken out for public review.

E. Can small business be exempted from any or all requirements of the rule?

No. The purpose of this rule is to ensure that hound training enclosures used for dog training on captive wild animals adhere to the standards of humane care, treatment and health of the animals used within these enclosures. Also, the risks associated with disease and parasite introduction are too significant to require any less stringent requirements than those already incorporated into this rule.

F. Final Regulatory Flexibility Analysis.

1. Describe the type of small business that will be affected by rule.

Hound dog training enclosures that offer training opportunities for individuals seeking to train hounds to track and pursue game, utilizing captive coyote and fox for a fee.

2. Briefly explain the reporting, bookkeeping and other procedures required for compliance with the rule.

Except for competitive field trials, the owner/operator of any hound dog training enclosure shall maintain a complete and accurate registry which shall include the name, and address or phone number of each person who releases dogs into the enclosure, and the date and time of each dog training activity including the number of dogs released. For organized competitive field trials occurring under a valid hound dog trial license, the owner/operator shall maintain a list of participants names and phone numbers. The registry shall be kept current, accurate and retained for three years from the date of the record, and shall be made available for inspection by the department.

The owner/operator of any hound dog training enclosure shall also maintain and report as required complete and accurate records on the number, species and source of all captive coyote, fox, and rabbit released into the hound dog training enclosure including the unique individual identification number of each coyote or fox, attached to each animal released. The following information shall be recorded or maintained in the owner/operators records and correspond to the individual animal identification number:

1. The name, address, phone number, and applicable license number of the person from whom the captive coyote, fox or rabbit were obtained.
2. The origin of the coyote, fox, or rabbit.
3. All veterinary care, inoculation records and copies of health certificates or certificates of veterinarian inspections.
4. The date of release into the enclosure.
5. The date of mortality or discovery of mortality of any coyote or fox.

The owner/operator of any hound dog training enclosure shall notify the department regarding any unusual mortality or detection of any disease involving any species of wildlife within the enclosure within 24 hours of becoming aware of the mortality or disease.

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. A hound dog training or trial license may not be renewed when the licensee fails without good cause to submit all records required by s. 169.36, Stats., or this rule by required deadlines or within 10 days of a request for the records.

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:

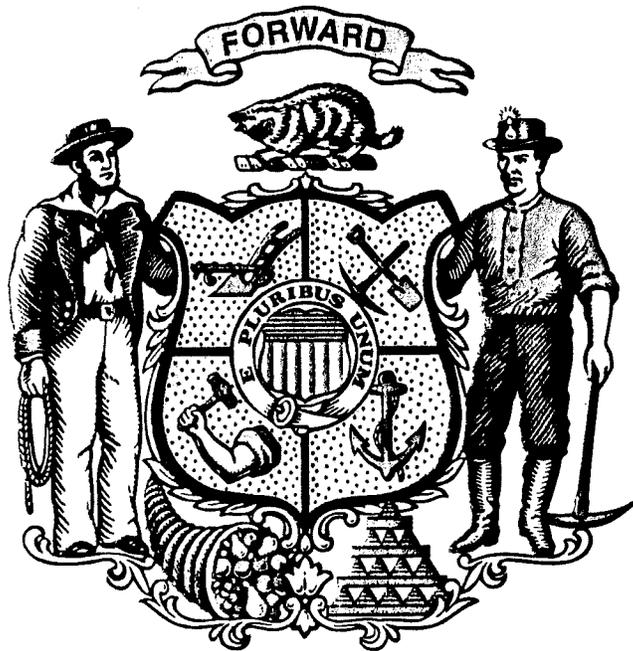
1. Quarterly submission of records shall be provided to the department by April 30, July 31, October 31 and January 31 each year, and shall consist of a copy of all required records that shall be maintained during the 3 previous months.

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

- a. Canidae (coyotes, foxes).
- b. Felidae (bobcat).

3. Describe the type of professional skills necessary for compliance with the rule.

No professional skills are required or necessary.



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

The Wisconsin Natural Resources Board proposes an order to repeal ss. NR 17.03(2)(d)1. to 4. and (g), and 17.11(intro.); renumber ss. NR 17.001(1) and 17.11(1) to (4); amend ss. NR 12.10(1)(b)2., 16.30(1), 17.02(1), 17.03(1), (2)(a) and (d)(intro.), and 17.07(1); to repeal and recreate ss. NR 17.02(3), 17.07(3) and 17.11(title); and to create ss. NR 12.10(1)(a)5. and (b)5., 16.30(1) note, 17.001(1), (1e), (1m) and note, (5m) and note, (5s), (7m), and (8m), 17.045, 17.047, 17.11(intro.), (2) and (3) relating to hound dog training and trialing on captive wild animals.

WM-51-04

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation: Sections 29.885(4), 169.06(3m), 169.20(4), 169.21(3), 169.36(9)(d), 169.39(2) and (3), Stats., provide the department with the authority to promulgate rules relating to the removal of wild animals causing a nuisance on private land, the authority to promulgate rules regarding the use of captive animals for the purpose of training hunting dogs to pursue and track game, authority to require records and reporting of those involved in the possession, and regulate the transport of the captive wild animals used in hound dog training activities. Additionally, these statutes require the department to promulgate rules that ensure the humane care and treatment and proper housing of captive wild animals used for dog training and trialing purposes. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: Sections 29.885(4), 169.06(3m), 169.20(4), 169.21(3), 169.36(9)(d), 169.39(2) and (3), Stats., relating to the care and use of captive wild animals and the licensing and regulation of those involved in the use of these captive wild animals for dog training, have been interpreted and used to assist the department in the promulgation of these administrative rules.

Related Statute or Rule: None.

Plain Language Rule Analysis: 2003 Wisconsin Act 239 provided the ability to use captive coyote, fox and bobcat to train hunting dogs (hounds). In s. 169.39(2), Stats., the department is required to promulgate and enforce rules for the housing, care, treatment, enrichment, feeding, and sanitation of wild animals subject to regulation under ch. 169, Stats. In addition this section goes on to state that the wild animals (in this case fox, coyote and bobcat) receive humane treatment, be held in sanitary conditions and that they receive adequate housing, care and food. Therefore, a rule needs to be drafted that will meet these requirements and still allow the training of skilled hounds, which is a Natural Resources Board directive (s. NR 1.18(11), Wis. Adm. Code).

It is the goal of this rule to allow dog trainers to utilize captive bobcat, bear, coyote, fox, rabbit and raccoon for training hounds as allowed in s. 169.20(2), Stats., while still ensuring the health safety, quality of life, and welfare of the dogs and the captive wild animals as required by s. 169.39, Stats., and to ensure that the health and safety of native free-ranging populations by reducing the risk for disease transmission.

Specifically, these rules allow for the permitted use of nuisance trapped coyotes in licensed dog training enclosures. The condition that the department must authorize the release of nuisance coyote into an enclosure will provide the department with an additional check to help prevent the trafficking of wild animals. From our meetings, we realize that the release of nuisance raccoons within a fence that is not intended to prevent their escape occurs in Wisconsin, as does the release of nuisance raccoons and coyotes into the wild for pursuit by hounds. In the interest of humane treatment for the nuisance animals, we propose in this rule that any nuisance animal live captured and released under our nuisance animal authority, whether released into a location that does not prevent their escape or that is released into the wild, may not be pursued for 2 hours. However, to accommodate hound trainers who utilize nuisance raccoons to introduce game to young dogs, we have included an exception to this 2 hour requirement that would allow the release for trailing hounds once the raccoon has climbed to safety using the same standards (10 feet off the ground) that are in place for the use of captive raccoons.

These rules also allow for exceptions to the current pen specifications, humane handling, care, treatment and transportation of coyote, fox and bobcat in ch. NR 16. This exemption allows these species to be housed in training enclosures or cages and allows for new standards to be developed in NR 17 (the dog training and trialing chapter). The rule also clarifies that a captive raccoon, bear or bobcat may not be housed in training cages for more than 72 hours before it must be returned to the animals appropriate primary enclosure defined under NR ch. 16. The rule clarifies that roll cages may be used for raccoons under the authority of a dog training license.

Additionally, this rule order creates new definitions pertaining to hound dog training enclosures. Specifically, these sections correctly identify the species authorized for use in these enclosures. A definition is created for "captive animal refuge areas" and "hound dog training enclosures". Finally, these sections clarify terms with special meanings as it pertains to ch. NR 17, such as "club" and "owner or operator".

The rule goes on to clarify that bobcat, coyote and fox may be used under the authority of a hound dog training, dog club or dog trial license. Additionally, rather than attempting to amend the section on dog training, we have repealed the existing language, and incorporated a majority of the old language into this recreated section. Specifically, and most importantly, this section establishes that only coyote, fox and rabbits may be used in hound dog training enclosures and that bobcat, raccoon and bear may only be used within training cages and may not be used within training enclosures. Finally, this section creates consistent training periods for all hound dog training exercises. No more than 16 hours of training within a 24 hour period and also provide 8 consecutive hours when no training may occur. These training periods are aimed to provide periods of continuous pursuit for the benefit of training hounds while still providing adequate rest periods for the captive animals.

The most significant portion of this rule is the creation of the conditions under which coyotes, fox and to a lesser degree rabbits can be used within hound dog training enclosures and establishes a special hound dog training permit. Specifically, this section of the rule establishes the enclosure size and fencing requirements, the density of captive wild animals, housing and care requirements, disease prevention, and dog use and licensing requirements.

"Puppy Pens" or "starter enclosures" are typically smaller in area and are used to train young dogs to recognize game and show interest in the pursuit. While this is a valid use, the department feels that it is difficult to enforce dog age and experience requirements. We feel that if both a larger pen and starter pen are available to the owner or operator they may ascertain the experience level of the hound and properly assign the hound to the appropriate training enclosure. Therefore, we recommend in this rule that if an individual intends to have a starter enclosure that the owner or operator must also provide a legal large acreage enclosure within 2 miles of the small enclosure. This will help to ensure that experienced dogs are not used in a smaller enclosure, to help ensure the safety of both dogs and captive animals.

This rule order requires that, other than the acreage requirement, all current facilities will have to obtain an enclosure permit and comply with all provisions including fence sizes and animal densities. Regarding enclosure size, all enclosures shall be at least 75 acres in size with one exception. All existing facilities that are operating legally under the authority of a hound dog or dog club training license, that are at least 60 acres in size, shall be grandfathered under this rule and will be allowed to obtain and renew their hound dog training enclosure permit. However, once the enclosure permit expires and is not renewed, the grandfathered enclosure may not be reissued unless the 75 acre requirement is met.

The rule also establishes the legal sources for obtaining captive coyote, fox, bobcat, raccoon and rabbits for use in dog training and trialing activity. The intent of these rules is to help assure that captive animals with diseases are not introduced into this state.

Finally, the rule establishes record and reporting requirements for hound dog training and trialing. Conservation wardens are unable to attend every training activity; therefore the department must rely on accurate records and reports to help maintain the integrity of these activities. These record keeping requirements also help assure that animals can be tracked in the event of a disease occurrence, or in the event that a violation is reported.

Federal Regulatory Analysis: Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of hunting and trapping of native species has been delegated to state fish and wildlife agencies. None of the proposed rules exceed the authorities granted the states in 50 CFR 10.

State Regulatory Analysis: Illinois does not allow dogs to be trained on bobcat in large enclosures; however it allows training on fox and coyotes in large enclosures with the appropriate license. They do not allow the live trapping of foxes from the wild in-state or out-of-state for use in training enclosures. Illinois does allow live fox to be imported from another state if they are disease free.

Iowa does not allow training on wild coyote, fox, or bobcat (bobcat are protected in the state). Iowa does not allow the trapping of wild animals for possession purposes. If a person has proof that he or she had legally purchased a game-farm (pen-raised) coyote or fox from a licensed breeder, he or she could use coyote or fox to train hound dogs. A person does not need a license to perform this activity. Only pen-raised animals with up-to-date records/health certification can be transported into Iowa.

Michigan allows training dogs on coyote, fox, and bobcat in large enclosures, with the appropriate license. Captive breeding facilities are the common source of animals (taking animals from the wild for possession is prohibited); however they do allow the import and export of coyotes.

Minnesota allows the training of dogs on coyotes in large enclosures without a license or permit. They also allow live trapping coyote from the wild for in-state or out-of-state use in training. There is a bobcat training enclosure in operation, however the state of MN was not able to provide information on what if any licenses or standards applied to this facility.

Summary of Factual Data and Analytical Methodologies: A total of seven meetings were held to help gather information for drafting these rules. Two were held with hound dog trainers and two were held with individuals who had concerns over the use of captive animals for hound dog training and the remaining three meetings were held with both enclosure users and non-users at the table. In addition, a site visit of an active hound dog training enclosure was conducted. The department is aware of approximately nine enclosures in this state that currently offer dog training on coyotes within the enclosure. The sizes range from 60 to 80 acres. Although the department does not have exact numbers, we are aware of smaller enclosures where fox are held for the purpose of training inexperienced dogs to learn to find and pursue a scent trail. There are a large number of rabbit training enclosures within the state ranging from less than an acre to over one hundred acres. We are aware that there are enclosures operating in this state that keep dogs from exiting the enclosure, but do not prevent the movement of raccoon in or out of the enclosure. Such an enclosure that does not restrict the movement of the wild animal would not be regulated under captive wildlife statutes. Other than these open enclosures, the department is not aware of any enclosures used to train dogs to track or pursue raccoons where the fence is built in such a way to prevent the raccoon from leaving the enclosure. Finally, the department is not aware of any operating bobcat enclosures in the state.

One of the primary issues that the department intended to address through these rules was to reduce the risk of disease introduction and transmission between captive and wild animal populations. Currently raccoon rabies is extremely rare in WI, but very common in the Southeast and Atlantic states, so translocation from these states to hound pens in WI and possible escape of pen raccoons are both very big risks. Likewise, in coyote and fox, rabies is endemic in fox in parts of Canada and in coyote in Texas, but not in Wisconsin. Parasites in coyote and fox also pose a risk to native populations (specifically the tapeworm *Echinococcus* which is zoonotic). Finally, in bobcats, parasites (the protozoa, *Cytauxzoon* and the tapeworm, *Spirometra*) that are not established in WI, but are in other parts of the US, especially the south, pose risks for domestic animals such as cats or humans. To address these concerns, these rules have been written to prohibit the use of coyotes, fox and bobcat from outside the state in training activities unless approved by the department. Other measures such as fence height, only allowing raccoons and bobcat in cages, record keeping and reporting and identification of captive animals are intended to further reduce the disease risks.

This rule attempts to address the needs of the hound dog trainers and the needs of the captive animals used for hound dog training. On many of the issues we were able to achieve a balance of providing opportunity while taking steps toward humane care and treatment and decreasing the opportunity for disease establishment.

Under this rule, bobcat would only be allowed for use in dog training under similar rules that already exist for bear and raccoon. Current rules regulating dog training with bear allow for bear to be used for training within a cage, either on the ground or in a tree, where no dogs may come in contact with the animal. One of the reasons the department went this direction, is that we have concerns over the ability to effectively keep bobcats and raccoons in training enclosures, which directly relates to disease concerns. Keeping an arboreal climbing species within an enclosure is problematic, and due to the risks associated with raccoon and bobcat related diseases, the risk of escape is one that the department can not accept. Secondly, there is the issue of care and welfare of bobcat, a highly prized and closely managed species. Coyotes, fox, and rabbit are pursuit species that are built for the chase. Bear, while also highly capable of outrunning hounds, have the ability to climb away from the pursuit; when run up a tree, this is often the point where the hounds are either removed or the bear is harvested. Raccoon and bobcat however, are less of a pursuit species and rely more on their ability to climb to elude their pursuers. Bobcats, according to first hand accounts from trainers, hunters and biologists tend to either climb to a safe location (tree) or continue to run and will not tree. It is the latter behavior that concerns the department. In an enclosure, if a bobcat were to not tree, the lack of an opportunity to escape the hounds and not be harmed is a potential problem. Finally, to date, unlike coyote and fox enclosures, we have not been contacted by any individuals over the past year, who currently use, or operate a bobcat training enclosure in the state. Additionally, the department is aware of only one pen in the Midwest, and it is the opinion of the state in which the pen is operated that it may not be legal under their current laws. Given these factors, the department proposes that bobcats be used for training only in cages.

Anticipated Private Sector Costs: Although there is no cost associated with obtaining a permit for establishing a hound dog training enclosure, there are costs associated to the construction of an enclosure that meets the minimum requirements included in this rule order. These costs include fencing material, land, food, refuge area construction, marking or tagging methods for captive animals, and any veterinary related services.

Effects on Small Businesses: As many of the existing training enclosures in this state do charge for the use of the captive animals within their enclosure for dog training purposes, the minimum requirements mentioned under private sector costs will impact the enclosures which run as a small business. There are also record keeping and reporting requirements associate with these emergency rules including a log of users of the enclosure, and any activity regarding the captive wild animals used within the enclosure.

Agency Contact Person: Scott Loomans, 101 S. Webster St., PO BOX 7921, Madison, WI 53707 (608)267-2452

Section 1. NR 12.10(1)(a)5. is created to read:

NR 12.10(1)(a)5. Live-capture and relocate any coyote to a hound dog training enclosure permitted under s. NR 17.045.

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

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

Section 3. NR 12.10(1) (b)5. is created to read:

NR 12.10(1)(b)5. Live-trap and relocate rabbits to a hound dog training enclosure permitted under s. NR 17.045.

Section 4. NR 16.30(1) is amended to read:

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, except that coyote, fox and rabbit may be held pursuant to a hound dog training or trial license issued under s. 169.20 or 169.21, Stats., and confined to a hound dog training enclosure as defined under s. NR 17.001(6m).

Section 5. NR 16.30(1) note is created to read:

Note: Pen specifications, and requirements for humane handling, care and treatment of coyote, fox and rabbit held under the authority of a hound dog training or trialing license are found in ch. NR 17.

Section 6. NR 17.001(1) is renumbered (1s).

Section 7. NR 17.001(1) is created to read:

NR 17.001(1) "Barrier area" means natural or artificial escape and refuge cover for rabbits which provides protection for rabbits located inside a hound dog training enclosure.

Section 8. NR 17.001(1e) is created to read:

NR 17.001(1e) "Captive animal refuge area" means a natural or artificially constructed den, shelter or other protective structure located under, at or above ground level, which provides protection for a coyote or fox and is not accessible by any dog released into the hound dog training enclosure.

Section 9. NR 17.001(1m) and note are created to read:

NR 17.001(1m) "Club" for the purposes of this chapter and s. 169.20(3)(a), Stats., means at least 2 or more individuals, of whom at least one is eligible under s. 169.33(2), Stats., to obtain a dog club training license and participate in legal bird or hound dog training activities, who are identified in writing as members of a licensed dog training club on a list retained by the license holder, which shall be made available to the department upon request.

Note: Pursuant to s. 29.304, Stats., no one under the age of 12 may possess a firearm. A person under the age of 12 may be a member of a dog training club and may train dogs with the use of captive wild animals as authorized under the dog training club license, but may not possess a firearm as part of the training activity.

Section 10. NR 17.001(5m) and note are created to read:

NR 17.001(5m) "Fox" for the purpose of this chapter and ss. 169.20 and 169.21, Stats., means red and gray fox.

Note: "Fox" includes all color phases of the red fox.

Section 11. NR 17.001(5s) is created to read:

NR 17.001(5s) "Hound dog training enclosure" means a fenced area of land that is used as the primary enclosure for captive wild coyote, fox, or rabbit held under a dog training club, hound dog training or hound dog trial license into which dogs are released for the purpose of dog training or trials.

Section 12. NR 17.001(7m) is created to read:

NR 17.001(7m) "Owner" or "operator" means the person who owns the property on which a hound dog training enclosure exists, or a manager, or a lessee of the property who has an agreement with the owner of the enclosed lands to retain possession or control of the improvements to the property during the term of the lease.

Section 13. NR 17.001(8m) is created to read:

NR 17.001(8m) "Rabbit" for the purpose of this chapter and ss. 169.20 and 169.21, Stats., means cottontail rabbits, jack rabbits and snowshoe hare.

Section 14. NR 17.02(1) is amended to read:

NR 17.02 Hound dog training license. (1) AUTHORITY. A hound dog training license authorizes the licensee to possess and use captive bobcat, coyote, fox, raccoons or rabbits for dog training purposes, and use captive black bear possessed under the authority of a captive wild animal farm license for dog training purposes. The license does not authorize commercial or organized shoots, selling, breeding or propagating of animals or the training of dogs with the use of captive bear on department lands.

Note: The unintentional breeding of rabbits in training enclosures is not a violation of this section.

Section 15. NR 17.02(3) is repealed and recreated to read:

NR 17.02(3) CARE AND HOUSING. (a) *Captive coyote, fox and rabbit.* Captive coyote, fox and rabbit obtained in accordance with s. NR 17.047 and possessed for dog training purposes may only be kept within a hound dog training enclosure that is permitted and that meets the requirements established under s. NR 17.045.

(b) *Captive bear, bobcat and raccoon.* Captive bear, bobcat and raccoon obtained in accordance with s. NR 17.047 may be used for dog training purposes provided:

1. The bear is possessed under authority of a captive wild animal farm license.
2. Bear, bobcat and raccoon, when not being used for training purposes, are housed in accordance with s. NR 16.30 and 16.38.
3. The bear, bobcat or raccoon is kept in a cage at all times. The cage shall be constructed so that all of the following requirements are met:
 - a. The cage is strong enough to contain the bear, bobcat or raccoon securely and comfortably and to withstand the normal rigors of training.

- b. The interior of the cage has no sharp points or edges and no protrusions that could injure the bear, bobcat or raccoon contained in it.
 - c. The bear, bobcat or raccoon is at all times securely contained within a cage in a way that it is not likely to result in injury to itself, to handlers, or to persons or animals nearby.
 - d. The cage containing the bear has a mesh size no greater than 2 inches square.
 - e. The cage shall be constructed and maintained so as to provide sufficient space to allow the bear, bobcat or raccoon to make normal postural adjustments with adequate freedom of movement to sit, stand on all 4 legs, turn around and lie in a normal manner.
 - f. The cage shall be designed to allow urine and feces to drain from the cage.
 - g. Permanent devices such as handles or handholds shall be provided on the exterior that enables the cage to be lifted and ensures that anyone handling the cage will not come into physical contact with the bear, bobcat or raccoon contained inside.
 - h. When the cage is elevated in a tree or on a pole for training purposes, the cage shall be raised a minimum of 10 feet off the ground.
4. All individuals except the owner of the captive animal, the owner's designee or the dog handler shall be kept at least 4 feet from the cage. For bear, a barrier shall be provided to assure that individuals other than the owner, designee or handlers are kept 4 feet from the cage.
 5. Dogs shall be kept a minimum of one foot from the cage at all times by restraint, cage design or barrier fence except where the cage is covered by solid material, which prevents all physical contact between the dog and the captive animal. The one foot minimum distance does not apply to raccoon training with the use of roll cages.
 6. The cage shall be adequately shaded at all times.
 7. The bear, bobcat or raccoon shall have access to fresh water.
 8. Roll cages may not be used for dog training with bear or bobcat.

(c) *Training periods.* 1. The length of time that captive wild bear, bobcat or raccoon may be used for training exercises may not exceed 12 hours within a 24-hour period. Captive wild bear, bobcat and raccoon shall be provided with a minimum of 8 consecutive hours of rest within a 24-hour period. Additionally, a bear, bobcat or raccoon used for training, may not be housed in an enclosure that does not meet the primary enclosure standards in s. NR 16.30(4) for a period of more than 72 hours.

2. The length of time that training activity may occur in a hound dog training enclosure containing captive coyote or fox may not exceed 16 hours within a 24-hour period. A minimum of 8 consecutive hours of rest within a 24-hour period shall be provided during which no dog training or trialing may take place within an enclosure containing captive coyote or fox.

Section 16. NR 17.03(1), (2)(a) and (d) (intro.) are amended to read:

NR 17.03 Dog club training license. (1) **AUTHORITY.** A dog club training license authorizes the club members to possess and use captive wild pheasants of the species *phasianus colchicus* or *syrmaticus reevesii*, quail of the subfamily *odontophorinae*, gray partridge, chukar partridge, red-legged partridge, and mallard ducks that are bred in captivity for bird dog training. A dog club training license authorizes the club members to possess and use captive wild bobcat, coyote, fox, rabbits and raccoons and rabbits in accordance with the provisions outlined in ss. NR 17.02(3) and 17.045 for hound dog training. The license does not authorize the use of captive bear, commercial shoots, animal selling, breeding or propagation.

Note: Pursuant to s. 29.304, Stats., no one under the age of 12 may possess a firearm. A person under the age of 12 may be a member of a dog training club and may train dogs with the use of captive wild animals as authorized under the dog training club license, but may not possess a firearm as part of the training activity.

Note: The unintentional breeding of rabbits in training enclosures is not a violation of this section.

(2)(a) *Display of license.* Be in possession of a dog club training license at the clubhouse or training grounds where the training activity is occurring. If a club member is engaged in training activities but not within one-quarter mile of the clubhouse, the member shall be in possession of a copy of the club training license. Club

members shall make the license available to any authorized department agent upon request. For dog clubs utilizing a hound dog training enclosure permitted under s. NR 17.045, a ledger of all club members shall be kept at the enclosure and provided to the department upon request.

(d) *Care and treatment.* (intro.) Captive wild birds, ~~bobcat, coyote, fox, rabbits and raccoons and rabbits~~ possessed for dog training purposes shall be treated in a humane manner and confined under sanitary conditions with proper and adequate space, shade, food and fresh water. ~~If birds or animals are severely injured, they shall be humanely killed. Primary and transportation enclosures for the captive wild animals shall meet the requirements in ss. NR 16.30 and 16.38. Cages used for captive raccoons during training exercises shall meet the following requirements:~~ Individuals using captive wild birds or animals for training purposes are responsible for following all rules pertaining to the use of birds for dog training purposes under s. NR 17.01 and all rules established under s. NR 17.02 for hound dog training under the authority of a dog club training license.

Section 17. NR 17.03(2)(d)1. through 4., and (g) are repealed.

Section 18. NR 17.045 is created to read:

NR 17.045 Hound dog training enclosure permit. (1) ENCLOSURE INSPECTION AND PERMIT.

(a) *Conditions.* The owner or operator of a hound dog training enclosure shall be at least 18 years of age to apply for and obtain an approved hound dog training enclosure permit from the department prior to using or releasing any captive wild animals or dogs into the enclosure for dog training or trialing purposes. The department shall inspect every hound dog training enclosure for which it has received a permit application. The department shall issue a permit to an applicant if it finds that the facility meets the requirements of this section and s. NR 17.11. Enclosures that do not meet the requirements of this section may not be issued a permit but may reapply for inspection after 30 days. No person may train, trial or otherwise release dogs into an enclosure containing captive wild animals unless a valid hound dog training enclosure permit is possessed by the owner or operator of the enclosure. An owner or operator shall obtain a separate hound dog training enclosure permit for each enclosure they own or operate. A hound dog training enclosure permitted under this section, may not be licensed under s. 169.15, Stats., as a captive wild animal farm, or as a wild fur farm under s. 169.18, Stats.

(b) *Initial applicability.* Any person operating a hound dog training enclosure prior to the effective date of this rule... [Revisor insert date] may continue to operate provided they apply for a hound dog training enclosure permit under this section no later than December 31, 2007. After December 31, 2007, no person may operate a hound dog training enclosure without first obtaining a hound dog training enclosure permit.

(c) *Fee.* There is no fee for issuance of a hound dog training enclosure permit.

(d) *Removal of animals.* 1. Any wild fox present in any new enclosure shall be live trapped and released outside of the enclosure or killed and removed as authorized under ch. 29, Stats., and ch. NR 10 or 12, prior to inspection by the department.

2. Any wild coyote present in any new enclosure shall be killed and removed as authorized under ch. 29, Stats., and ch. NR 10 and 12, or shall be live trapped in accordance with s. NR 17.047(2)(b) and marked in accordance with par. (5)(b).

Note: Verification of coyote or fox removal will be agreed upon by the department and the owner or operator. Snow cover may be necessary to confirm removal of fox and coyote.

(e) *Presence of other animals.* Captive wild animals, other than the species specifically permitted under this section, may not be maintained in the same enclosure. An enclosure may only be permitted for one species.

(f) *Killing of captive animals.* A hound dog training enclosure permit authorizes the killing of captive wild animals only by the holder of the permit, or an employee of the permit holder.

(g) *Compliance with local regulations.* No initial enclosure permit application may be approved unless the application is accompanied by written assurance that the enclosure is in compliance with local ordinances and zoning regulations.

(h) *Expiration.* A hound dog training enclosure permit shall remain valid until the date indicated on the permit provided the facility remains in compliance with this section. The expiration date of a hound dog training enclosure permit shall be the same as the expiration date of the dog training or trialing license held by the owner or operator or club under sub. (2).

(2) LICENSE REQUIREMENTS. (a) *Hound dog training license.* Except as provided in par. (b) or (c), the owner or operator of any hound dog training enclosure and every person participating in the training of hound dogs within a hound dog training enclosure shall possess a valid hound dog training license.

(b) *Dog club training license.* If the owner or operator of the hound dog training enclosure possesses a valid dog club training license, the members of that club are not required to possess individual hound dog training licenses.

(c) *Hound dog trial license.* If the owner or operator of the hound dog training enclosure or an individual participating in a organized competitive field trial event possesses a valid hound dog trial license, the participants in the event are not required to possess a hound dog training license for that event.

(3) CARE AND HOUSING. Hound dog training enclosures shall meet the following requirements:

(a) *Food, water and cover.* All hound dog training enclosures shall provide the necessary natural or artificial habitat and meet the food, water and cover requirements of a coyote, fox or rabbit. Conditions are subject to approval by the department.

(b) *Acclimation period.* No dogs may be released into an enclosure that is used to train dogs to pursue coyotes or fox until the 7th day following the release of a new coyote or fox into an enclosure. No dogs may be released into an enclosure that is used for training dogs to pursue rabbits until the 2nd day following the release of a new rabbit into the enclosure.

(c) *Intent of training.* 1. Dogs may not be released into an enclosure with the intent to kill or physically injure the captive coyote, fox or rabbit. Any coyote or fox injured during a dog training exercise shall be submitted to a veterinarian for treatment at the owner or operator's expense, or euthanized and shall be reported to the department within 24 hours.

2. Injured or debilitated coyote, fox or rabbits shall not be maintained in the hound dog training enclosure.

Note: To report an injury or death of a coyote or fox resulting from a dog training exercise, individuals shall contact their local warden or call the 24 hour department law enforcement hotline 1-800-847-9367.

(d) *Supervision.* Whenever dogs are released into or present in a hound dog training enclosure, the owner or operator of the enclosure or one or more competent individuals designated by the owner or operator shall be present at the enclosure and actively directing attention to the training activity. For the purposes of this paragraph, competent means that the individuals are knowledgeable of regulations of this chapter and are capable of controlling the dogs released into the enclosure.

(e) *Enclosure size.* 1. Except as provided in subd. 2., the minimum size of a hound dog training enclosure for coyote and fox shall be 75 contiguous completely fenced acres without interior fences that divide the area into parcels less than 75 acres.

2. A hound dog training enclosure used to train inexperienced dogs may be less than 75 acres provided the owner or operator also holds a permit for a facility that meets the requirements of subd. 1., for experienced dogs and complies with the following conditions:

a. May not be less than 15 acres in size, except as provided in subd. 2. b.

b. Existing enclosures in operation and used under a hound dog training license for training inexperienced dogs on coyote or fox on or before October 1, 2006 may be less than 15 acres in size.

c. Shall be within 2 miles of the enclosure meeting the requirements established in subd. 1.

3. The minimum size for hound dog training enclosures for rabbits shall be 0.5 acres.

(f) *Fences.* 1. Coyote and fox. a. Perimeter fences used to confine coyote or fox within a hound dog training enclosure shall be a minimum of 6 feet in height, with a minimum of 12-inches of additional fence material bent inward at a 90 degree angle at the top and the bottom of the fence. The bottom 12-inch section of fence shall be in contact with the ground and secured to the ground to prevent coyotes and fox from entering or leaving the enclosure.

b. The outside of the perimeter fence shall either include a minimum of 12 inches of additional fence material bent outward at a 90 degree angle at the bottom of the fence, or a single strand electric fence may be used to prevent wild coyotes and fox from entering the enclosure.

c. The fence material shall be of sufficient design and strength to prevent captive coyote and fox from escape or wild coyote or fox from entering the enclosure.

d. A corridor at least 4 feet wide shall be maintained on the inside or outside of the perimeter fence to allow for easy access and inspection of the fence by the owner or operator and the department by use of an ATV or other vehicle. The corridor does not need to be located immediately adjacent to the fence but shall be close enough to the fence to allow easy access to and visual inspection of the fence.

e. Existing enclosures in operation and used under a hound dog training license on or before October 1, 2006 are exempt from subd. 1. b. until the perimeter fence is replaced.

2. Rabbits. a. Perimeter fences used to confine rabbits within a hound dog training enclosure shall be a minimum of 5 feet in height, including any part of the fence that is buried, or bent inward or outward at the bottom of the fence.

b. The fence material shall be of sufficient design and strength to prevent captive rabbits from escape or wild rabbits from entering the enclosure.

c. A corridor at least 4 feet wide shall be maintained on the inside or outside of the perimeter fence to allow for easy access and inspection of the fence by the owner or operator and the department by use of an ATV or other vehicle. The corridor does not need to be located immediately adjacent to the fence but shall be close enough to the fence to allow easy access to and visual inspection of the fence.

3. Exceptions. The use of materials or specifications, other than those specified in this paragraph may be permitted by the department if the materials or specifications are found by the department to exceed minimum specifications and the fence is sufficient to hold the coyote, fox or rabbit.

Note: The department recommends approval of fence plans prior to construction to assure that the fence meets the requirements in s. NR 17.045(3)(f). To obtain approval of plans, contact the local conservation warden or wildlife biologist. To find the conservation warden for a given county, contact your local DNR service center.

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

(h) *Refuge areas.* 1. No person may molest, harass or chase a captive coyote or fox utilizing a refuge area.

2. Coyote and fox. Captive animal refuge areas shall be available or provided for coyote and fox at a rate of not less than one area for each captive animal within the enclosure and not less than one per full 15 acres. Each refuge area shall be readily available to any coyote or fox held inside the hound dog training enclosure and may not be located immediately adjacent to any other refuge area. All minimum required captive animal refuge areas shall be evenly distributed throughout the enclosure.

3. Rabbits. Sufficient barrier areas shall be provided for rabbits held within an enclosure to provide refuge and escape areas for all of the rabbits held within the enclosure.

(i) *Density of captive animals.* No less than 2 coyote or fox may be present in a hound dog training enclosure, and no more than 2 coyote or fox may be present per each full 15 acres in a hound dog training enclosure.

(4) DISEASE PREVENTION. At the time of inspection, the department may require specific health management procedures as deemed necessary, including mandatory disease investigation, testing and disease reporting. The department will contact the owner or operator if additional health management procedures are deemed necessary after a permit is issued. In addition, the enclosure owner or operator shall agree to all of the following:

(a) *Fees.* 1. Inspection or treatment by a licensed veterinarian or both when required shall be at the sole expense of the owner or operator of the hound dog training enclosure.

2. In the event of disease outbreaks, costs associated with the testing, depopulating, cleaning and disinfecting the enclosure shall be the sole expense of the owner or operator of the hound dog training enclosure.

(b) *Release of diseased animals.* The owner or operator may not release or permit the release into a hound dog training enclosure of any wild animals or dogs that are diseased or have been exposed to diseased animals.

(c) *Testing.* The department may conduct disease testing and take samples of any species of wildlife within the hound dog training enclosure.

(d) *Permit suspension.* The department may suspend a hound dog training enclosure permit and the operation of any hound dog training enclosure or prohibit by verbal or written notice the release of any coyote, fox, or rabbit into any hound dog training enclosure when the department deems it necessary to prevent the threat or presence of wildlife diseases which may pose a threat to native wildlife populations, domestic livestock or public safety.

(5) ADDITIONAL PROVISIONS. (a) *Age.* All captive coyote and fox released into a hound dog training enclosure shall be at least 9 months of age.

(b) *Marking.* Coyote and fox may not be released into a hound dog training enclosure unless first individually tagged, tattooed or otherwise permanently marked with a unique individual animal identification number which is recorded in the records required to be kept under s. NR 17.11(5).

(c) *Reproduction.* When more than one coyote or fox is released into a hound dog training enclosure, all additional animals of the same species that are of a different sex shall be spayed or neutered by a licensed veterinarian prior to release into the hound dog training enclosure.

Note: Breeding or propagating of captive wild animals is not authorized under a hound dog training, dog trial or dog club training license. However, the unintentional breeding of rabbits within in a hound dog training enclosure is not a violation of this section.

(d) *Surgical modifications.* Any physical modifications, including the docking of tails, done to a coyote or fox shall be done by a licensed veterinarian. The hound dog training enclosure permittee shall maintain written documentation of veterinary involvement in any physical modification done to a coyote or fox.

(e) *Veterinarian of record.* The applicant of any hound dog training enclosure permit shall provide the department with a written statement, by a Wisconsin certified veterinarian, which certifies that the veterinarian is the training enclosure veterinarian, having established a valid veterinarian-client relationship with the applicant.

(6) DOGS. (a) *Licensing*. Any person that releases a dog or dogs into a hound dog training enclosure shall keep on the dog or have present at the enclosure any tag required for the dog under s. 95.21 (2) (f), 174.05, 174.053 or 174.07 (1), Stats.

(b) *Number of dogs*. No person may place or allow the placement of more than 3 dogs into any coyote or fox hound dog training enclosure for each coyote or fox that is present in the enclosure.

(c) *Age*. No dogs less than 5 months of age are permitted in hound dog training enclosures that contain coyote or fox.

(7) REVOCATION. If the owner or operator of a hound dog training enclosure has their hound dog training license or enclosure permit revoked or fails to renew their hound dog training license for any reason, the owner or operator of the enclosure shall remove all coyotes, foxes or rabbits as directed by the department.

(8) COMPLIANCE AND ENFORCEMENT. (a) *Existing enclosures*. 1. Except as provided in subd. 2., all hound dog training enclosures for coyote and fox operating under the authority of a hound dog training or dog club training license prior to the effective date of this rule...[Revisor insert date] shall comply with all provisions in this section.

2. Hound dog training enclosures for fox and coyote operating under the authority of a hound dog training or dog club training license prior to effective date of this rule...[Revisor insert date] and that are at least 60 acres, but less than 75 acres, shall comply with all provisions in this section except the acreage requirement under sub. (3)(e).

3. Notwithstanding subd. 2, if the holder of the hound dog training enclosure permit fails to renew the permit within 45 days after the permit's expiration date, the permit may not be renewed unless the applicant complies with the acreage requirement under sub. (3)(e).

4. Animals existing in the enclosure shall be considered captive if possessed under a hound dog or dog club training license prior to effective date of this rule...[Revisor insert date]. Owners or operators of enclosures with animals described in this subdivision shall comply with sub. (5) by December 31, 2007.

(b) *New enclosures*. All individuals who were not operating a hound dog training enclosure under the authority of a hound dog training or dog club training license prior to the effective date of this rule...[Revisor insert date] shall comply with this section.

(c) *Enforcement*. Owners or operators of hound dog training enclosures that have applied for a permit under sub. (1)(b) by December 31, 2007 that do not meet the minimum structural or design requirements under this section shall bring their enclosures into compliance by December 31, 2008.

Section 19. NR 17.047 is created to read.

NR 17.047 Sources of captive wild animals for hound dog training. (1) *Resident captive sources*. Except as provided in this section, bobcat, coyote, fox, rabbit or raccoon used for hound dog training shall be obtained from a legal resident captive bred source.

(2) *Wild sources*. No free-ranging wild animals captured from the wild may be used for hound dog training purposes, except:

(a) Coyotes and raccoons that are live trapped on a Wisconsin licensed wild fur farm.

(b) Coyotes and rabbits that are live trapped for relocation under s. NR 12.10(1)(a)5. and (b)5.

(3) *Transfer*. Coyotes or rabbits live trapped under s. NR 12.10(1)(a)5. and (b)5. may not be live trapped and relocated from one enclosure to another, unless the animal is transferred to the owner or operator of an enclosure with a valid hound dog training enclosure permit for that enclosure.

(4) *Nonresident captive source*. Unless authorized by the department, captive wild animals from out of state may not be used within a hound dog training enclosure. If the department authorizes use of an imported

captive animal for use in hound dog training enclosures, the animal shall be accompanied by a certificate of veterinary inspection as required under s. ATCP 11.02 and a copy of the certificate maintained with the records required to be kept under s. NR 17.11(5) and a copy shall be provided to the department with quarterly reports required under s. 169.36(9)(b), Stats. When determining whether to issue an authorization under this subsection the department shall consider whether the animal originates from a state or country with suspected or known infectious wildlife diseases.

Note: To request the use of an imported captive wild animal, contact the state wildlife veterinarian, (608) 266-8204.

Section 20. NR 17.07(1) is amended to read:

NR 17.07 Hound dog trialing license. (1) AUTHORITY. A hound dog trialing license authorizes the licensee and participants in an organized competitive field event that involves sporting dog breeds and that is sanctioned, licensed or recognized by a local, state, regional or national dog organization to possess and use captive bobcat, coyote, fox, raccoons or rabbits for dog trialing purposes and use captive bear possessed under the authority of a captive wild animal farm license issued under s. 169.15, Stats., for dog trialing purposes. The license does not authorize commercial shoots or selling, breeding or propagating of animals or trialing of captive bear on department lands.

Section 21. NR 17.07(3) is repealed and recreated to read:

NR 17.07(3) CARE AND HOUSING. (a) *Captive coyote, fox and rabbit.* Captive coyote, fox and rabbit obtained in accordance with s. NR 17.047 and possessed for dog trialing purposes may only be used within a hound dog training enclosure that is permitted and that meets the requirements established under s. NR 17.045.

(b) *Captive bear, bobcat and raccoon.* Captive bear, bobcat and raccoon obtained in accordance with s. NR 17.047 may be used for dog trials provided:

1. The bear is possessed under authority of a captive wild animal farm license.
2. Bear, bobcat and raccoon, when not being used for trailing purposes, are housed in accordance with s. NR 16.30 and 16.38.
3. The bear, bobcat or raccoon is kept in a cage at all times. The cage shall be constructed so that:
 - a. The cage is strong enough to contain the bear, bobcat or raccoon securely and comfortably and to withstand the normal rigors of training or trials.
 - b. The interior of the cage has no sharp points or edges and no protrusions that could injure the bear, bobcat or raccoon contained in it.
 - c. The bear, bobcat or raccoon is at all times securely contained within a cage in a way that it is not likely to result in injury to itself, to handlers, or to persons or animals nearby.
 - d. The cage containing the bear has a mesh size no greater than 2 inches square.
 - e. The cage shall be constructed and maintained so as to provide sufficient space to allow the bear, bobcat or raccoon to make normal postural adjustments with adequate freedom of movement to sit, stand on all 4 legs, turn around and lie in a normal manner.
 - f. The cage shall be designed to allow urine and feces to drain from the cage.
 - g. Permanent devices such as handles or handholds shall be provided on the exterior that enables the cage to be lifted and ensures that anyone handling the cage will not come into physical contact with the bear, bobcat or raccoon contained inside.
 - h. When the cage is elevated in a tree or on a pole for training or trial purposes, the cage shall be raised a minimum of 10 feet off the ground.
4. All individuals except the owner of the captive animal, the owner's designee or the dog handler shall be kept at least 4 feet from the cage. For bear, a barrier shall be provided to assure that individuals other than the owner, designee or handlers are kept 4 feet from the cage.

5. Dogs shall be kept a minimum of one foot from the cage at all times by restraint, cage design or barrier fence except where the cage is covered by solid material, which prevents all physical contact between the dog and the captive animal. The one foot minimum distance does not apply to raccoon training with the use of roll cages.

6. The cage shall be adequately shaded at all times.

7. The bear, bobcat or raccoon shall have access to fresh water.

8. Roll cages may not be used for dog training with bear or bobcat.

(c) *Training periods.* The length of time that captive wild bear, bobcat, coyote, fox or raccoon may be used for training exercises may not exceed 12 hours within a 24-hour period. Captive wild bear, bobcat, coyote, fox and raccoon shall be provided with a minimum of 8 consecutive hours of rest within a 24-hour period, when no dog training or trialing may take place. Additionally, a bear, bobcat or raccoon used for training, may not be housed in an enclosure that does not meet the primary enclosure standards in s. NR 16.30(4) for a period of more than 72 hours.

Section 22. NR 17.11 (title) is repealed and recreated to read:

NR 17.11 Records and reporting.

Section 23. NR 17.11 (intro) is repealed.

Section 24. NR 17.11 (1) to (4) are renumbered (1)(a) to (d).

Section 25. NR 17.11(1)(intro.), (2) and (3) are created to read:

NR 17.11(1) Receipts and invoices required under this chapter and s. 169.36(4), Stats., shall include all of the following:

(2) **HOUND DOG TRAINING ENCLOSURES.** (a) Except as provided in par. (b), the owner or operator of any hound dog training enclosure shall maintain a complete and accurate registry which shall include all of the following:

1. Except for the enclosure owner and their immediate family members living with them, the name, and address or phone number of each person who releases dogs into the enclosure.

2. The date and time of each dog training activity including the number of dogs released.

(b) For organized competitive field trials occurring under a valid hound dog trial license, the owner or operator shall maintain a list of participants names and phone numbers.

(c) The registry shall be kept current, accurate and retained for 3 years from the date of the record, and shall be made available for inspection by the department.

(d) The owner or operator of any hound dog training enclosure shall also maintain and report as required complete and accurate records on the number, species and source of all captive coyote, fox and rabbit released into the hound dog training enclosure including the unique individual animal identification number of each coyote or fox, attached to each animal released. The following information shall be recorded or maintained in the owner or operator's records and correspond to the unique individual animal identification number:

1. The name, address, phone number, and applicable license number of the person from whom the captive coyote, fox or rabbit was obtained.

2. The origin of the coyote, fox or rabbit, including the origin of those animals existing prior to effective date of this rule...[Revisor insert date].

3. All veterinary care, inoculation records and copies of health certificates or certificates of veterinarian inspections.

4. The date of release into the enclosure.
5. The date of mortality or discovery of mortality of any coyote or fox.

(e) The owner or operator of any hound dog training enclosure shall notify the department regarding any unusual mortality or detection of any disease involving any species of wildlife within the enclosure within 24 hours of becoming aware of the mortality or disease.

Note: To report an unusual mortality or disease you may contact your local department wildlife biologist or call the bureau of wildlife management at (608) 266-8204.

(3) MAINTENANCE AND SUBMITTAL. (a) 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) A hound dog training or trial license may not be renewed when the licensee fails without good cause to submit all records required by s. 169.36, Stats., or this chapter by required deadlines or within 10 days of a request for the records:

(c) 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 accurate and complete records of all transactions, including acquisition, transfer, death or other information requested in writing by the department, involving any captive wild animals of the following families:

- a. Canidae (coyotes, foxes).
- b. Felidae (bobcat).

Note: Section 169.36(9)(b), Stats., states that in addition to the requirements under par. (a), the person holding a license subject to this section shall provide a copy of the record required under this section to the department on a quarterly basis, as determined by the department, if the transaction or activity involved any live wild animal of the family canidae, ursidae, mustelidae, or felidae, or any harmful wild animal.

Note: Quarterly reports pertain to transactions involving captive animals. They are not intended to collect information regarding individual users.

Section 26. 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 27. Board adoption. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on October 25, 2006.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)