

Report From Agency

REPORT TO LEGISLATURE

NR 10, 16, 19, 21, 22, 27, Wis. Adm. Code

Relating to the addition of the Blanding's turtle to the State's Protected Wild Animal list, possession exemptions, and turtle seasons and limits

Board Order Number: ER-30-13

Clearinghouse Rule Number: CR 14-025

Basis and Purpose of the Proposed Rule

The objective of this proposed rule is to protect Blanding's turtles from the threat of harvest and collection. The Blanding's turtle was delisted from Wisconsin's Threatened species list on January 1, 2014. While the Blanding's turtle no longer meets the scientific criteria for such listing, the population is vulnerable to harvest and collection and should be added to the Protected Wild Animal list (NR 10.02) and harvest/collection limits.

This permanent and corresponding emergency rule [ER-31-13(E)] contemplate the following changes: add Blanding's turtles to the list of Wild Protected Animals (NR 10.02); add Blanding's turtles to the Captive Wildlife – Reptile and Amphibian Possession Exemptions [NR 16.12(3)(b)]; and add Blanding's turtles to the turtle season/limits with a season/limit of none/zero on NR 19.275(4), 21.13(4), and 22.13(4). This permanent rule also updates scientific and common names, and Federal Protection Status in NR 10.02, 16.12, 16.13, 19.275, 21.13, 22.13, and 27.

Since 1979, when the Blanding's turtle was added to the threatened list, there has not been a pet or food trade industry for this species in the state. However, as a result of delisting, the Blanding's turtle is subject to turtle harvest regulations as all turtles not listed as threatened or endangered in NR 27 or otherwise specified have a 135-day open season between July 15 and November 30 where the public may capture and possess up to 5 individuals.

Internationally there is concern for this species because of the increasing trend in the pet trade and commercial collecting. Regionally the Blanding's turtle is state listed in Illinois (End), Iowa (Thr), and Minnesota (Thr). In Michigan, Blanding's turtles are Special Concern and cannot be taken or possessed except as authorized by the Director of the Department of Natural Resources.

The department estimates minimal economic impact (level 3) as there has not been a market for this species in Wisconsin since 1979, when it was added to the Threatened species list. However, in the absence of this proposed emergency and permanent rule, development of a trade for Blanding's turtles collected in Wisconsin is expected.

Summary of Public Comments

A single written comment was received on the rule proposal recommending that the Department review and update the scientific names of birds using the Annotated Checklist of Wisconsin Birds published by the Wisconsin Society for Ornithology.

Response: The department compared the scientific names and found 1 additional name update: Caspian Tern (Hydroprogne caspia). The department made the suggested update in the proposed rule.

Between January 22 and February 5, 2014, the department solicited comments on the economic impact of the proposed rule revision. No economic comments were received. One comment was received in support of the proposed revisions.

Modifications Made

One public comment recommending a review of bird scientific names was received and prompted the addition of Caspian Tern (*Hydroprogne caspia*) to the list of scientific name updates in the proposed rule.

Appearances at the Public Hearing

The department published notice of the public hearings on proposed revisions on March 14, 2014 in the Administrative Register (#699). The public comment period was open through April 2, 2014. A public hearing was held on April 2, 2014 in the Madison Wisconsin Natural Resources Building. The option of participating via Live Meeting was available for those who were unable to attend in person. There were no non-department attendees at the public hearing.

Changes to Rule Analysis and Fiscal Estimate

The scientific name change of the Caspian tern (*Hydroprogne caspia*) was added to the Plain Language Analysis and Board Order Format sections. No changes were made to the fiscal estimate.

Response to Legislative Council Rules Clearinghouse Report

The LCRC provided comments on the draft rule on March 24, 2014.

The LCRC directed the department to revise the sentence at the bottom of page 3 of the board order for clarity. The department revised the paragraph to clarify that the consent of the Attorney General was requested for the incorporation by reference of the list of endangered and threatened U.S. foreign and native species with a link to the list published in the Government Printing Office. On May 20, 2014 the Attorney General's office informed the department that consent is not needed because no federal "standards" are being adopted by the State of Wisconsin.

All LCRC comments were recommendations that improve clarity and follow administrative code styles within the Board Order and have been incorporated into the final rule package.

Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis was not prepared since the proposed rule does not impose compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.114(6) or 227.14(2g). A review by the Small Business Regulatory Review Board was not required under 227.19(3)(h).