

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** NH-04-25

**Relating to:** Amphibian and reptile regulations (chs. NR 12, 16, 19, 21, 22, 27, 40 and 45).

**Rule Type:** Permanent

### **1. Finding/nature of emergency (Emergency Rule only):**

These will be permanent rules.

### **2. Detailed description of the objective of the proposed rule:**

The department is initiating a comprehensive review of all regulations related to amphibians and reptiles. These rules will implement recommended revisions resulting from this review. The proposed changes will assist in effective management of these species and help them to flourish as part of healthy ecosystems.

Current regulations cover a variety of activities involving amphibians and reptiles, including harvest, live take, possession, propagation, purchase, sale, trade, exhibition, rehabilitation, stocking and release. These rules are located within several chapters of the administrative code and have not been updated in several decades. These rules will clarify and update existing regulations to better inform the public, law enforcement and department staff regarding allowable activities, improve enforceability, and implement current management goals.

Additional rule changes may be pursued which are reasonably related to those discussed here.

These rules may also include additional updates such as correcting cross-reference citations, updating road names on maps, establishing definitions, and changes needed in order to update application forms or revisions which are necessary for consistency with recently enacted legislation.

### **3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Current rules establish provisions for a variety of activities involving Wisconsin's native amphibians and reptiles, including harvest, live take, possession, propagation, purchase, sale, trade, exhibition, rehabilitation, stocking and release. However, the majority of these rules have not been updated since the 1990s. Additionally, the department has heard feedback that these rules are difficult to interpret and enforce. These rules will be examined and possibly updated to provide better clarity to the public while better protecting the amphibians and reptiles. Poaching, harassment, increased collection pressure and wildlife trafficking are negatively impacting amphibian and reptile populations throughout North America and around the world. In addition, many emerging diseases are also causing increased pressure on amphibian and reptile populations.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The department has the authority under s. 23.09 (2), Stats., to promulgate rules and establish plans and projects for conservation, including establishing game and fish refuges, acquiring lands, and maintaining lands for conservation, habitat, research, scenic, historical and recreational purposes.

Section 23.11, Stats., grants the department jurisdiction over department lands.

Section 23.28, Stats., authorizes the department to designate and regulate state natural areas, and restricts the department from allowing uses of state natural areas that are incompatible with the natural value of those areas.

The state is granted the legal title to, and the custody and protection of, all wild animals within the state by s. 29.011 (1), Stats.

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game.

Section 29.604 (3), Stats., requires the department to establish by rule an endangered and threatened species list. This section also requires the department to periodically review and revise its endangered species list. Subsection (4) authorizes the department to promulgate exceptions to the prohibitions on take of listed species. Subsections (6) and (6m) permit the department to establish permit conditions governing the take of listed species.

Section 29.885, Stats., grants the department the ability to remove or authorize the removal of any wild animal or structure of a wild animal that is causing damage or causing a nuisance.

Section 169.04 (1) (b), Stats., prohibits the possession of any live animal unless that person holds a license or other approval, and the person complies with this chapter and the rules promulgated under this chapter.

Section 169.12, Stats., states that no person may take from the wild or possess live native reptiles unless the person is authorized to do so by rules promulgated by the department with limited exceptions.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

500 hours.

**6. List with description of all entities that may be affected by the proposed rule :**

Individuals and businesses that buy, sell, possess, propagate and collect amphibians and reptiles may be affected by this rule, as well as persons who experience nuisance.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

Pursuant to the Lacey Act (18 U.S.C. 42), any importation of injurious wildlife into the United States or its territories or possessions must be authorized under a permit issued by the U.S. Fish and Wildlife Service. Injurious wildlife are wild mammals, birds, amphibians, reptiles, fish, crustaceans, mollusks, and their offspring or eggs, designated as harmful to human interests, agriculture, horticulture, forestry,

wildlife, or wildlife resources of the United States. The Endangered Species Act (16 U.S.C. 1531-1544) establishes protections for fish, wildlife, and plants that are listed as threatened or endangered. Wisconsin currently has one native herptile, the Eastern Massasauga, that is listed as threatened under the Endangered Species Act. Additionally, the interstate commerce of goods, including reptiles and amphibians, is regulated by the federal government under the Commerce Clause of the U.S. Constitution.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):**

These rules may restrict the types and amounts of amphibians and reptiles that can be possessed by individuals or businesses. It is unknown at this time whether these rules may have an economic impact and to what extent the economic impact of these rules may be. However, the department anticipates no more than a moderate economic impact from the rules.

**9. Anticipated number, month and locations of public hearings:**

The department anticipates holding one public hearing in the month of October 2025.

The department will hold the hearing virtually to allow for as many people to attend as possible. Comments may be provided by mail, phone and email as well as in-person.

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For Karen Hyun, Ph. D., Secretary

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Date Submitted