

# **Statement of Need and Justification for the Regulation of Wildlife Rehabilitation Efforts**

## **Legal Perspective -**

In the United States, native wildlife is generally considered to be a public trust resource, namely the property of the public. Regardless of where birds, mammals or other wildlife are found, the public at large has an ownership interest in their management and welfare. In most states, when individuals wish to reduce wildlife to private ownership through hunting, fishing, capture, killing or pursuit, it must be done within the limits of a publicly acceptable activity and done in a manner which is not contrary to the public interest.

In nearly all states, the statutory authority for the determination and administration of the public's interest in wildlife resources has been granted to a wildlife agency, game department, or similar structure within the administrative branch of state government. While the statutory mandate may differ both in language and specificity, in general, wildlife management agencies are charged with regulating the use of the public trust resource by individuals or groups of individuals. In most cases, the detailed system through which this delegated public interest is managed constitutes a body of duly adopted regulations, policies, and procedures.

By their very nature, regulations are designed to enable the management agency to define and maintain control over the public's interest in wildlife. Activities such as hunting, fishing, trapping, possession, and pursuit of wildlife are addressed specifically in regulatory language. The terms and provisions of regulations change with changing circumstances, including fluctuations in animal populations, management needs and priorities, as well as the values and opinions of the public at large. Many other influences are brought to bear on regulations as well, including economic, political and traditional forces.

## **The Need to Recognize and Regulate Wildlife Rehabilitation Activities**

The public's attitude toward wildlife used to be primarily rooted in a utilitarian philosophy under which wildlife is a natural resource which should be managed as any other resource, for the use and enjoyment of humans. Over the past twenty to thirty years, the public's attitude toward wildlife, and animals in general, has changed significantly. The public is increasingly concerned about the welfare of individual animals, whether wild or domestic. This concern is evidenced by the proliferation of standards and regulations concerning the humane treatment of animals as well as criminal sanctions against those who would torture, abuse, or neglect either livestock or companion animals.

The public's concern for the welfare of individual animals extends to wildlife in very tangible ways. As society has increasingly moved into wildlife habitats, the contact between humans and wild animals has increased dramatically. Inevitably, people encounter animals that have been injured or displaced either as a result of natural causes or

more often through human activity. Today, the public expects the welfare of those injured or displaced animals to be addressed by society.

Over the last thirty years, a field of endeavor known as wildlife rehabilitation has emerged nationwide. Within this field, individuals and organizations provide temporary care to injured or displaced wildlife with the goal of returning the animals to the wild in a healthy, viable condition. Wildlife rehabilitators are increasingly recognized as a valuable resource to educate the public about environmental issues and stewardship. While the mandate for most state wildlife agencies is to manage ecosystems, populations, and species of wildlife, increasingly they are being called upon to regulate the care and possession of individual animals as well.

## **The Goals of Wildlife Rehabilitation Regulation**

Wildlife rehabilitation started as an endeavor through which individuals administered first aid and care in an improvisational way. However, over the last decade, a great deal of organizational improvement and professionalism has been brought to bear on the field. Now, those wishing to be involved in wildlife rehabilitation have the opportunity to benefit from extensive training, the use of a wide range of reference materials, and the experiences of many professional organizations created to support the efforts of rehabilitators.

While the philosophical and ethical foundation of wildlife rehabilitation is still rooted in a concern for the welfare of individual wild animals, the standards for competent ethical care have changed significantly in a number of ways. An understanding of how the individual animals interact with their populations, habitats, and ecosystems has become a vital part of the profession. Updated information, and newly developed techniques are constantly evolving.

For more than a decade, two national membership organizations of wildlife rehabilitators, the International Wildlife Rehabilitation Council and the National Wildlife Rehabilitators Association, have led the effort to bring standardization and accountability to those involved with the care of injured and displaced wildlife. A code of ethics, guidelines for cage sizes, codes of conduct, accepted procedures, medical and nutritional reference materials have all been developed to guide wildlife rehabilitation efforts. The standards help to ensure that the animals in the care of rehabilitators receive appropriate intervention to maximize their chances of a successful return to the wild. The ethical standards, facility guidelines, and nutritional goals represent standards to which all rehabilitators can, and should, aspire.

While the wildlife rehabilitation profession sets its own standards for excellence, it falls to state wildlife agencies to regulate the parameters within which this field of endeavor can be pursued and to set minimums below which no one will be permitted to go. The profession itself establishes those things which wildlife rehabilitators “should” do, while the regulatory system establishes those things that all wildlife rehabilitators “must” do.

In identifying and defining regulatory mandates, agencies must consider currently accepted standards within the profession of wildlife rehabilitation. They also must accommodate, within the regulatory framework, activities that can meet the public's demand that care be provided to injured or displaced wild animals. An effective regulatory system provides incentives and requirements for permitted individuals or facilities to remain current on advances within their field of endeavor, and to employ those practices and techniques that maximize the chances of success for the rehabilitation effort. It is often difficult for an agency to craft regulation in such a precise way as to ensure that only competent people would seek to be involved in the permitted activity or that all facilities will meet or exceed national standards. However, a regulatory system can be established that maximizes the potential for these desired goals to be reached.

## **Features of an Effective Regulatory System**

The regulation of any activity by a state wildlife management agency must be sensitive to the needs of wildlife, the expectations of the public within the state, the potential for the regulated community to achieve specific goals, and the limitations of available resources. However, with few exceptions, there are basic components of a regulatory system which can be included by all states that will do much to ensure that wildlife rehabilitation activities conducted under the regulatory framework meet or exceed nationally accepted minimums.

Such a regulatory framework would include the following:

1. **A Statement of Purpose for the Regulatory Program.** This would establish the intent of the regulation and cite the statutory authority under which the regulations are created. Typically, this section would include a statement indicating that the regulations allow possession of wildlife for the purposes of rehabilitating the wildlife and returning it to the wild. Further, the regulations should seek to establish the conditions under which the wildlife will be kept. They should also address the procedures that will be used to ensure the safety and welfare of the animals, as well as the protection of wildlife at large and the general public.
2. **Definitions.** If properly and thoroughly prepared, this section can eliminate many of the problems associated with the regulation of wildlife rehabilitation. In the definition section, the purpose of wildlife rehabilitation can be set forth and the possession of wildlife for rehabilitation distinguished from educational use and exhibits, commercial activity, and private enjoyment.
3. **Qualifications of Wildlife Rehabilitators.** This section should include, in both qualitative and quantitative terms, the age, knowledge, skill, experience and veterinary support required to rehabilitate wildlife within the state. Required evidence of qualification may range from written tests and apprenticeships, to documentation of experience and proof of training, continuing education, and veterinary involvement.
4. **Facility Guidelines.** This section would provide guidelines with which wildlife rehabilitation facilities can be evaluated. Facilities should be appropriate to the

species of wildlife receiving care at each stage in their recovery and rehabilitation. Facility guidelines have been created by the National Wildlife Rehabilitation Association and the International Wildlife Rehabilitation Council, and published in Minimum Standards for Wildlife Rehabilitation.

5. Application Renewal and Reporting Standards. This section should explain how applicants apply for and renew permits or licenses, and report their activity to the state management agency. This would enable the agency to monitor activity undertaken within the regulatory framework and to evaluate the level of activity of each permit or license holder.

The regulations must above all be **understandable and enforceable**. It would be beneficial for the agency to develop and maintain communication and collaboration with the wildlife rehabilitation community as regulations are developed and implemented. Ambiguity should be avoided. Where qualitative judgments are necessary, they should be based on established and widely accepted guidelines for compliance. Regulation should also provide a framework that encourages compliance rather than simply punishing non-compliance. Permit applicants acting in good faith should be able to comply with the law without facing undue hardship. The end result will be a regulatory system which facilitates and enhances the temporary care of native wildlife and maximizes the chances these animals will have of returning to the wild and functioning normally within their ecosystem.