

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee For  
Review of Administrative  
Rules (JCR-AR)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ 97hrJCR-AR\_Crule\_98-084

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

92-084 NR 19 WILD LIFE DAMAGE  
CLAIM

# MEMORANDUM

from RICHARD SWEET  
Legislative Council Staff

Les,

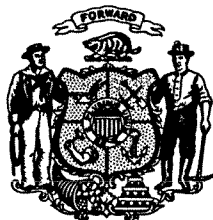
Thought you might  
be interested in a  
Clearinghouse report we  
just sent back to DNR - -  
see comment 1. a. (statutory  
authority).

Rich Sweet

***RULES CLEARINGHOUSE***

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**CLEARINGHOUSE REPORT TO AGENCY**

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[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 98-084**

AN ORDER to renumber NR 12.001 (2), 12.15 (11), 19.80 (1) and 19.80 (4) (a) 4.; to amend NR 12.10 (1) (b) Note, 12.16 (2) (a) and (8) (a), 19.76 (1) and (4), 19.78 (1) (a) and (b), 19.79 (2) and (3) and 19.81 (1); to repeal and recreate 19.78 (3) and 19.79 (4); and to create NR 12.001 (2) (b), 12.15 (11) (b) and (13), 12.16 (2) (b) 1. and 2., 19.76 (3m), (4e), (4m), (4t), (7) and (8), 19.775, 19.79 (1) (b) and (5), 19.795, 19.80 (1) (b) and (4) (a) 4. b. and 5. and (6) and 19.81 (3) (d) and (e), relating to the wildlife damage abatement program and the wildlife damage claim program.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-09-98 RECEIVED BY LEGISLATIVE COUNCIL.

07-02-98 REPORT SENT TO AGENCY.

RNS:RJC:kjf;jt

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

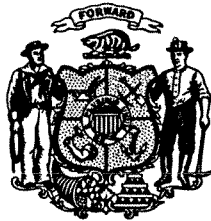
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

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## CLEARINGHOUSE RULE 98-084

### 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 October 1994.]**

#### 1. Statutory Authority

a. Section 29.598 (2) (b), Stats., requires the department to promulgate various rules relating to the Wildlife Damage Abatement and Claims Program (WDACP). The statute requires that the rule must establish all of the measures and procedures listed in s. NR 19.775 (1) to (5). However, s. NR 19.775 provides that those measures and procedures will be specified in a technical manual and not in the rule. In light of the mandate of s. 29.598 (2) (b), Stats., under what authority does the department seek to circumvent rule-making relating to these measures and procedures via the technical manual? Also see s. 227.10 (1), Stats., which requires agencies to promulgate as rules each statement of general policy and each interpretation of a statute that it specifically adopts to govern its enforcement or administration of the statute.

b. Section 29.598 (7m) (a), Stats., appears to require that land in the WDACP be open for hunting. Further, the statutes also provide for penalties for persons who do not open their land pursuant to the statutory requirement. Under what authority does the rule, in s. NR 19.795 (3) (b) 6., allow an enrollee to refuse hunting access for "reasonable cause"?

#### 2. Form, Style and Placement in Administrative Code

a. The introductory clause of the rule should contain a relating clause. [s. 1.02 (1), Manual.]

b. The definition of "lands suitable for hunting deer," created in s. NR 12.001 (2) (b), should precede the definition of "lands suitable for hunting or trapping" in s. NR-12.001 (2) (a).

c. SECTION 8 of the rule creates s. NR 12.16 (2) (b) 2. However, there is no s. NR 12.16 (2) (b) 1. Accordingly, it appears that current s. NR 12.16 (2) (b) should be renumbered s. NR 12.16 (2) (b) 1.

d. The treatment clause of SECTION 11 should indicate that s. NR 19.76 (8) is also being created.

e. The material in the Note to s. NR 19.79 (5) (a) appears to contain substantive material. Accordingly, the material should be placed in a substantive provision of the rule. [s. 1.09 (1), Manual.]

f. In s. NR 19.79 (5) (b) (intro.), the words “which” and “are” should be deleted and “All of the following” should be inserted before “(c)osts.”

g. In s. NR 19.795 (1), “may not” should replace “shall not.”

h. Generally, if a title is used in a subunit of a particular rule section, then all similar subunits in that section should be titled. [s. 1.05 (1), Manual.] The subdivisions in s. NR 19.795 (3) (b) fail to meet this maxim. Accordingly, the rule should be revised so that titles are used consistently throughout par. (b).

i. Section NR 19.80 (6) contains a title while the other subsections in that section of the current rule do not. Titles should be used consistently. [s. 1.05 (1), Manual.]

j. Much of the Note to s. NR 19.81 (1) appears to be definitional and, consequently, substantive. Therefore, the definitional material should be placed in a substantive provision of the rule. [s. 1.09 (1), Manual.]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

Section NR 19.795 (1) contains a reference to “(b) 2.” Presumably, this refers to par. (b) 2. However, sub. (1) has no par. (b). The accuracy of this reference should be checked.

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

a. In s. NR 12.15 (11) (b), is it necessary to have the requirements that a person apply for a license and possess a license? It would seem that if the person possesses a license, he or she has applied for it and, thus, the application requirement may be redundant. Also, for the sake of consistency, the word “hunting” should be inserted between “bear” and “license” in the last line.

b. The comma at the end of s. NR 12.15 (13) should be deleted.

c. Section NR 12.16 (2) (b) 2. requires more clarity. The subdivision is too long and covers too many different subject areas, with little cohesion. Its clarity would be enhanced if it were broken down into smaller subunits. In addition, it is not clear how the “significant effort” requirement is linked to the lack of deer to be shot, which appears to be the basis for an

exemption. This relationship should be clarified. The term "their agents" in the next-to-last sentence should be "its agents." If the group considering the exemption includes the department, and consensus is reached, what is the purpose of the recommendation to the department?

Finally, the Note appears to contain a substantive definition. Accordingly, it should be included in the substantive portion of the rule.

d. In the definition of "land suitable for hunting" in s. NR 19.76 (4), the phrase "contiguous acres" should be "contiguous land." Also, the Note contains a substantive requirement. It is suggested that it be deleted and the term defined be changed to "Land suitable for hunting species other than deer."

e. In s. NR 19.76 (3m), it appears that the word "people" is unnecessary and should be deleted. In sub. (4m), the word "are" should be "means" and the word "or" should be "and." In sub. (4t), the first word "are" should be "means." Finally, in sub. (8), the definition should include a statutory or rule citation to clarify its meaning. For example, after "program," the phrase "under s. 29.598, Stats., and this chapter" could be inserted.

f. In s. NR 19.78 (1) (a) and (b), it is not clear what "budget" is being referred to. Is it the county's annual estimate of the abatement costs? If so, consistent terminology should be used. In any event, the rule should be clarified.

g. In s. NR 19.78 (3), the third quarter does not include the month of July. It is suggested that "July 1" replace "August 1." Also, counties are generally given one month after the end of a quarter to submit reimbursement requests. However, after the fourth quarter, they are given two months. Is this intended?

h. It is not clear what criteria will be used by the department to determine other costs that are eligible for reimbursement under s. NR 19.79 (5) (b) 3.

i. It is not clear how subs. 1. to 8. of s. NR 19.795 (3) (b) tie in with par. (b) (intro.). A phrase such as the following could be added to par. (b) (intro.) to identify better the link: "The following provisions shall apply to the managed hunting access option:"

j. In s. NR 19.795 (3) (b) 3., a comma should be inserted after the first use of the word "access" and the word "by" in the first sentence should be changed to "after." The quotation marks around "participant" in the next-to-last sentence should be deleted.

k. In s. NR 19.795 (9), a ")" should be added after "7m" in the reference to "s. 29.598 (7m (am), Stats."

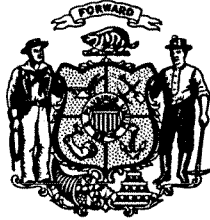
l. Current s. NR 19.81 (3) relates to determining the priority of payment claims for certain fences. Paragraphs (a) to (c) consist of priority determining factors. It does not appear that the amendments made in SECTION 26 of the rule are related to establishing or determining priorities for payment claims and, therefore, the amendments should be placed in a different section of the current rule. In addition, pars. (d) and (e) do not follow from sub. (3) (intro.). [s. 1.03 (8), Manual.]



***RULES CLEARINGHOUSE***

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**CLEARINGHOUSE REPORT TO AGENCY**

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Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-09-98 RECEIVED BY LEGISLATIVE COUNCIL.

07-02-98 REPORT SENT TO AGENCY.

RNS:RJC:kjf;jt

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

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## CLEARINGHOUSE RULE 98-084

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i. It is not clear how subs. 1. to 8. of s. NR 19.795 (3) (b) tie in with par. (b) (intro.). A phrase such as the following could be added to par. (b) (intro.) to identify better the link: "The following provisions shall apply to the managed hunting access option:"

j. In s. NR 19.795 (3) (b) 3., a comma should be inserted after the first use of the word "access" and the word "by" in the first sentence should be changed to "after." The quotation marks around "participant" in the next-to-last sentence should be deleted.

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l. Current s. NR 19.81 (3) relates to determining the priority of payment claims for certain fences. Paragraphs (a) to (c) consist of priority determining factors. It does not appear that the amendments made in SECTION 26 of the rule are related to establishing or determining priorities for payment claims and, therefore, the amendments should be placed in a different section of the current rule. In addition, pars. (d) and (e) do not follow from sub. (3) (intro.). [s. 1.03 (8), Manual.]

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

The Wisconsin Natural Resources Board proposes an order to renumber NR 12.001(2), 12.15(11), 19.80(1) and 19.80(4)(a)4.; amend NR 12.10(1)(b)Note, 12.16(2)(a), 12.16(8)(a), 19.76(1), and (4), 19.78(1)(a) and (b), 19.79(2) and (3), and 19.81(1); repeal and recreate 19.78(3) and 19.79(4); and create NR 12.001(2)(b), 12.15(11)(b), 12.15(13), 12.16(2)(b)1. and 2., 19.76(3m), (4e), (4m), (4t), (7) and (8), 19.775, 19.79(1)(b), 19.79(5), 19.795, 19.80(1)(b), 19.80(4)(a)4.b., 19.80(4)(a)5., 19.80(6), and 19.81(3)(d) and (e).

WM-21-98

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.59, 29.598, and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.59 and 29.598, Stats.

In this order:

SECTIONS 1, 2, 10 & 11 define terms.

SECTION 3 clarifies the new law which adds coyotes to those species where landowners can hunt or trap year round without a license or permit.

SECTIONS 4, 5 & 6 clarify bear shooting permit procedures.

SECTIONS 7, 8, 21 & 22 establish criteria for determining deer are unavailable to be harvested under shooting permits and creates a process for granting exemptions for future shooting permit and claims eligibility. Furthermore, these sections create uniformity between the shooting permit program and the Wildlife Damage Abatement and Claims Program (WDACP).

SECTION 9 further enhances human health and safety in deer damage shooting permit situations.

SECTION 12 requires participating counties to use administration, abatement & claims procedures described in the department's WDACP Technical Manual.

SECTIONS 13 and 14 require explicit deadlines for accounting and distribution of program funds to participating counties.

SECTIONS 15, 16 & 17 establish criteria for implementing the new abatement cost-sharing of 75% by participating counties and participation standards for enrollees.

SECTIONS 18 & 24 establish explicit requirements and procedures for implementing new

No  
relating  
clause!

laws governing hunting access, and seek to make the hunting access requirement more enforceable.

SECTIONS 19& 20 establish eligibility criteria which excludes crops which are stranded in the field over winter for claims eligibility.

SECTION 23 requires counties to prescribe deer damage shooting permits where enrollees have a 2 year history of damage losses exceeding \$1,000.

SECTIONS 25 & 26 establish the requirement that all permanent fence projects must be approved by the department prior to funding and entering into a contract with an enrollee in order to assure that projects are warranted and are cost-effective.

Section 1. NR 12.001(2) is renumbered NR 12.001(2)(a). *intro.?*

Section 2. NR 12.001(2)(b) is created to read:

NR 12.001(2)(b) "Lands suitable for hunting deer" has the meaning given in s. NR 19.76(3m)(4e).

Section 3. NR 12.10(1)(b)Note: is amended to read:

NR 12.10(1)(b)Note: Animals listed in s. 29.24, Stats., are beaver, foxes, raccoons, rabbits, squirrels, coyotes and woodchucks. However, s. 29.24, Stats., provides for the protection of coyotes from hunting during an open season for hunting deer with firearms in an area that is closed by the department by rule to coyote hunting.

Section 4. NR 12.15(11) is renumbered NR 12.15(11)(a).

Section 5. NR 12.15(11)(b) is created to read:

NR 12.15(11)(b) Bear damage shooting permits. Participation of others under bear damage shooting permits shall be restricted to those persons who have applied for a Class A or B bear hunting license under application procedures described in s. NR 10.102(2), who have indicated on bear hunting applications their willingness to assist farmers having bear damage problems, and who possess a Class A or B bear license.

Section 6. NR 12.15(13) is created to read:

NR 12.15(13) USE RESTRICTIONS. Hunting bear with the aid of dogs under this chapter is prohibited, unless the department determines there are extraordinary conditions which warrant an exemption. When the department grants an exemption, permittees may restrict hunting access of bear hunters using dogs if trespass problems on adjoining private properties are likely to occur.

Section 7. NR 12.16(2)(a) is amended to read:

NR 12.16(2)(a) Harvest objective. The permittee and participants, unless granted an exemption under par. (b), shall kill at least 80% of the number of deer authorized for harvest on the permit and shall kill at least 50% of ~~this the~~ number of deer authorized for harvest during the first 45 days after permit issuance, ~~to retain eligibility for future deer damage shooting permits.~~ The permittee shall not be eligible for a shooting permit the next year if the permittee fails to comply with these harvest objectives unless a shooting permit is prescribed damage abatement under s. 29.598, Stats.

Section 8. NR 12.16(2)(b)2. is created to read:

NR 12.16(2)(b)2. The department may grant an exemption to the harvest objective requirement in par. (a) if there is compelling evidence that deer were unavailable to be shot. Compelling evidence that deer were not available include accurate shooting permit ~~participant~~ hunting logs. These logs shall include participant names and phone numbers and dates participants hunted. A permittee shall demonstrate from this hunter log a minimum of 5 hunter days per week for the duration of the permit valid period. Documentation of hunter days shall include the effort of the permittee and his or her immediate family. If a permittee has difficulty getting participants, the permittee shall contact the DNR and the county to seek assistance. Documents to support the information in the participation log that the permittee made a significant effort to meet the harvest objective include: written statements by these hunters with descriptions of hunting conditions, aerial photos documenting lack of deer habitat, records that show the permittee was in regular contact with county and local department staff keeping them informed of the permittee's difficulty, that the permittee implemented reasonable measures prescribed by the county or department to improve shooting permit performance, and any other evidence deemed appropriate by the county and local department staff. The county, their agents and the department shall consult before making a recommendation to grant an exemption to the harvest objective requirement under this section. This group shall review the evidence and, if there is consensus that an exemption is warranted, shall recommend the department grant an exemption allowing eligibility for a permit the subsequent year.

Note: The minimum 5 hunter days per week requirement means at least 5 hunters shall hunt deer under the permittee's deer damage shooting permit during each week of the duration of the permit.

Section 9. NR 12.16(8)(a) is amended to read:

NR 12.16(8)(a) Permittees, all participants, ~~and~~ persons assisting participants and all access hunters under ss. NR 12.15(1), 19.795 and 19.80(6), shall comply with the blaze orange clothing regulations of s. 29.22(2), Stats., unless exempted by the department. Exemptions may be granted where local ordinances prohibit the discharge of firearms and bow hunting or a trained sharpshooter during the closed deer gun season are the only methods available to remove deer.

Section 10. NR 19.76(1) and (4) are amended to read:



NR 19.76(1) "Contiguous land" means lands under the ownership, lease or control, ~~other than by lease~~, of an applicant for deer, bear, turkey or goose damage payments which are connected to the lands subject to a claim application or separated only by a roadway, easement, license or waterway.

(4) "Land suitable for hunting" means <sup>species other than deer</sup> ~~lands~~ contiguous land where the conduct of hunting is not likely to result in a violation ~~of the law or damage to buildings and where it is probable an animal causing the damage may be harvested,~~ under s. 29.22(1), 167.30, or 941.20(1)(d), Stats., and shall include all such areas within the contiguous acres under the same ownership, lease or control except those areas identified by the county pursuant to s. NR 19.795.

Note: This definition of "lands suitable for hunting" shall be used to determine <sup>subs.?</sup> hunter numbers for access to hunt species other than deer.

Section 11. NR 19.76(3m), (4e), (4m), (4t) and (7) are created to read:

NR 19.76(3m) "Enrollee" means a farmer, grower, livestock raiser, beekeeper, nursery operator, orchardist, Christmas tree grower, or other person, people or corporation or partnership enrolled in the wildlife damage abatement and claims program for services under this program.

(4e) "Land suitable for hunting deer" means woodlands, wetlands or other deer cover and cropland within 330 feet of deer cover on all contiguous land and where the conduct of hunting is not likely to result in a violation under s. 29.22(1), 167.30, or 941.20(1)(d), Stats., except those areas identified by the county pursuant to s. NR 19.795.

(4m) "Livestock holding areas" are barns, pole sheds or other buildings for the protection and sheltering of livestock.

(4t) "Livestock pastures" are areas where livestock are allowed to roam freely to forage and exercise.

(7) "Reasonable cause" means a presence of at least 2 hunters per 40 acres of land suitable for hunting or the presence of one hunter on less than 40 acres of land suitable for hunting; the hunter is intoxicated, has caused damage to property, littered, used abusive or threatening language, used a firearm in violation with s. 941.20(1), Stats., used a vehicle or a permanent deer stand on enrolled land without being authorized by the enrollee; the hunter has otherwise engaged in, or displayed a propensity to engage in, conduct contrary to public safety or the protection of personal property; or if the hunter fails to seek permission or register to hunt.

(8) "WDACP" means the wildlife damage abatement and claims program.

Section 12. NR 19.775 is created to read:

NR 19.775 WDACP TECHNICAL MANUAL. The department's WDACP technical manual shall specify WDACP procedures and requirements including the following:

(1) Authorized wildlife damage abatement measures and methods for implementing and paying for these abatement measures.

(2) Forms and procedures for payment and processing of statement of claims and applications for abatement assistance.

(3) Procedures and standards for determining the amount of wildlife damage.

(4) A methodology for proration of wildlife damage claim payments.

(5) Procedures for record keeping, audits and inspections.

Note: Copies of the WDACP technical manual may be obtained from the Wildlife Damage Specialist, WDNR, Bureau of Wildlife Management, GEF 2, P.O. Box 7921, Madison, WI 53707-7921.

Section 13. NR 19.78(1)(a) and (b) are amended to read:

NR 19.78(1)(a) Except as provided in par. (b), the department shall, based upon the applicant's county's annual estimate of anticipated administrative and abatement costs indicated in its plan, advance to the county for administration purposes one-fourth the amount indicated in the plan annual estimate or one-fourth of such other amount deemed reasonable by the department no later than January 15 within 30 days following department approval of the application and plan of administration annual budget estimate.

(b) For the 1984 calendar year, The department may not process an advance until the county has submitted a final reimbursement request for the year previous to that for which participation is applied for. Upon receipt of this reimbursement request the advance payment shall be paid within 30 days of plan budget approval.

Section 14. NR 19.78(3) is repealed and recreated to read:

NR 19.78(3) REIMBURSEMENT DEADLINES. Counties shall submit reimbursement requests for administration and abatement costs to the department quarterly according to the following schedule: by April 30 for the first quarter, January 1 through March 31; by July 31 for the second quarter, April 1 through June 30; by October 31 for the third quarter, August 1 through September 30; and no later than March 1 for the final reimbursement request for the fourth quarter, October 1 through December 31.

Section 15. NR 19.79(2) and (3) are amended to read:

NR 19.79(2) Abatement measures rendered by a county under s. 29.598, Stats, are limited to those which are approved in the plan detailed in the WDACP technical manual, or authorized in writing by the department and which are commonly accepted in the wildlife

*2 mos. allowed.  
other qtrs. are 1 mo.*

*same  
the rule  
June*

*yes*

~~management profession as valid control measures and which are likely to be successful in reducing wildlife damage and shall be cost-effective as required by s. 29.598(5)(bm), Stats.~~

(3) Woven-wire deer-proof barrier fences, for which an application has been approved by the county and department, under s. NR 19.81, shall be included in the plan for the calendar year succeeding the fence application, unless otherwise approved by the department.

Section 16. NR 19.79(4) is repealed and recreated to read:

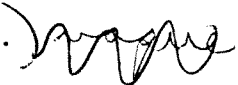
NR 19.79(4) The county shall, as a condition of providing abatement assistance, require full cooperation and assistance of the applicant in operating, maintaining and applying all abatement measures.

Section 17. NR 19.79(5) is created to read:

NR 19.79(5)(a) Cost-sharing. In accordance with the WDACP technical manual the county shall determine the actual costs of providing wildlife damage abatement assistance to provide 75% cost-sharing. For permanent damage abatement measures the enrollee shall provide 25% of the cost of materials and installation. For the purpose of determining the total cost of temporary damage abatement measures, cooperation by the enrollee in installation, construction, operation, notification if required, or maintenance of the temporary measure shall be considered 25% of its total costs.

Note: Permanent damage abatement measures include deer-barrier woven wire and high-profile electric fences. Temporary damage abatement measures include the use of temporary low-profile electric or barrier snow fencing, scare techniques, repellents, depredation shooting permits, trap and translocation, or other temporary methods determined by the department.

(b) Costs of abatement measures which are eligible for reimbursement to the county are:

1. The costs of abatement equipment and supplies.
2. Installation costs that are part of the of 75% WDACP cost-share.
3. Other costs determined by the department. 

Section 18. NR 19.795 is created to read:

NR 19.795 OPEN HUNTING ACCESS REQUIREMENT. (1) Enrollees shall have hunting access control over all contiguous land on which they seek wildlife damage abatement assistance or claims. Enrollees shall open their land to hunting, using one of the access options in (b)2., during the regular hunting seasons for the species causing the damage for which they have enrolled in the WDACP as required by s. 29.598(7m), Stats. Enrollees shall not charge any fees for hunting, hunting access, or any other activity that includes hunting the species causing damage. This hunting access requirement shall also

apply to enrollees who have also been issued a shooting permit under the authority of s. 29.59, Stats., and ch. NR 12.

(2) Enrollees shall enroll with the county by completing an agreement which certifies their hunting access control for all contiguous lands of the same ownership or control where wildlife damage is occurring and for which they are seeking program services under this chapter.

(3) Enrollees shall choose one of the 2 following hunting access options:

(a). Open public hunting for the species causing damage. The enrollee may not place limitations on which hunters or how many hunters may access the property enrolled by the enrollee. The enrollee may not require registration of hunters, but the hunter shall establish an acceptable arrangement with the enrollee for notifying the enrollee of the hunter's intent to hunt prior to hunting. The enrollee may choose how often notification is required and that notification be made in writing, by phone or in person each day the hunter intends to hunt or otherwise. This notification shall include the hunter's name, address, vehicle license number and the time and date the hunter intends to hunt.

*had intro* (b) Managed hunting access. Enrollee notification and hunter registration with the enrollee is required.

1. Land suitable for hunting. The county, or its agent, shall determine the area of land suitable for hunting in accordance with the WDACP technical manual and this chapter. The following criteria shall be used to determine land suitable for hunting:

a. The acreage of land suitable for hunting as defined in s. NR 19.76(4) or (4e), depending on the species causing damage.

b. Livestock pastures which are wooded, wetlands or other deer cover, or a part thereof within 330 feet of deer cover shall be considered land suitable for hunting.

c. Enrollees may prohibit or restrict discharge of firearms within 100 yards of livestock holding areas. ?

d. Permanent deer fences. Land inside a permanent deer fence, which meets construction and maintenance standards in the WDACP technical manual, may not be considered land suitable for hunting.

2. Hunting access map. The county or its agent shall provide a property map to the enrollee using aerial photos or plat maps to identify property boundaries and land suitable for hunting. The county, in consultation with the enrollee and in accordance with the WDACP technical manual, may delineate hunting zones for parcels of the property to assist the enrollee in distributing hunting effort to promote distribution of hunting effort and safety. The enrollee shall use these maps to explain to hunters boundaries and hunting constraints on the enrolled property.

3. To register for hunting access, hunters shall contact the program enrollee by obtaining the county's list. The county shall provide the current year's list and a fact-sheet which describes the WDACP hunting access system and the obligations of the hunter under this system. The hunter shall arrange a meeting with the enrollee. The enrollee shall describe the registration process, including completion of a hunting log, where the log will be located on the property, any hunting constraints on the property, and any information necessary to promote safety and prevent trespass. The registration form shall be provided to the enrollee by the county and be in the form of a log book following the format in the WDACP technical manual. The enrollee shall keep his or her hunting log current, recording hunters under this section and shooting permit "participant" hunters under ch. NR 12 to show compliance with the hunting access requirement. Enrollees shall make these records available for review by county or department staff as required by s. 29.598(8r)(a), Stats.

4. Hunting access shall be on a first come, first serve<sup>d</sup> basis. Hunters may contact enrollees before the dates they intend to hunt, but may not register until their intended hunting date or the day before. If hunters return to hunt, they shall again register by signing in on the hunting log upon arrival.

5. The enrollee shall allow at least 2 hunters per 40 acres of land suitable for hunting at any given time of the appropriate hunting season. The enrollee and hunting members of the immediate family that reside in the enrollee's household may be counted towards this hunter density restriction.

6. Enrollees may refuse hunting access for reasonable cause as defined in s. NR 19.76(7).

7. Upon receiving a written complaint from a hunter denied access, the county, its agent or the department shall review hunting access records required under this chapter to verify compliance. Verification that access requirements have been violated shall require the county to deny further abatement and claims assistance to the enrollee for the calendar year in which the violation occurred. In addition, an enrollee may be subject to the penalties in s. 29.598(10), Stats.

8. An enrollee and his or her immediate family who live year round on the enrollee's property shall register by signing in on the daily hunting access log when they hunt.

(4) The county shall maintain the current year's list of all enrollees.

(5) Hunters may hunt only the species causing damage unless the enrollee or landowner has granted permission to hunt other species. Hunting other species or engaging in other activities not authorized by the enrollee or landowner may be considered trespass in violation of s. 943.13, Stats.

(6) Enrollees may restrict hunting access of bear hunters using dogs if trespass on adjoining private properties is likely to occur.

(7) Motorized vehicles may not be used anywhere but the designated drive-way and

parking location on the enrollee's land unless authorized by the enrollee.

(8) Access hunters may not use permanent deer stands on enrolled properties unless authorized by the enrollee. An access hunter may use his or her own portable stand, but it shall be removed daily at the end of shooting hours, unless otherwise authorized by the enrollee. When registering on the hunting log, the hunter shall certify that he or she holds the enrollee and landowner harmless from any injuries associated with the hunter's hunting activity on the enrolled property, including any authorized use of hunting stands.

(9) Exemption. The hunting access requirement does not apply to enrollees where the damage is to apiaries on lands where the applicant does not have hunting access control, pursuant to s. 29.598(7m)am, Stats.

Section 19. NR 19.80(1) is renumbered to NR 19.80(1)(a).

Section 20. NR 19.80(1)(b) is created to read:

NR 19.80(1)(b) Row crops which are stranded by weather catastrophe over winter are not eligible for wildlife damage claims.

Section 21. NR 19.80(4)(a)4. is renumbered to NR 19.80(4)(a)4.a.

Section 22. NR 19.80(4)(a)4.b. is created to read:

NR 19.80(4)(a)4.b. The county may adopt an exemption recommendation resulting from procedures described in to s. NR 12.16(2)(b)2. for a permittee enrolled in the WDACP.

Section 23. NR 19.80(4)(a)5. is created to read.

NR 19.80(4)(a)5. If an enrollee has participated in the WDACP the previous 2 years, and each year had in excess of \$1,000 of appraised deer damage losses documented on claim applications on contiguous land, to be eligible for claims the enrollee shall apply for a deer damage shooting permit under s. 29.59, Stats., and ch. NR 12 and comply with subd. 4.

Section 24. NR 19.80(6) is created to read:

NR 19.80(6) OPEN HUNTING ACCESS REQUIREMENT. In order to be eligible for claims a claimant shall comply with the hunting access provisions described in s. NR 19.795.

Section 25. NR 19.81(1) is amended to read:

NR 19.81(title) WOVEN-WIRE AND ELECTRIC DEER BARRIER FENCE CONSTRUCTION. (1) Specific applications and funding for woven-wire and electric deer

~~proof~~ barrier fences shall be approved by the department and county and included in the county plan.

Note: Woven-wire and electric deer barrier fences refer to permanent, high-profile fences which are intended to last over an extended period of time, commonly 15 years or better.

Section 26. NR 19.81(3) (d) and (e) are created to read:

NR 19.81(3)(d) The county shall follow permanent deer fence project development, contracting, bidding, funding, billing, and contract term inspection procedures detailed in the WDACP technical manual.

(e) A permanent fence contract approved by the department shall be used by the county for any WDACP funded fence. In addition, the county may not solicit bids for a fence contract without written approval of the department. This contract shall be signed by the enrollee, the county and its agent, and the department prior to expenditure of program funds for fence costs.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)

July 5, 1998

Attention: Laine Stowell

From: Philip Sommers *Philip Sommers - Pardeeville, WI 53954*

Subject: Comments on NRB WM-21-98 Rules--Hearing

**Issue: Hunting Access --Section 18 & 24 (NR19.795)**

This daily log idea is burdensome and dictates that the landowner be present during the hunting seasons to monitor the logs. There are approximately 86 days of bow season and 9 days of gun season for a total of 95 days. Multiplied by two hunters per 40 acres per day equals 180 potential hunters per 40 acres per season if they hunted full days. I believe this to be unreasonable. I believe the number of hunters has to be on a seasonal basis instead of semi-daily.

A much simpler way to address the hunter access issue would be to develop forms for the landowner to have signed by the hunters they chose to hunt their **private property**. A prescribed number could be determined by the program technician at the time of program sign-up. These forms would be turned in at the end of the year along with the unused program materials as required in the past

**Issue: Harvest Objective (NR 12.16 (2)(a))**

The 45 days objective should not be implemented before an April or May date which is when damage would most likely begin. If you want early abatement in January and February, this rule hinders the effort due to herd movement during this time of year.

**Issue: Trap and Translocate-Section 17 (NR 19.79 (5))**

This should be changed to read that translocating of animals to private lands is prohibited.

**Summary:** I hope that the program rules will be written in a manner to avoid legal challenge. I see the current access requirements as burdensome and invasive to privacy rights. I do not believe the government has hunting rights to private lands and to gain them by these means is not prudent or fair.

cc: Senator Robert Welch  
Representative John Ainsworth  
Kyle Kidney, LCD  
Wisconsin Farm Bureau



March 23, 1998

To Kaine Stowell,

Ref to DRAFT (ref 2300)

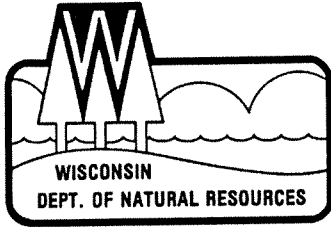
I was pretty much in agreement while reviewing the draft until I came to page four. How many people are you proposing to dump on us? What's this nonsense about a hunting log? I thought the county was going to keep a log and keep us informed. We can't be home every hour. We don't want unfamiliar people on our steps when we are not about. This is a mockery of private property and I would consider it harassment. To be subject to public intrusion as a condition to participate is outrageous! I find it difficult to critique a draft that is this unbalanced.

Your hunters are paying for the deer we can't shoot. If they complain about paying so much damage, let us shoot more deer.

You are putting a lot of effort into something that isn't going to work. Your guidelines and motives are misaligned. It appears to me the purpose of this legislation is to control agricultural land for public use.

Sincerely,

Philip J. Sommer  
W4276 Crown Rd  
Pardeeville, WI 53954



**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

Box 7921  
101 South Webster Street  
Madison, Wisconsin 53707-7921  
TELEPHONE 608-266-2621  
FAX 608-267-3579  
TDD 608-267-6897

March 25, 1998

IN REPLY REFER TO: 2300

Philip J. Sommers  
W4276 Crown Rd.  
Pardeeville, WI 53954

SUBJECT: Disagreement With Proposed Rules on Hunting Access

Dear Mr. Sommers:

Hunting access was made a requirement by the Wisconsin Legislature under the old deer damage claims program that was implemented from 1931 through 1979 and has been a component of the current damage program when it was created in 1983 by the Legislature. Last year the Legislature strengthened the hunting access requirement because of reports from hunters that farmers are not complying with these requirements.

In 1996 you received a \$5,000 claim and you have a 1997 application for the same amount. You want the hunters money, but don't want to allow them hunting access to control the deer populations causing that damage. The Legislature agree with hunters that any farmer who receives these hunter generated funds should allow hunters access to remove the wildlife causing this damage.

Hunter logs and hunter registration forms are not new. Farmers who receive deer damage shooting permits already keep these. The proposed requirement would not duplicate effort, but rather require one set of authorizations and one log rather than 2. You would be expected to record both shooting permit hunters and access hunters. This would indeed involve additional time for farmers so that they can prove their compliance with the hunting access requirement and to provide background for any investigation of a written complaint of a farmer's denying hunting access.

Hunting access has always been a component of claims, and DNR supports this requirement. The goal of the current proposal is to make this requirement more enforceable, yet manageable. We are looking for suggestions to accomplish this goal. Thank you for your comments.

Sincerely,

Laine R. Stowell  
Wildlife Damage Specialist  
Bureau of Wildlife Management

State of Wisconsin  
Department of Natural Resources

**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: 3

Natural Resources Board Order No. WM-21-98

Legislative Council Rules Clearinghouse Number 98-084

Subject of Rules Wildlife damage abatement program.  
and the wildlife damage claim program

Date of Transmittal to Presiding Officers September 28, 1998

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

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

**266-1959**

## REPORT TO LEGISLATURE

NR 12 and 19, Wis. Adm. Code  
Wildlife damage abatement program  
and the wildlife damage claim program

Board Order No. WM-21-98  
Clearinghouse Rule No. 98-084

### Statement of Need

Wisconsin has had a crop damage program since 1931. The current program was created in 1983 with the first field season beginning in 1984. The last budget required the department to promulgate rules for eligibility and funding requirements for the wildlife damage abatement program and the wildlife damage claim program in order to maximize cost-effectiveness of these programs. The department was also required to promulgate rules to establish all of the following:

1. Authorize wildlife damage abatement measures and methods for implementing and paying for these abatement measures.
2. Forms and procedures for payment and processing of statement of claims and applications for abatement assistance.
3. Procedures and standards for determining the amount of wildlife damage.
4. A methodology for proration of wildlife damage claim payments.
5. Procedures for record keeping, audits and inspections.

An emergency rule took effect on July 1, 1998 which established revision of the hunting access eligibility requirements, hunting access associated safety aspects, county program administration and abatement funding procedures, funding approval procedures for cost-effectiveness and permanent deer barrier fence approval procedures. This rule is comprised of the emergency rule with the addition of items seeking to make the damage program more cost-effective; create clear, objective criteria for county review of claims eligibility, replacing past arbitrary reviews; reduce program confusion by making shooting permit rules more uniform to damage program rules; and better compliance with the use of shooting permits where damage levels exceed \$1,000 over the past 2 years.

### Modifications as a Result of Public Hearings

The following changes were made as a result of public hearings:

1. The blaze orange requirement was deleted.
2. The definition of pasture was deleted.
3. Revised the definition of "reasonable cause" for denial of access to include hunters failure to comply with conditions of their access when they sign the hunting log.
4. Created rule language which allows counties and their agents to refuse program services to enrollees who are uncooperative or who are abusive or threatening.
5. Amended claims proration language for greater clarity.
6. Reorganized and clarified the harvest objective exemption language.
7. Codified existing county requirements for "normal agricultural practices" which exist in most counties' Plan of Administration dealing with a claims eligibility cutoff once more than 90% of a row or forage crop in a county has been harvested.
8. Revised dates of quarterly requests by counties for expenditure reimbursements by adding a month to the first 3 quarters.

9. In the hunting access part of the rule, deleted the pasture section and added sections which require hunters to sign in and out so there is a record of presence, and requiring enrollees to "ensure" safe and adequate parking, and clarified "open" hunting from statute by including "posting" limits in the rule.

Appearances at the Public Hearings and Their Position

*July 13, 1998 - Spooner*

In support:

Gordon Hibbs, 2796 60<sup>th</sup>, Frederic, WI 54837  
DeWayne Snobl, USDA - Fish & Wildlife Service, 2612 Beverly Hills Drive, Eau Claire, WI 54701

In opposition:

Byron G. Daniel, 2786 River Road, St. Croix Falls, WI  
Leland Harr, Sr., 2254 45<sup>th</sup> Street, Cumberland, WI 54829  
Arlen Johnson, 1345 Hwy. 70, Spooner, WI 54801  
Karl Plesums, 24967 Trails End Road, Spooner, WI 54801  
Douglas Dewing, 24376 North Fessum Road, Grantsburg, WI 54840

As interest may appear:

Garry Crosby, 2577 Hilltop Road, Shell Lake, WI 54871  
Howard Kopecky, 23463 Highway 35, Siren, WI 54872  
Robert A. Haddick, W3027 Haddick Road, Springbrook, WI 54875  
Mewin Clare, 12425 County Road O, Grantsburg, WI 54840  
Sam West, P.O. Box 2, 5470 Ripley Road [no city given]  
Robert Morgan, N9902 Hay Lake Road, Springbrook, WI 54875  
William Soldner, 257 183 Lane, Turtle Lake, WI 54889  
Charles Sahr, Box 773, Frederic, WI  
Lyman F. Lang, Box 415, Grantsburg, WI 54840  
Leonard Engebretson, 5739 Bass Lake Road, Webster, WI 54893  
Kyle Kuhlow, 1190 Maple Street, Baldwin, WI 54002  
Ann Bolton, W3585 Hamilton Road, Springbrook, WI 54875  
Lyle Bolton, W3585 Hamilton Road, Springbrook, WI 54875  
Ronald Kotz, 10887 Hegge Road, Grantsburg, WI 54840  
James Engelhart, 22706 Bernie Road, Siren, WI 54872  
Frances Harr, 2254 45<sup>th</sup> Street, Cumberland, WI 54829  
Charles Peterson, Buckland Road, Grantsburg, WI 54840  
Lois M. Sahr, Box 773, Frederic, WI 54837  
Beverly J. Handy, P.O. Box 538, 12245 W. La Ra Road, Grantsburg, WI 54840  
David Sander, 22672 60<sup>th</sup> Avenue, Woodville, WI 54028  
Darlene Martinson, Washburn Co. LCD, 202 Vine Street, Spooner, WI 54801  
Cindy Blonk, 405 Vine Street, Spooner, WI 54801  
Kevin Hagen, The Country Today Newspaper, W5676 Hwy. 70, Spooner, WI 54801

*July 14, 1998 - Wausau*

In support:

William L. Ludwig, P.O. Box 312, Eagle River, WI 54521

In opposition - none

As interest may appear:

Michael C. Anderson, 1007 E. 4<sup>th</sup> Street, Merrill, WI 54452

*July 15, 1998 - Oshkosh*

In support:

R. C. Boheim, Door Co. Soil & Water Conservation, 421 Nebraska, Sturgeon Bay, WI 54235  
Larry Gahlke, P.O. Box 42, Neshkoro, WI 54960

In opposition - none

As interest may appear:

Dick Koerner, 540 Sunrise Bay Road, Neenah, WI 54956  
Wilmer Geiser, N3774 Weeks Road, Chilton, WI 53014  
Lyle Gabrielson, 1279 Lakeshore Drive, Menasha, WI 54952  
Dick Chier, W2005 Irving Park Road, Green Lake, WI 54941  
Jon Bechle, 1150 Bellevue Street, Green Bay, WI 54302  
Nancy L. Barker, Menasha, WI 54952  
Richard Christian, 213½ W. Lake Street, Horicon, WI 53032  
Scott F. Beckerman, W7231 Hwy. 49, Waupun, WI 53963  
Mitchell Trebon, 1609 Ontario Street, Oshkosh, WI 54901  
Melanie Leet, 1545 Arboretum Drive, #210, Oshkosh, WI 54901  
Cheryl Rezabek, 905 Bayshore Drive, Oshkosh, WI 54901  
Tricia Fischer, Oconto County Land Conservation Dept., 11243 Cty. M, Suring, WI 54174  
John Olsen, 209 S. St. Marie Street, P.O. Box 1109, Wautoma, WI  
Greg Baneck, Winnebago Co. LWCD, 625 E. County Road Y, Oshkosh, WI 54901

*July 16, 1998 - Boscobel*

In support:

Dan Hirschert, 549 Jackson Street, Waterloo, WI 53594  
Phil Peterson, 603 4<sup>th</sup> Street, Reedsburg, WI 53959

In opposition:

James Rounds, 15812 County Hwy. T, Boscobel, WI 53805  
Gene Lueb?, 15930 Shady Hollow Lane, Woodman, WI  
Galen Freymiller, 845 12<sup>th</sup>, Fennimore, WI 53809  
Al Mezera, 5277 Co. Hwy. MS, Boscobel, WI 53805  
Dale Anderson, 8546 Dragon Fly Road, Warrens, WI 54666

As interest may appear:

Fred J. Tiller, 11349 Tiller Lane, Blue River, WI  
Jim Collins, 17627 Hwy. T, Boscobel, WI 53805  
Mike Bailey, 17484 Bailey Road, Boscobel, WI 53805  
Vincent Limmex, Iowa Co. Land Conservation Committee, 4950 CTH C, Spring Green, WI 53588  
Bob Washa, Wis. Bowhunters Assn., 1775 Sonng Ridge Road, Highland, WI 53543

Charles Baumeister, 4816 Hwy. M, Boscobel, WI 53805  
Margaret Baumeister, 4816 Hwy. M, Boscobel, WI 53805  
Richard Welsh, 602 West Bluff Street, Boscobel, WI 53805  
Albert J. Kwallek, 601 W. Elm Street, Lancaster, WI  
Lynn Kirschbaum, 8320 Duncan Road, Glen Haven, WI 53810  
George Gremlerson, 15896 Riley Road, Boscobel, WI  
Greg Johnson, 17022 Kiwanis Road, Boscobel, WI 53805  
Greg Cerves, 20359 Hwy. A, Richland Center, WI 53581  
Barb Thompson, 1208 Skyview Drive, Lancaster, WI 53813  
Barbara Mergen, 10308 Hwy. 35, Box 426, Bloomington, WI 53804  
Charles Fralick, Grant Co. Sheriff's Dept., Box 8, 13215 Bluff, Glen Haven, WI 53810  
Bob Kliebenstein, The Country Today Newspaper, Belmont, WI  
Ole Seim, Jr., 4995 CTS, Boscobel, WI 53805  
Ed Wittbrodt, WGLR Radio, P.O. Box 587, 206 S. Sheridan Street, Lancaster, WI 53821

#### Response to Legislative Council Rules Clearinghouse Report

The recommendations for modifications were accepted.

The Rules Clearinghouse was concerned that the Technical Manual section was not compliant with statute intent nor was it compliant with rule development procedures. However, the Department disagrees and is seeking to incorporate the Technical Manual into the rule in s. NR 19.775 pursuant to s. 227.21, Stats. Then all standards and procedures in the Technical Manual would be in the rule as required by s. 29.598(2)(b), Stats.

The Rules Clearinghouse was also concerned that the Department did not have authority in statute to create a rule which defines "reasonable cause". Though this is true in regards to statute changes made in 1997 Wis. Act 27, possibly the Rules Clearinghouse was unaware that 1997 Wis. Act 237 established "reasonable cause" in s. 29.598, Stats.

#### Final Regulatory Flexibility Analysis

The proposed revisions to chs. NR 12 and 29 are unlikely to have a significant new economic impact on a substantial number of small businesses. Though Department and participating counties have serviced 2,419 growers in 1997, and these rules involve restrictions and accountability, they also involve implementation of statute which includes extensive increases of benefits to growers. These rules seek to make this program efficient, more accountable and clearer to understand and implement.

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

The Wisconsin Natural Resources Board proposes an order to renumber NR 12.001(2), 12.15(11), 12.16(b), 19.80(1) and 19.80(4)(a)4.; amend NR 12.10(1)(b)Note, 12.16(2)(a), 19.76(1), and (4), 19.78(1)(a) and (b), 19.79(2) and (3), 19.80(3), and 19.81(1); repeal and recreate 19.78(3) and 19.79(4); and create NR 12.001(2)(a), 12.15(11)(b), 12.15(13), 12.16(2)(b)1. and 2., 19.76(3m), (4e), (4m), (7) and (8), 19.775, 19.79(1)(b), 19.79(5), 19.795, 19.80(1)(b), 19.80(1)(c), 19.80(4)(a)4.b., 19.80(4)(a)5., 19.80(4)(a)6., 19.80(6), and 19.81(3)(d) and (e), relating to the wildlife damage abatement and claims program.

WM-21-98

3

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.59, 29.598, and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.59 and 29.598, Stats.

In this order:

SECTIONS 1, 2, 10 & 11 define terms.

SECTION 3 clarifies the new law which adds coyotes to those species where landowners can hunt or trap year round without a license or permit.

SECTIONS 4, 5 & 6 clarify bear shooting permit procedures.

SECTIONS 7, 8, 9, 23 & 24 establish criteria for determining deer are unavailable to be harvested under shooting permits and creates a process for granting exemptions for future shooting permit and claims eligibility. Furthermore, these sections create uniformity between the shooting permit program and the Wildlife Damage Abatement and Claims Program (WDACP).

SECTION 12 requires participating counties to use administration, abatement & claims procedures described in the department's WDACP Technical Manual, which is incorporated into the rule by reference.

SECTIONS 13 and 14 require explicit deadlines for accounting and distribution of program funds to participating counties.

SECTIONS 15, 16 & 17 establish criteria for implementing the new abatement cost-sharing of 75% by participating counties and participation standards for enrollees. This language also requires enrollee's to fully cooperate in the abatement implementation needs of the county or its agent, and the county or its agent may terminate an enrollee's program participation if there are abusive or violent contacts initiated by the enrollee.



SECTIONS 18 & 27 establish explicit requirements and procedures for implementing new laws governing hunting access, and seek to make the hunting access requirement more enforceable.

SECTIONS 19 & 20 establish eligibility criteria which excludes crops which are stranded in the field over winter for claims eligibility.

SECTION 21 designates crops left unharvested, after 90% of these crops in the county have been harvested, to be not in compliance with normal agricultural practices.

SECTION 22 establishes the methodology for prorating claims when funds are insufficient to cover all eligible claims.

SECTION 25 requires counties to prescribe deer damage shooting permits where enrollees have a 2 year history of damage losses exceeding \$1,000.

SECTION 26 requires enrollee's to fully cooperate in the appraisal implementation needs of the county or its agent, and the county or its agent may terminate an enrollee's program participation if there are abusive or violent contacts initiated by the enrollee.

SECTIONS 28 & 29 establish the requirement that all permanent fence projects must be approved by the department prior to funding and entering into a contract with an enrollee in order to assure that projects are warranted and are cost-effective.

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Section 1. NR 12.001(2) is renumbered NR 12.001(2)(b).

Section 2. NR 12.001(2)(a) is created to read:

NR 12.001(2)(a) "Lands suitable for hunting deer" has the meaning given in s. NR 19.76(4e).

Section 3. NR 12.10(1)(b)Note: is amended to read:

NR 12.10(1)(b)Note: Animals listed in s. 29.24, Stats., are beaver, foxes, raccoons, rabbits, squirrels, coyotes and woodchucks. However, s. 29.24, Stats., provides for the protection of coyotes from hunting during an open season for hunting deer with firearms in an area that is closed by the department by rule to coyote hunting.

Section 4. NR 12.15(11) is renumbered NR 12.15(11)(a).

Section 5. NR 12.15(11)(b) is created to read:

NR 12.15(11)(b) Bear damage shooting permits. Participation of others under bear damage shooting permits shall be restricted to those persons who have applied for a Class A or B bear hunting license under application procedures described in s. NR 10.102(2), and who have indicated on bear hunting license applications their willingness to assist farmers having bear damage problems. Participants shall possess a Class A or B bear hunting license when engaged in bear damage shooting permit activities, such as hunting or baiting.

Section 6. NR 12.15(13) is created to read:

NR 12.15(13) USE RESTRICTIONS. Hunting bear with the aid of dogs under this chapter is prohibited, unless the department determines there are extraordinary conditions which warrant an exemption. When the department grants an exemption, permittees may restrict hunting access of bear hunters using dogs if trespass problems on adjoining private properties are likely to occur.

Section 7. NR 12.16(2)(a) is amended to read:

NR 12.16(2)(a) Harvest objective. The permittee and participants, unless granted an exemption under par. (b), shall kill at least 80% of the number of deer authorized for harvest on the permit and shall kill at least 50% of ~~this the number of deer authorized for harvest during the first 45 days after permit issuance, to retain eligibility for future deer damage shooting permits.~~ The permittee is not eligible for a shooting permit the next year if the permittee fails to comply with these harvest objectives unless a shooting permit is prescribed damage abatement under s. 29.598, Stats.

Section 8. NR 12.16(2)(b) is renumbered to NR 12.16(2)(b)1.

Section 9. NR 12.16(2)(b)2. is created to read:

NR 12.16(2)(b)2. The department may grant an exemption to the harvest objective requirement in par. (a) if there is compelling evidence that deer were unavailable to be shot. The following criteria and procedures shall be used to determine if deer were unavailable to be shot.

a. Compelling evidence that deer were not available include accurate shooting permit participant hunting logs documenting significant hunter effort. These logs shall include participant names and phone numbers and dates participants hunted. If a significant number of hunters regularly attempted to remove deer, but were unsuccessful this information along with other supporting evidence may establish that deer were unavailable to be shot.

b. A minimum of 5 hunter days per week for the duration of the permit valid period may be used as an indication of significant hunter effort. A minimum of 5 hunter days per week requirement means any combination of hunters hunting deer a total of five days under the permittee's deer damage shooting permit during each week of the valid period of the permit. One day of hunting shall be a total of at least 3 hours hunted in a day or a hunter successfully harvesting at least one deer in a day.

c. If a permittee had difficulty getting participants, the permittee contacted the department, the county or its agent to seek assistance.

d. Documents to support the information in the hunting log of significant hunter effort to meet the harvest objective include: written statements by these hunters with descriptions of hunting conditions; aerial photos documenting lack of deer habitat; records

that show the permittee was in regular contact with county or its agent and local department staff keeping them informed of the permittee's difficulty; that the permittee implemented reasonable measures prescribed by the county, its agent or the department to improve shooting permit performance; and any other evidence deemed appropriate by the county, its agent and local department staff.

e. The county, its agent and the department shall consult before making a recommendation to grant an exemption to the harvest objective requirement under this section. This group shall review the evidence and, if there is consensus that an exemption is warranted, shall recommend that the department grant an exemption allowing eligibility for a permit the subsequent year.

Section 10. NR 19.76(1) and (4) are amended to read:

NR 19.76(1) "Contiguous land" means lands under the ownership, lease or control, ~~other than by lease,~~ of an applicant for deer, bear, turkey or goose damage payments which are connected to the lands subject to a claim application or separated only by a roadway, easement, license or waterway.

(4) ~~"Land~~ Lands suitable for hunting" means ~~lands~~ contiguous land where the conduct of hunting is not likely to result in a violation ~~of the law or damage to buildings and where it is probable an animal causing the damage may be harvested~~ under s. 29.22(1), 167.30, or 941.20(1)(d), Stats., and shall include all areas within the contiguous land under the same ownership, lease or control except those areas identified by the county or its agent pursuant to s. NR 19.795.

Note: This definition of "land suitable for hunting" shall be used to determine hunter numbers for access to hunt species other than deer.

Section 11. NR 19.76(3m), (4e), (4m), (4t), (7) and (8) are created to read:

NR 19.76(3m) "Enrollee" means a farmer, grower, livestock raiser, beekeeper, nursery operator, orchardist, Christmas tree grower, or other person or corporation or partnership enrolled in the wildlife damage abatement and claims program for services under this program.

(4e) "Land suitable for hunting deer" means woodlands, wetlands or other deer cover and cropland within 330 feet of deer cover on all contiguous land and where the conduct of hunting is not likely to result in a violation under s. 29.22(1), 167.30 or 941.20(1)(d), Stats., except those areas identified by the county or its agent pursuant to s. NR 19.795.

(4m) "Livestock holding areas" means barns, pole sheds and other buildings for the protection and sheltering of livestock.

(7) "Reasonable cause" means a presence of at least 2 hunters per 40 acres of land suitable for hunting or the presence of one hunter on less than 40 acres of land suitable for hunting; the hunter is intoxicated, has caused damage to property, littered, used abusive or

threatening language, used a firearm in violation with s. 941.20(1), Stats., used a vehicle or a permanent deer stand on enrolled land without being authorized by the enrollee; the hunter has otherwise engaged in, or displayed a propensity to engage in, conduct contrary to public safety or the protection of personal property; the hunter failed to seek permission or register to hunt; or failure of the hunter to comply with any of the conditions he or she certifies by his or her signature on hunting log forms provided by the county, its agent and the department, including failure to record the time of arrival and departure.

(8) "WDACP" means the wildlife damage abatement and claims program under s. 29.598, Stats., and this chapter.

Section 12. NR 19.775 is created to read:

NR 19.775 WDACP TECHNICAL MANUAL. The department's WDACP technical manual (Wildlife Damage Abatement and Claims Program Technical Manual, Volume 1/Reference Handbook/134pp., Volume 2/Field Handbook/153pp., Wis. Dept. of Natural Resources, July 1, 1998) shall specify WDACP procedures and requirements including the following:

(1) Authorized wildlife damage abatement measures and methods for implementing and paying for these abatement measures.

(2) Forms and procedures for payment and processing of statement of claims and applications for abatement assistance.

(3) Procedures and standards for determining the amount of wildlife damage.

(4) Procedures for record keeping, audits and inspections.

Note: Copies of any WDACP technical manual may be obtained from the Wildlife Damage Specialist, WDNR, Bureau of Wildlife Management, GEF 2, P.O. Box 7921, Madison, WI 53707-7921.

Section 13. NR 19.78(1)(a) and (b) are amended to read:

NR 19.78(1)(a) Except as provided in par. (b), the department shall, based upon the ~~applicant's~~ county's annual estimate of anticipated administrative and abatement costs ~~indicated in its plan,~~ advance to the county for administration purposes one-fourth the amount indicated in the ~~plan~~ annual estimate or one-fourth of such other amount deemed reasonable by the department ~~no later than January 15~~ within 30 days following ~~department approval of the application and plan of administration~~ annual budget estimate.

(b) ~~For the 1984 calendar year,~~ The department may not process an advance until the county has submitted a final reimbursement request for the year previous to that for which participation is applied for. Upon receipt of this reimbursement request, the advance payment shall be paid within 30 days of ~~plan~~ approval of the annual budget estimate.

Section 14. NR 19.78(3) is repealed and recreated to read:

NR 19.78(3) REIMBURSEMENT DEADLINES. Counties shall submit reimbursement requests for administration and abatement costs to the department quarterly according to the following schedule: by May 31 for the first quarter, January 1 through March 31; by August 31 for the second quarter, April 1 through June 30; by November 31 for the third quarter, July 1 through September 30; and no later than March 1 for the final reimbursement request for the fourth quarter, October 1 through December 31.

Section 15. NR 19.79(2) and (3) are amended to read:

NR 19.79(2) Abatement measures rendered by a county under s. 29.598, Stats, are limited to those which are approved in the plan detailed in the WDACP technical manual, or authorized in writing by the department and which are commonly accepted in the wildlife management profession as valid control measures and which are likely to be successful in reducing wildlife damage and shall be cost-effective as required by s. 29.598(5) (bm), Stats.

(3) Woven-wire deer-~~proof~~ barrier fences, for which an application has been approved by the county and department, under s. NR 19.81, shall be included in the plan for the calendar year succeeding the fence application, unless otherwise approved by the department.

Section 16. NR 19.79(4) is repealed and recreated to read:

NR 19.79(4) The county shall, as a condition of providing abatement assistance, require full cooperation and assistance of the enrollee in operating, maintaining and applying all abatement measures. An enrollee who engages in abusive or threatening language shall also be considered uncooperative. Uncooperative enrollees shall be ineligible for program abatement assistance for the remainder of the calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance the county or its agent shall notify the enrollee in writing that the enrollee's program participation is terminated.

Section 17. NR 19.79(5) is created to read:

NR 19.79(5)(a) Cost-sharing. In accordance with the WDACP technical manual, the county or its agent shall determine the actual costs of providing wildlife damage abatement assistance to provide 75% cost-sharing. For permanent damage abatement measures the enrollee shall provide 25% of the cost of materials and installation. For the purpose of determining the total cost of temporary damage abatement measures, cooperation by the enrollee in installation, construction, operation, notification if required, or maintenance of the temporary measure shall be considered 25% of its total costs. Permanent damage abatement measures include deer-barrier woven wire and high-profile electric fences. Temporary damage abatement measures include the use of temporary low-profile electric or barrier snow fencing, scare techniques, repellents, depredation shooting permits, trap and translocation, or other temporary methods determined by the department.

(b) All of the following costs of abatement measures are eligible for reimbursement to the county:

1. The costs of abatement equipment, supplies and services.
2. Installation costs that are part of the of 75% WDACP cost-share.

Section 18. NR 19.795 is created to read:

NR 19.795 OPEN HUNTING ACCESS REQUIREMENT. (1) Enrollees shall have hunting access control over all contiguous land on which they seek wildlife damage <sup>1</sup> abatement assistance or claims. Enrollees shall open their land to hunting, using one of the access options in sub. (3), during the regular hunting seasons for the species causing the damage for which they have enrolled in the WDACP as required by s. 29.598(7m), Stats. Enrollees may not charge any fees for hunting, hunting access or any other activity that includes hunting the species causing damage. This hunting access requirement shall also apply to enrollees who have also been issued a shooting permit under the authority of s. 29.59, Stats., and ch. NR 12.

(2) Enrollees shall enroll with the county by completing an agreement which certifies their hunting access control for all contiguous lands of the same ownership or control where wildlife damage is occurring and for which they are seeking program services under this chapter.

(3) Enrollees shall choose one of the 2 following hunting access options:

(a) Open public hunting for the species causing damage. The enrollee may not place limitations on which hunters or how many hunters may access the property enrolled by the enrollee. The enrollee may not require registration of hunters, but the hunter shall establish an acceptable arrangement with the enrollee for notifying the enrollee of the hunter's intent to hunt prior to hunting. The enrollee may choose how often notification is required and that notification be made in writing, by phone or in person each day the hunter intends to hunt or otherwise.

(b) Managed hunting access. Enrollee notification and hunter registration with the enrollee is required. The following provisions shall apply to the managed hunting access option:

1. Land suitable for hunting. The county, or its agent, shall determine the area of land suitable for hunting in accordance with the WDACP technical manual and this chapter. The following criteria shall be used to determine land suitable for hunting:

a. The acreage of land suitable for hunting as defined in s. NR 19.76(4) or (4e), depending on the species causing damage.

b. Enrollees may prohibit or restrict discharge of firearms within 100 yards of livestock holding areas.

c. Permanent deer fences. Land inside a permanent deer fence, which meets construction and maintenance standards in the WDACP technical manual, may not be considered land suitable for hunting.

2. Hunting access map. The county or its agent shall provide property maps to enrollees using aerial photos or plat maps to identify property boundaries and land suitable for hunting. The county, in consultation with the enrollee and in accordance with the WDACP technical manual, may delineate hunting zones for parcels of the property to assist the enrollee in distributing hunting effort to promote distribution of hunting effort and safety. The enrollee shall use these maps to explain to hunters boundaries and hunting constraints on the enrolled property.

3. Registration. To register for hunting access, hunters shall contact the program enrollee after obtaining the county's list. The county or its agent shall provide the current year's list and a fact-sheet which describes the WDACP hunting access system and the obligations of the hunter under this system. The hunter shall arrange a meeting with the enrollee. The enrollee shall describe the registration process, including completion of a hunting log, where the log will be located on the property, any hunting constraints on the property, and any information necessary to promote safety and prevent trespass. The registration form shall be provided to the enrollee by the county or its agent and be in the form of a log book following the format in the WDACP technical manual. The enrollee shall keep his or her hunting log current, recording hunters under this section and shooting permit participant hunters under ch. NR 12 to show compliance with the hunting access requirement. Enrollees shall make these records available for review by the county, its agent and department staff as required by s. 29.598(8r)(a), Stats.

4. Hunting access. Hunting access shall be on a first come, first serve basis. Hunters may contact enrollees before the dates they intend to hunt, but may not register until their intended hunting date. Hunters shall register by signing in on the hunting log every time they arrive to hunt and signing out on the hunting log every time they leave.

5. Hunter densities. The enrollee shall allow at least 2 hunters per 40 acres of land suitable for hunting at any given time of the appropriate hunting season. The enrollee and hunting members of the immediate family that reside in the enrollee's household may be counted towards this hunter density restriction.

6. Refusal. Enrollees may refuse hunting access for reasonable cause as defined in s. NR 19.76(7).

7. Complaints. Upon receiving a written complaint from a hunter denied access, the county, its agent or the department shall review hunting access records required under this chapter to verify compliance. Verification that access requirements have been violated shall require the county or its agent to deny further abatement and claims assistance to the enrollee for the calendar year in which the violation occurred. In addition, an enrollee may be subject to the penalties in s. 29.598(10), Stats.

8. Enrollee registration. An enrollee and his or her immediate family who live year round on the enrollee's property shall register by signing in on the daily hunting access log when they hunt.

9. Parking. Enrollees shall ensure adequate parking exists with enough parking area to accommodate the minimum required number of hunters and shall clearly describe these arrangements to the hunters.

(4) The county shall maintain the current year's list of all enrollees and make the list available upon request for public inspection.

(5) Hunters may hunt only the species causing damage unless the enrollee or landowner has granted permission to hunt other species.

Note: Hunting other species or engaging in other activities not authorized by the enrollee or landowner may be considered trespass in violation of s. 943.13, Stats.

(6) Enrollees may restrict hunting access of bear hunters using dogs if trespass on adjoining private properties is likely to occur.

(7) Motorized vehicles may not be used anywhere but the designated drive-way and parking location on the enrollee's land unless authorized by the enrollee.

(8) Access hunters may not use permanent deer stands on enrolled properties unless authorized by the enrollee. An access hunter may use his or her own portable stand, but it shall be removed daily at the end of shooting hours, unless otherwise authorized by the enrollee. When registering on the hunting log, the hunter shall certify that he or she holds the enrollee and landowner harmless from any injuries associated with the hunter's hunting activity on the enrolled property, including any authorized use of hunting stands.

(9) Exemption. The hunting access requirement does not apply to enrollees where the damage is to apiaries on lands where the applicant does not have hunting access control, pursuant to s. 29.598(7m)(am), Stats.

(10) Posting. Enrollees may not post the enrolled land "no hunting" or "no trespassing" and shall remove any such existing signs. Enrollees may post their lands "hunting by permission only".

Section 19. NR 19.80(1) is renumbered to NR 19.80(1)(a).

Section 20. NR 19.80(1)(b) is created to read:

NR 19.80(1)(b) Row crops which are stranded by weather catastrophe over winter are not eligible for wildlife damage claims.

Section 21. NR 19.80(1)(c) is created to read:



NR 19.80(1)(c) Row and forage crops remaining unharvested after 90% of these crops have been harvested in the county are not in compliance with normal agricultural practices, as required by s. 29.598(6)(dm), Stats.

Section 22. NR 19.80(3) is amended to read:

NR 19.80(3) If the approved claims exceed the funds available, claims shall be paid on a prorated basis. When prorating claims, the department shall pay a percent of each eligible claim equivalent to the percent of the total approved claim amount that can be paid with the total available funds.

Section 23. NR 19.80(4)(a)4. is renumbered to NR 19.80(4)(a)4.a.

Section 24. NR 19.80(4)(a)4.b. is created to read:

NR 19.80(4)(a)4.b. The county may adopt an exemption recommendation resulting from procedures described in s. NR 12.16(2)(b)2. for a permittee enrolled in the WDACP.

Section 25. NR 19.80(4)(a)5. is created to read.

NR 19.80(4)(a)5. If an enrollee has participated in the WDACP the previous 2 years, and each year had in excess of \$1,000 of appraised deer damage losses documented on claim applications on contiguous land, to be eligible for claims the enrollee shall apply for a deer damage shooting permit under s. 29.59, Stats., and ch. NR 12 and comply with subd. 4.

Section 26. NR 19.80(4)(a)6. Is created to read.

NR 19.80(4)(a)6. The county shall, as a condition of providing claims assistance, require full cooperation and assistance of the enrollee in operating, maintaining and applying appraisal equipment as deemed needed by the county or its agent. An enrollee who engages in abusive or threatening language shall also be considered uncooperative. Uncooperative enrollees shall be ineligible for program claims assistance for the remainder of the calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance the county or its agent shall notify the enrollee in writing that the enrollee's program participation is terminated.

Section 27. NR 19.80(6) is created to read:

NR 19.80(6) In order to be eligible for claims a claimant shall comply with the hunting access provisions described in s. NR 19.795.

Section 28. NR 19.81(1) is amended to read:

NR 19.81(title) WOVEN-WIRE AND ELECTRIC DEER BARRIER FENCE CONSTRUCTION. (1) Specific applications and funding for woven-wire and electric deer ~~proof~~ barrier fences shall be approved by the department and county and included in the

county plan. Woven-wire and electric deer barrier fences are permanent, high-profile fences built to function 15 years or more.

Section 29. NR 19.81 is created to read:

NR 19.81(5)(a) The county and its agent shall follow permanent deer fence project development, contracting, bidding, funding, billing, and contract term inspection procedures detailed in the WDACP technical manual.

(b) A permanent fence contract approved by the department shall be used by the county and its agent for any WDACP funded fence. In addition, the county and its agent may not solicit bids for a fence contract without written approval of the department. This contract shall be signed by the enrollee, the county and its agent, and the department prior to expenditure of program funds for fence costs.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 23, 1998.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)

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

The Wisconsin Natural Resources Board proposes an order to renumber NR 19.80(1); amend NR 19.76(1), and (4), 19.78(1)(a) and (b), 19.79(2) and (3), and 19.81(1); repeal and recreate 19.78(3) and 19.79(4); and create NR 19.76(3m), (4e), (4m), (4t), (7) and (8), 19.775, 19.79(1)(b), 19.79(5), 19.795, 19.80(1)(b), 19.80(6), and 19.81(3)(d) and (e) relating to wildlife damage abatement and claims program

WM-22-98(E)

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.59, 29.598, and 227.24 Stats. and 9137(11x)(b), Wis. Act 27 (1997)

Statutes interpreted: ss. 29.59 and 29.598, Stats.

In this order:

SECTIONS 1 & 2 define terms.

SECTION 3 requires participating counties to use administration, abatement & claims procedures described in the department's WDACP Technical Manual.

SECTIONS 4 & 5 require explicit deadlines for accounting and distribution of program funds to participating counties.

SECTIONS 6, 7 & 8 establish criteria for implementing the new abatement cost-sharing of 75% by participating counties and participation standards for enrollees.

SECTIONS 9, 10 & 11 establish explicit requirements and procedures for implementing new laws governing hunting access, and seek to make the hunting access requirement more enforceable.

SECTIONS 12 & 13 establish the requirement that all permanent fence projects must be approved by the department prior to funding and entering into a contract with an enrollee in order to assure that projects are warranted and are cost-effective.

Section 1. NR 19.76(1) and (4) are amended to read:

NR 19.76(1) "Contiguous land" means lands under the ownership, lease or control, ~~other than by lease,~~ of an applicant for deer, bear, turkey or goose damage payments which are connected to the lands subject to a claim application or separated only by a roadway, easement, license or waterway.

(4) ~~"Lands Land suitable for hunting" means lands contiguous lands where the conduct of hunting is not likely to result in a violation of the law or damage to buildings and where it is probable an animal causing the damage may be harvested, under s. 29.22(1), 167.30, or 941.20(1)(d), Stats., and shall include all such areas within the contiguous acres under the same ownership, lease or control except those areas identified by the county pursuant to s. NR 19.79(6).~~

Note: This definition of "lands suitable for hunting" shall be used to determine hunter numbers for access to hunt species other than deer.

Section 2. NR 19.76(3m), (4e), (4m), (4t) and (7) are created to read:

NR 19.76(3m) "Enrollee" means a farmer, grower, livestock raiser, beekeeper, nursery operator, orchardist, Christmas tree grower, or other person, corporation or partnership enrolled in the wildlife damage abatement and claims program for services under this program.

(4e) "Land suitable for hunting deer" means lands with woodlands, wetlands or other deer cover and cropland within 330 feet of deer cover on all contiguous land and where the conduct of hunting is not likely to result in a violation under s. 29.22(1), 167.30 or 941.20(1)(d), Stats., except those areas identified by the county pursuant to s. NR 19.79(6).

(4m) "Livestock holding areas" are barns, pole sheds or other buildings for the protection and sheltering of livestock.

(4t) "Livestock pastures" are areas where livestock are allowed to roam freely to forage and exercise.

(7) "Reasonable cause" means a presence of at least 2 hunters per 40 acres of land suitable for hunting or the presence of one hunter on less than 40 acres of land suitable for hunting; the hunter is intoxicated, has caused damage to property, littered, used abusive or threatening language, used a firearm in violation with s. 941.20(1) Stats., used a vehicle or a permanent deer stand on enrolled land without being authorized by the enrollee; the hunter has otherwise engaged in, or displayed a propensity to engage in, conduct contrary to public safety or the protection of personal property; or if the hunter fails to seek permission or register to hunt.

(8) "WDACP" means the wildlife damage abatement and claims program.

Section 3. NR 19.775 is created to read:

NR 19.775 WDACP TECHNICAL MANUAL. The department's WDACP technical manual shall specify WDACP procedures and requirements including the following:

(1) Authorized wildlife damage abatement measures and methods for implementing and paying for these abatement measures.

(2) Forms and procedures for payment and processing of statement of claims and applications for abatement assistance.

(3) Procedures and standards for determining the amount of wildlife damage.

(4) A methodology for proration of wildlife damage claim payments.

(5) Procedures for record keeping, audits and inspections.

Note: Copies of the WDACP technical manual may be obtained from the Wildlife Damage Specialist, WDNR, Bureau of Wildlife Management, GEF 2, P.O. Box 7921, Madison, WI 53707-7921.

Section 4. NR 19.78(1)(a) and (b) are amended to read:

NR 19.78(1)(a) Except as provided in par. (b), the department shall, based upon the ~~applicant's county's annual estimate of anticipated administrative and abatement costs indicated in its plan, advance to the county for administration purposes one-fourth the amount indicated in the plan annual estimate or one-fourth of such other amount deemed reasonable by the department no later than January 15 within 30 days following department approval of the application and plan of administration annual budget estimate.~~

(b) ~~For the 1984 calendar year,~~ The department may not process an advance until the county has submitted a final reimbursement request for the year previous to that for which participation is applied for. Upon receipt of this reimbursement request the advance payment shall be paid within 30 days of plan budget approval.

Section 5. NR 19.78(3) is repealed and recreated to read:

NR 19.78(3) REIMBURSEMENT DEADLINES. Counties shall submit reimbursement requests for administration and abatement costs to the department quarterly according to the following schedule: by April 30 for the first quarter, January 1 through March 31; by July 31 for the second quarter, April 1 through June 30; by October 31 for the third quarter, August 1 through September 30; and no later than March 1 for the final reimbursement request for the fourth quarter, October 1 through December 31.

Section 6. NR 19.79(2) and (3) are amended to read:

NR 19.79(2) Abatement measures rendered by a county under s. 29.598, Stats, are limited to those which are ~~approved in the plan detailed in the WDACP technical manual, or authorized in writing by the department and which are commonly accepted in the wildlife management profession as valid control measures and which are likely to be successful in reducing wildlife damage and shall be cost-effective as required by s. 29.598(5)(bm), Stats.~~

(3) ~~Woven-wire deer-proof barrier fences, for which an application has been approved by the county and department, under s. NR 19.81, shall be included in the plan for the calendar year succeeding the fence application, unless otherwise approved by the department.~~

Section 7. NR 19.79(4) is repealed and recreated to read:

NR 19.79(4) The county shall, as a condition of providing abatement assistance, require full cooperation and assistance of the applicant in operating, maintaining and applying all abatement measures.

Section 8. NR 19.79(5) is created to read:

NR 19.79(5)(a) Cost-sharing. In accordance with the WDACP technical manual, the county shall determine the actual costs of providing wildlife damage abatement assistance to provide 75% cost-sharing. For permanent damage abatement measures the enrollee shall provide 25% of the cost of materials and construction. For the purpose of determining the total cost of temporary damage abatement measures, cooperation by the enrollee in installation, construction, operation, notification if required, or maintenance of the temporary measure shall be considered 25% of its total costs.

Note: Permanent damage abatement measures include deer-barrier woven wire and high-profile electric fences. Temporary damage abatement measures include the use of temporary low-profile electric or barrier snow fencing, scare techniques, repellents, depredation shooting permits, trap and translocation, or other temporary methods determined by the department.

(b) Costs of abatement measures which are eligible for reimbursement to the county are:

1. The costs of abatement equipment and supplies.
2. Installation costs that are part of the 75% WDACP cost-share.
3. Other costs determined by the department.

Section 9. NR 19.795 is created to read:

NR 19.795 OPEN HUNTING ACCESS REQUIREMENT. (1) Enrollees shall have hunting access control over all contiguous land on which they seek wildlife damage abatement assistance or claims. Enrollees shall open their land to hunting, using one of the access options in (b)2., during the regular hunting seasons for the species causing the damage for which they have enrolled in the WDACP as required by s. 29.598(7m), Stats. Enrollees shall not charge any fees for hunting, hunting access, or any other activity that includes hunting the species causing damage. This hunting access requirement shall also apply to enrollees who have also been issued a shooting permit under the authority of s. 29.59, Stats., and ch. NR 12.

(2) Enrollees shall enroll with the county by completing an agreement which certifies their hunting access control for all contiguous lands of the same ownership or control where wildlife damage is occurring and for which they are seeking program services under this chapter.

(3) Enrollees shall choose one of the 2 following hunting access options:

(a). Open public hunting for the species causing damage. The enrollee may not place limitations on which hunters or how many hunters may access the property enrolled by the enrollee. The enrollee may not require registration of hunters, but the hunter shall establish an acceptable arrangement with the enrollee for notifying the enrollee of the hunter's intent to hunt prior to hunting. The enrollee may choose how often notification is required and that notification be made in writing, by phone or in person each day the hunter intends to hunt or otherwise. This notification shall include the hunter's name, address, vehicle license number and the time and date the hunter intends to hunt.

(b) Managed hunting access. Enrollee notification and hunter registration with the enrollee is required.

1. Land suitable for hunting. The county, or its agent, shall determine the area of land suitable for hunting in accordance with the WDACP technical manual and this chapter. The following criteria shall be used to determine land suitable for hunting:

a. The acreage of land suitable for hunting as defined in s. NR 19.76(4) or (4e), depending on the species causing damage.

b. Livestock pastures which are wooded, wetlands or other deer cover, or a part thereof within 330 feet of deer cover shall be considered land suitable for hunting.

c. Enrollees may prohibit or restrict discharge of firearms within 100 yards of livestock holding areas.

d. Permanent deer fences. Land inside a permanent deer fence, which meets construction and maintenance standards in the WDACP technical manual, may not be considered land suitable for hunting.

2. Hunting access map. The county or its agent shall provide a property map to the enrollee using aerial photos or plat maps to identify property boundaries and land suitable for hunting. The county, in consultation with the enrollee and in accordance with the WDACP technical manual, may delineate hunting zones for parcels of the property to assist the enrollee in distributing hunting effort to promote distribution of hunting effort and safety. The enrollee shall use these maps to explain to hunters boundaries and hunting constraints on the enrolled property.

3. To register for hunting access hunters shall contact the program enrollee by obtaining the county's list. The county shall provide the current year's list and a fact-sheet which describes the WDACP hunting access system and the obligations of the hunter under this system. The hunter shall arrange a meeting with the enrollee. The enrollee shall describe the registration process, including completion of a hunting log, where the log will be located on the property, any hunting constraints on the property, and any information necessary to promote safety and prevent trespass. The registration form shall be provided to the enrollee by the county and be in the form of a log book following the format in the WDACP technical manual. The enrollee shall keep his or her hunting log current, recording hunters under this section and shooting permit "participant" hunters under ch. NR 12 to show compliance with the hunting access requirement. Enrollees shall make these records available for review by county or department staff as required by s. 29.598(8r)(a), Stats.

4. Hunting access shall be on a first come, first serve basis. Hunters may contact enrollees before the dates they intend to hunt, but may not register until their intended hunting date or the day before. If hunters return to hunt, they shall again register by signing in on the hunting log upon arrival.

5. The enrollee shall allow at least 2 hunters per 40 acres of land suitable for hunting at any given time of the appropriate hunting season. The enrollee and hunting members of the immediate family that reside in the enrollee's household may be counted towards this hunter density restriction.

6. Enrollees may refuse hunting access for reasonable cause as defined in s. NR 19.76(7).

7. Upon receiving a written complaint from a hunter denied access, the county, its agent or the department shall review hunting access records required under this chapter to verify compliance. Verification that access requirements have been violated shall require the county to deny further abatement and claims assistance to the enrollee for the calendar year in which the violation occurred. In addition, an enrollee may be subject to the penalties in s. 29.598(10), Stats.

8. An enrollee and his or her immediate family who live year round on the enrollee's property shall register by signing in on the daily hunting access log when they hunt.

(4) The county shall maintain the current year's list of all enrollees.

(5) Hunters may hunt only the species causing damage unless the enrollee or landowner has granted permission to hunt other species. Hunting other species or engaging in other activities not authorized by the enrollee or landowner may be considered trespass in violation of s. 943.13, Stats.

(6) Enrollees may restrict hunting access of bear hunters using dogs if trespass on adjoining private properties is likely to occur.

(7) Motorized vehicles may not be used anywhere but the designated drive-way and parking location on the enrollee's land unless authorized by the enrollee.

(8) Access hunters may not use permanent deer stands on enrolled properties unless authorized by the enrollee. An access hunter may use his or her own portable stand, but it shall be removed daily at the end of shooting hours, unless otherwise authorized by the enrollee. When registering on the hunting log, the hunter shall certify that he or she holds the enrollee and landowner harmless from any injuries associated with the hunter's hunting activity on the enrolled property, including any authorized use of hunting stands.

(9) Exemption. The hunting access requirement does not apply to enrollees where the damage is to apiaries on lands where the applicant does not have hunting access control, pursuant to s. 29.598(7m(am)), Stats.

Section 11. NR 19.80(1) is renumbered to NR 19.80(1)(a).

Section 12. NR 19.80(6) is created to read:

NR 19.80(6) OPEN HUNTING ACCESS REQUIREMENT. In order to be eligible for claims a claimant shall comply with the hunting access provisions described in s. NR 19.795.

Section 13. NR 19.81(1) is amended to read:

NR 19.81(title) WOVEN-WIRE AND ELECTRIC DEER BARRIER FENCE CONSTRUCTION. (1) Specific applications and funding for woven-wire and electric deer-proof barrier fences shall be approved by the department and county and included in the county plan.

Note: Woven-wire and electric deer barrier fences refer to permanent, high-profile fences which are intended to last over an extended period of time, commonly 15 years or better.



Section 14. NR 19.81(3) (d) and (e) are created to read:

NR 19.81(3)(d) The county shall follow permanent deer fence project development, contracting, bidding, funding, billing, and contract term inspection procedures detailed in the WDACP technical manual.

(e) A permanent fence contract approved by the department shall be used by the county for any WDACP funded fence. In addition, the county may not solicit bids for a fence contract without written approval of the department. This contract shall be signed by the enrollee, the county and its agent and the department prior to expenditure of program funds for fence costs.

Pursuant to s. 9137(11x)(b), Wis. Act 27 (1997), the department is not required to make a finding of emergency for this rule promulgated under s. 227.24, Stats.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 24, 1998.

The rule shall take effect on the day of publication in the official state newspaper.

Dated at Madison, Wisconsin June 25, 1998

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer  
George E. Meyer, Secretary

(SEAL)

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

**FISCAL ESTIMATE**

DOA-2048 N(R10/94)

Subject WILDLIFE DAMAGE ABATEMENT & CLAIMS PROGRAM RULES TO IMPLEMENT 97 Act 27 & AA48 to ASA 1 to 97 AB 768

**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 Ch. 20 Appropriations**

20.370 (5)(gq)

**Assumptions Used in Arriving at Fiscal Estimate PERMANENT ORDER[WM-21-98]**

**SUMMARY OF RULE** - Statutory changes in the WDACP include an increase in the maximum claim from \$5,000 to \$15,000, a requirement for whole farm appraisals, an increase in the abatement cost-sharing rate from 50% to 75%, a hunting access requirement, the inclusion of harvested crops as eligible for claims and abatement, and the addition of wild turkeys to the list of depredating animals, all of which are addressed in the emergency order. Statutory changes in the budget bill also explicitly directed the department to promulgate rules for eligibility and funding requirements, to maximize cost-effectiveness, and to give direction to counties and enrollees on administration, abatement and claims procedures. In addition to these legislative directives, the department seeks, through the permanent rule, to make WDACP more cost effective, establish clear criteria for reviewing claims, and improve consistency in the use of shooting permits as a damage abatement technique.

**FISCAL IMPACT OF RULE** - Implementation of the 1997 Wisconsin Act 27 and the amendment to this Act passed in AA 48 to ASA1, to 97 AB 768 will cost \$3,037,990 in NEW claims, administration and abatement costs, offset by \$46,076 NEW revenues from the newly created turkey license surcharge (see attached table). The total estimated cost of implementing the new rule will be \$77,285. A total of \$66,128 will be incurred by counties but will be reimbursed by the department, so the total cost of \$77,285 will accrue to the state. There will also be a savings from 2 changes to the rule of \$311,975 for a net total of an estimated \$234,690 in costs savings. These costs and savings from the permanent rule accrue as follows:

1. Rules regarding Deer Shooting Permits and Harvest Objective Compliance—1 hour/county; 3 staff; \$25/staff for sal. & travel; 60 co.=\$4,500
2. Rules requiring County use of the WDACP Tech. Manual—Devel. \$25,000 plus printing \$10,000 plus training \$1,000=\$36,000
3. Rule requiring County quarterly reimbursement requests & DNR funding procedures—67 counties X 1hr. X 4 times/yr X\$12 sal.=\$3,216
4. Department and County implementation of the new hunting access administrative code procedures—67 countiesX2 complaints/countyX2 hrs. X\$15 /hr.=\$4,020; 2,419 participantsX5.52% annual participation increaseX\$3.00/log=\$7,659; hunting access training & Adm.=2,553 98 participants X\$22.50 (1.5 hrs staff time for map devel. and training of enrollee)=\$57,443; \$57,443 + \$7,659 + \$4,020=\$69,122
5. Elimination of overwinter claims—will vary from year to year (1991 had Halloween storm, 1993 had excellent harvest conditions). Overwinter claims \$250,000 in 1991, \$0 in 1993, average \$125,000 claims savings, plus 75 claimants X \$273 mean admin. costs per claim=\$20,475.
6. Shooting permit abatement requirement—105 1997 claimants needed shooting permits but they were not prescribed, 5.52% increase participation each year, 1hr/permit County time at \$15/hr & 1hr/permit DNR time at \$18/hr—[(105X5.52%+105)X\$15 County sal. & bene.] + [(105X5.52%+105)X \$18 State sal. & bene.]=\$1,665 County + \$1998 State=\$3,663 Cost, Would save \$1,500/claim in losses if prescribed by the county early in summer, or 111 X \$1,500=\$166,500.

**Long-Range Fiscal Implications**

Continual as described above.

Agency/Prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

Joe Polasek, 266-2794

5-19-98

# FISCAL ESTIMATE WORKSHEET

1998 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTA

LRB or Bill No./Adm. Rule  
WM-21-98

Amendment No.

Subject

WDACP Rules to Implement 97 WI Act 27 Program Changes

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):  
Approximately \$36,000.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$ 11,157	\$ 0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	0
Local Assistance	66,128	0
Aids to Individuals or Organizations	0	311,975
<b>TOTAL State Costs by Category</b>	<b>\$ 77,285</b>	<b>\$ 311,975</b>
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ 0
FED	0	0
PRO/PRS	0	0
SEG/SEG-S	77,285	311,975
III. State Revenues: Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$ 0	\$ 0
GPR Earned	0	0
FED	0	0
PRO/PRS	0	0
SEG/SEG-S	46,076	0
<b>TOTAL State Revenues</b>	<b>\$ 46,076</b>	<b>\$ 0</b>

	STATE	LOCAL
NET CHANGE IN COSTS	\$ (-234,690)	\$ 66,128
NET CHANGE IN REVENUES	\$ 0	\$ 66,128

Agency/Prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

DNR, Joe Polasek, 266-2794

*Joe Polasek*

5-19-98

Fiscal Impact of 1997 Wisconsin Act 27 and Associated Proposed Administrative Rules

ISSUE	ESTIMATE OF COST	SOURCE OF CHANGE
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Costs of Expanded, Added or Enhanced Services

Claims Cap Increase to \$15,000	\$760,000	Statute
Beekeeper Exemption for Abatement	\$732,465	Statute
Full Farm Appraisals	\$330,436	Statute
Stored Crops Admin., Abate, & Claims	\$310,237	Statute
Cost Sharing Increase to 75%	\$225,562	Statute
Turkey Admin. & Abate. *	\$ 83,538	Statute
Harvest Objective Compliance Admin.	\$ 4,500	Rule
Technical Manual Devel. & Admin.	\$ 36,000	Statute & Rule
Quarterly Reimbursement Requirement	\$ 3,216	Rule
Hunting Access Training & Admin.	\$ 61,463	Statute & Rule
Hunting Access Materials	\$ 7,659	Rule
Shooting Permit Abatement Requirement	\$ 3,663	Rule

Costs of Reduced Funding Through Surcharge Diversion\*\*

Urban Wildlife Control Grant Program	\$ 25,000	Statute
Urban Wildlife Biologist	\$ 46,200	Statute
Wildlife Damage Assistant & Services	\$50,000	Statute

Costs Subtotal - \$3,037,990

Added Funding

Turkey License Surcharge	+ \$ 46,076	Statute
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Rule Change Savings

Ineligibility of Overwinter Claims	+ \$145,475	Rule
Shooting Permit Abatement Requirement	+ \$166,500	Rule

Savings & Revenue Subtotal + \$358,051

Total -\$2,679,939

\*Estimated Cost of Turkey Administration & Abatement ONLY, Do Not Expect Turkey Claims Appraisal to exceed \$250 deductible.

\*\*These Revenues Were Diverted From the WDACP By the Legislature in Act 27.

July 11, 1998

5294

Attention: Laine Stowell

From: Philip Sommers - W4276 Crown Rd, Pardeeville WI 53954

Subject: Comments on NRB WM-21-98 Rules - Hearing

Issue: Hunting Access - Section 18+24 (NR 19.795)

Topic: Informing permittees of intent to hunt -  
To be eligible to hunt, the permittee should be informed before the 1<sup>st</sup> day of any eligible season of the hunters intent to hunt. To be available for hunter interviews for the duration of the hunting season is an invasion of the permittees privacy. If the permittee is not informed of hunting intent before the beginning of the season, they should not be allowed access

Philip Sommers

July 9 1998

Dear Mr. Wallenfang,

A letter in response to "2000". First of all farmers are not a special interest group. As private property owners they have a primary interest in the economical impact wild life has on their livelihood. The sportsmans interest in private concerns is a passive interest. Farmers should have the right to protect crops and property or else be compensated for it.

After much thought a program that would address the property owners rights, the sportsmans concerns, and the States' Finacial ability are high lighted in a letter to Pat Kaiser dated May 28, 1998 which is attached. Also attached is a letter to Laine Stowell dated July 5, addressing the Hunting access issue. Also included are several other letters stating my position on this subject.

Hunting access prevents alot of farmers from participating in programs. You've not yet heard from most of them.

Sincerely  
Philip J. Sommers  
w 4276 Crown Rd  
Pardeeville, W. 53954

*Philip J. Sommers*

# Open season in the city?

## Alderman considers in-city hunt to control those pesky deer

SUZANNE YENCHESKY  
DAILY REGISTER

PORTAGE — Portage's urban deer population is booming, and a city alderman has a potential solution to the situation — a restricted bow hunt within city limits.

Alderman Tom Derse is contemplating the hunt because of complaints he has received about the number of deer in the city destroying people's gardens and landscaping.

"I have been getting a lot of complaints about people who are trying to grow gardens and they have deer eating them or killing their plants," Derse said. "People spend a heck of a lot of time and money to make their yards look nice, and they're being destroyed."

"We've had deer problems in the past, but never this bad," said Parks and Recreation Director Tim Raimer. "They're in the city no matter where you are. I saw one south of Grandpa's Place crossing Wisconsin Street."

Derse said part of the problem is brought about by residents.

"It's against city ordinance for people to feed deer, but people do it anyway because they're nice to

## DEER

From Page 1

look at," Derse said, "And there's plenty of them to look at, but there's also plenty of natural food. People in the country with gardens don't have the problems we do."

Portage Police Department Shift Supervisor Tom Moore warns drivers, especially late at night, to be careful of heavily-travelled deer crossings.

Moore said the deer are particularly thick near swamp land by New Pinery Road and Hamilton, Slifer and Albert streets.

"There's an awful large amount of deer traveling through those areas," Moore said.

If individuals are struggling with deer problems, there are several courses of action they can take.

- Above all, do not feed the deer.

- Discourage neighbors from feeding them.

- Build a fence around the property.

"Nothing really frightens the deer in the city," Derse said.

"People or animals can be near them, and they won't move."

The deer aren't only getting bolder, but more fertile as well, Derse said.

"It used to be rare that deer had twins, and now twins are commonplace," Derse said. "Triplets used to be very rare, and now they are even becoming more popular. Deer are becoming very prolific in their breeding."

If people are in support of a deer population-reducing ordinance, they should send letters to the city and their council representatives, so they have a record of their concerns.

"We can put together some type of ordinance that won't hurt anyone," Derse said. "It would be strictly bowhunting in the more remote areas of town."

Moore said that trapping is not the answer to reduce the problem.

"Trappings just aren't cost effective, but there is a problem, because they are destroying shrubbery and killing trees," Moore said.

"We do have to do something," Derse said.



P.O. Box 7882  
MADISON, WI 53707-7882  
(608) 266-0751

P.O. Box 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 14, 1998

Mr. George Meyer, Secretary  
Department of Natural Resources  
5<sup>th</sup> Floor; 101 S. Webster  
P. O. Box 7921  
Madison, Wisconsin 53707-7921

Dear Secretary Meyer;

We are writing this letter to call your attention to a problem with an administrative rule that has been submitted to the legislature. The rule deals with the Wildlife Damage Abatement and Claims Program covered in Section 29.598 (2)(b). This statute requires that rulemaking occur for the purpose of creating administrative code. It is our understanding that the draft rule submitted by the department has measures and procedures in s. NR 19.775 specified in a technical manual rather than in the administrative codes.

We wish that you would look into this matter and correct this error so that the rule will be in compliance with s. 227.10(1), Stats., This statute requires agencies to promulgate as rules each statement of general policy and each interpretation of a statute that it specifically adopts to govern its enforcement or administration of the statute.

In closing, your prompt attention to this matter will be appreciated.

Sincerely,

Senator Robert T. Welch,  
Senate Co-Chairperson

Representative Glenn Grothman  
Assembly Co-Chairperson