

98-093 NR 50.23 - WILDLIFE ABANDONMENT  
CONTROL GRANTS

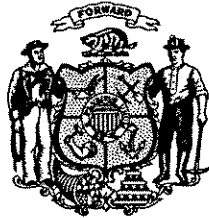
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***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 98-093**

AN ORDER to create NR 50.23, relating to wildlife abatement and control grants for urban communities.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-30-98      RECEIVED BY LEGISLATIVE COUNCIL.  
07-28-98      REPORT SENT TO AGENCY.

RS:RJC;jt;rv

**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)]

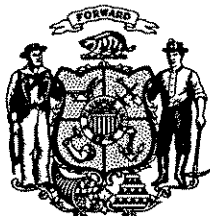
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 98-093

### 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

Section 29.595, Stats., authorizes a wildlife damage control program that appears to be intended for urban areas of the state. The program created by the rule, although identified as a grant program for urban communities, does not appear to limit the types of communities that may apply for the grants. Although the rule defines "urban area," the term does not seem to come into play in limiting the communities eligible for the grants. In addition, the definition of "municipality" in s. NR 50.23 (3) (a) appears to be very broad since towns, villages, counties or tribal governments can be very small and remote communities that have no urban characteristics. Given the apparent intent of s. 29.595, Stats., to create a wildlife damage control program for urban communities, as opposed to just a wildlife damage control program for all communities, the rule should be reviewed to ensure that the Legislature's intent has been met.

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

- a. In s. NR 50.23, subs. (2) and (3) should precede sub. (1). [s. 1.02 (3), Manual.]
- b. In s. NR 50.23 (3), the phrase "In this section:" should be inserted after the title.

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

- a. The analysis of the rule in the cover letter to the Rules Clearinghouse says that the program created by the rule has spending authority of \$225,000 annually. 1997 Wisconsin Act

27 set the yearly appropriation for the program at \$25,000. The rule's fiscal note correctly identifies this amount. The analysis to the rule should be corrected. [Also, unless the cover letter will accompany all future versions of the rule, a separate analysis of the rule should be included on the first page of the rule.]

b. If s. NR 50.23 (4) is intended to limit eligible projects to only those designed to control damage caused by white-tailed deer and Canada geese, it should be amended to reflect that intent. As currently drafted, it is not clear whether projects designed to control damage from other wildlife would qualify for program grants.

c. In s. NR 50.23 (5) (intro.), it appears that the word "of" should be inserted between "costs" and "wildlife" and that the phrase "do any of the following" should immediately precede the colon.

d. In s. NR 50.23 (5) (a), what populations are to be monitored and estimated? Wildlife populations? The rule should be clarified.

e. To improve its helpfulness, the Note to s. NR 50.23 (6) (a) could also include information on how to find the "appropriate department regional office" to which the applications must be sent.

f. Section NR 50.23 (6) (b) (intro.) requires plans to be completed within "2 years of the date of an approved grant." Is the date of an approved grant the date on which an application is accepted, a grant agreement is entered into or a grant is made by the department? The rule should be clarified as to exactly when the two-year time period begins. [This comment also applies to s. NR 50.23 (6) (f).] Also, is it the intent of the rule to require that the application for a wildlife control grant include the applicant's proposed wildlife control plan so that the department can approve it? Sub. (6) (b) (intro.) should be clarified accordingly. Finally, in sub. (6) (b) (intro.), the phrase "all of" should be inserted before the phrase "the following."

g. In s. NR 50.23 (6) (b) 2. and 3., the use of the phrase "and/or" should be avoided. [See s. 1.01 (9) (a), Manual.]

h. Section NR 50.23 (6) (c) requires applicants to comply with applicable laws. Does this requirement also apply to municipalities that have been awarded grants? Also, the word "regulations" should be replaced by the word "rules."

i. The first sentence of s. NR 50.23 (6) (d) should be rewritten as follows: "The department shall notify a successful applicant and send a grant agreement to the applicant." Also, is there a time period in which notifications must be made to successful grant applicants?

j. In s. NR 50.23 (6) (f), the phrase "that was" should be inserted before the word "inappropriately." In addition, par. (f) requires repayment of the grant plus "interest accrued." How is the interest determined? What is the applicable interest rate? The rule should be clarified.

k. In s. NR 50.23 (7) (intro.), the rule, by using the term "include," implies that it is possible that other criteria exist that must be considered by the department when awarding

grants. Is this the rule's intent? If so, who determines what the other criteria are? If not, the rule should be clarified. Also, once criteria are identified, they should be promulgated as administrative rules.

1. In s. NR 50.23 (7) (a), the phrase "on human safety, health" should be replaced by the phrase "to human safety or health."

Report to  
Legislative Council Rules Clearinghouse  
NR 50.23, Wis. Adm. Code  
Natural Resources Board Order No. WM-3-98

Wisconsin Statutory Authority

ss. 29.595 and 227.11(2)(a), Stats., interpreting ss. 20.370(5)(fr), 29.595 and 29.598, Stats.

Federal Authority

None

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

This program was created in the last budget and has spending authority for \$225,000 annually from the wildlife damage surcharge account. The rule authorizes urban communities to receive 50% cost sharing for a variety of wildlife damage and control measures for white-tailed deer and Canada geese. The rule requires that participating communities gather public input on solving their wildlife damage problems, monitor and establish population goals, and describe control methods. The Department will evaluate proposals based on criteria included in the rule.

*Final Draft by 23 K*

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Liaisons

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Submitted on June 29, 1998

ORDER OF THE STATE OF WISCONSIN NATURAL  
RESOURCES BOARD CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create NR 50.23 relating to wildlife abatement and control grants for urban communities.

WM-3-98

Analysis prepared the Department of Natural Resources

Statutory authority: ss. 29.595 and 227.11(2)(a), Stats.

Statutes interpreted: ss. 20.370(5)(fr), 29.595 and 29.598, Stats.

SECTION 1. NR 50.23 is created to read:

NR 50.23 WILDLIFE DAMAGE CONTROL GRANTS FOR URBAN COMMUNITIES (1)  
COST-SHARING GRANTS. Municipalities may apply for cost-sharing grants for cost-effective wildlife abatement and control measures. The department may award matching grants up to 50% of the costs of the projects. No grant may exceed \$5,000 in any fiscal year.

(2) APPLICABILITY. This section is applicable to municipalities applying for grants under s. 29.595, Stats. *urban communities*

(3) DEFINITIONS. (a) "Municipality" means a town, city, village, county or tribal government.

(b) "Urban area" means any area that is within or is characteristic of a city or village.

(4) ELIGIBLE SPECIES. Projects addressing white-tailed deer or Canada geese are eligible for grants. *only?*

Note: Projects addressing Canada goose removal or control shall comply with applicable federal regulations.

(5) ELIGIBLE COSTS OF A PROJECT. Municipalities may apply for matching funding for eligible costs wildlife abatement and control projects which include costs to:

- (a) Monitor populations and establish population estimates.
- (b) Remove deer under a department-approved project which uses sharpshooters.
- (c) Trap and translocate deer and geese.
- (d) Implement managed hunts.
- (e) Remove resident Canada geese by methods approved by the department.
- (f) Perform required health and tissue sampling.
- (g) Process, distribute or dispose of geese or deer to a charitable organization.
- (h) Develop an urban wildlife control plan.
- (i) Modify habitat.
- (j) Implement any other wildlife control or abatement practices approved by the department.

(6) APPLICATION AND GRANT AWARD PROCEDURE. (a) Applicants for grants from the urban wildlife damage program shall submit applications to the appropriate department regional office no later than December 1 of each year.

*stat. auth.?*  
*do any of the following?*  
*how approved?*  
*municipal*  
*urban community*



Note: Additional information is available from the DNR Bureau of Community Financial Assistance, PO Box 7921, Madison, WI 53707. ✓

(b) Applicants shall agree in the application to develop an urban wildlife population control plan approved by the department. The plan shall be completed within 2 years of the date of an approved grant. This control plan shall include the following: *grant is approved*

1. A description of the public input process conducted by the municipality in establishing the need for urban wildlife population control. *all of*

2. Description of need for wildlife population control. Need may include public concern about nuisance, health, human safety, property and/or crop damage.

3. A description of population monitoring procedures used to establish estimates of local deer and/or goose numbers.

4. A desired population management goal.

5. A description of the approved control methods.

6. Other information required by the department.

(c) Grant applicants shall comply with applicable laws and regulations including chs. NR 12, 19, and 50 and ss. 29.59, 29.595 and 29.598, Stats., unless otherwise provided under this section. *rules*

(d) Successful applicants shall be notified by the department and sent a grant agreement. Implementation of the applicant's proposal may not proceed until the grant agreement is approved and signed by the applicant and the department. *The City shall notify*

(e) The department may pay 50% of the grant amount to a municipality at the time the grant agreement is signed and executed if requested by the municipality.

(f) If a municipality does not use the grant to develop or implement a department approved wildlife control plan, it shall repay the department the grant money that was not spent or inappropriately spent plus interest accrued within 3 years of the grant award. *what's the rate?*

(7) CRITERIA. Criteria the department shall consider when awarding grants include the following: *implies other criteria to*

(a) The extent that the proposal addresses prevention and abatement of wildlife damage on human safety, health or damage to property. *to*

(b) The extent that the proposal addresses prevention and abatement of nuisance wildlife problems not addressed in par. (a).

(c) The extent that the proposal includes long-term solutions to wildlife problems such as habitat modification or adopting a no wildlife feeding ordinance.

(d) The cost effectiveness of practices.

(e) The severity of the wildlife damage or nuisance problem being addressed by the proposal.

(f) The likelihood of preventing the specified damage or nuisance.

(g) The municipality's compliance with s. 29.177, Stats., and other department administered laws, rules and programs.

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

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

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

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

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

(SEAL)