



CR 83-164

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921

MADISON, WISCONSIN 53707

RECEIVED

DEC 6 1983

9:20 am
Revisor of Statutes
Bureau

STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) ss

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. G-40-83 was duly approved and adopted by this Department on October 26, 1983. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 5th day of December, 1983.


Carroll D. Besadny, Secretary

(SEAL)

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2-1-84

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

RECEIVED

REPEALING, AMENDING AND CREATING RULES

DEC 6 1983

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IN THE MATTER of repealing ss. NR 19.001(2), (3),
(4), (5) & (6), 19.21, 19.22, 19.23 and 19.24;
amending s. NR 1.15(2)(d); and creating ch. NR 19
subchapter II of the Wisconsin Administrative Code
pertaining to wildlife damage
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Revisor of Statutes
Bureau

G-40-83

Analysis Prepared by Department of Natural Resources

Section 29.598, Stats., as created in 1983 Wisconsin Act 27, created a wildlife damage abatement program and a wildlife damage claim program. Wildlife damage was defined as damage caused by deer, bear or geese to crops on agricultural land, orchard trees, nursery stock, apiaries or livestock. The Department of Natural Resources will assist counties which wish to develop and administer these programs. Under these programs, individuals living in counties not participating in the programs are ineligible for wildlife damage abatement and wildlife damage claims. Counties participating in these programs must submit a plan of administration for department approval along with a resolution from the county board authorizing the county's application. Following approval of the county's application, the department may advance funds to the county to be used to administer the programs. The county is required to keep records on the administration of the programs that will be audited by the department.

The county can be reimbursed for 50% of the total cost of wildlife damage abatement measures approved in the plan or authorized in writing by the department. Wildlife damage claims approved by the county must be filed with the department by March 1. Claimants must meet certain eligibility requirements. Hunting, under a formula provided in s. 29.598, must be allowed on those lands. Payments will be prorated if the claims exceed the funds allocated.

If a county wishes to discontinue participation in these programs, it may do so upon 30 days notice to the department. Abatement costs incurred prior to that date and claims filed for damage payments are eligible for payment.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 29.598 and 227.014(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby repeals, amends and creates rules interpreting s. 29.598, Stats., as follows:

SECTION 1. NR 1.15(2)(d) is amended to read:

NR 1.15(2)(d) Deer and bear damage complaints will be handled according to the provisions of s. ~~29-595~~ 29.598, Stats., and rules as published in the Wisconsin administrative code. Damage can be most economically controlled by maintaining populations with a hunting season harvest as specified in ~~{2}~~ par. (a).

SECTION 2. NR 19.001 (2), (3), (4), (5) and (6) are repealed.

SECTION 3. NR 19.21, 19.22, 19.23 and 19.24 are repealed.

SECTION 4. Subchapter II of Chapter NR 19 is created to read:

SUBCHAPTER II

WILDLIFE DAMAGE

NR 19.75 PURPOSE. This subchapter is adopted to implement and administer the wild animal damage abatement and claim program established under s. 29.598, Stats. In its administration, the department shall assure that the funds appropriated by the legislature are used in the most cost-effective manner. Wild animal damage abatement measures when determined by the department, and the administering county to be cost-effective shall be funded and receive priority in payment over damage claims.

NR 19.76 DEFINITIONS. For purpose of this subchapter and s. 29.598, Stats.: (1) "Contiguous land" means lands under the ownership or control, other than by lease, of an applicant for deer, bear 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.

(2) "County" means a county board of supervisors who has, by resolution, approved application and administration of a program under s. 29.598, Stats.

(3) "Crops on agricultural lands" includes Christmas trees.

(4) "Lands suitable for hunting" means 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.

(5) "Normal agricultural practices" means practices commonly used in the county to grow and harvest crops.

(6) "Plan" means a plan of administration submitted under s. 29.598, Stats., by a county and approved by the department.

NR 19.77 COUNTY APPLICATION. (1) Applications by a county to administer the wildlife damage abatement or claim program shall include a plan completed in accordance with s. 29.598, Stats., and this subchapter and a copy of the resolution of the county board authorizing the application.

(2) The department shall review and approve or deny a completed application and plan under this subchapter within 30 days after it is received by the department.

NR 19.78 ADMINISTRATIVE AND ABATEMENT COSTS AND FUND ADVANCEMENT TO COUNTIES. (1)(a) Except as provided in par. (b) the department shall, based upon the applicant's 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 or one-fourth of such other amount deemed reasonable by the department no later than January 15 following approval of the application and plan of administration.

(b) For the 1984 calendar year, the advance payment shall be paid within 30 days of plan approval.

(2) Use of advanced administration funds is limited to actual costs incurred. Eligible costs of the county which may be paid out of this advance fund are limited to:

(a) Reasonable salaries or contract payments;

(b) Mileage at standard state of Wisconsin rates established by the department of administration;

(c) Staff training, telephone, printing and distributing promotional materials; and

(d) Other reasonable costs incurred in accordance with normal county administrative procedures.

(3) Funds advanced under this section not used by the 9th month of the plan period shall be immediately returned to the department. Funds returned may be distributed by the department to all counties administering under an approved plan for administration and abatement costs or payment of damage claims.

(4) A county may not be reimbursed for administrative or abatement costs in excess of the estimate contained in the plan without approval of the department.

NR 19.79 WILDLIFE DAMAGE ABATEMENT. (1) Costs of wildlife damage abatement measures rendered by a county under the plan are eligible for reimbursement under s. 29.598, Stats., only when rendered to persons owning or controlling land within the county of administration.

(2) Abatement measures rendered by a county under s. 29.598, Stats., are limited to those which are approved in the plan 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.

(3) Woven-wire deer-proof 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.

(4)(a) For purposes of determining the total cost of a damage abatement measure, cooperation in the measure by the applicant in construction, operation, maintenance or application of the measure shall be considered 50% of its total cost. The county may, as a condition of providing abatement assistance, require full cooperation and assistance of the applicant.

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

1. The reasonable cost of abatement equipment and supplies, and
2. Those costs listed in s. NR 19.78(2).

(c) Crops subject to abatement provisions of this subchapter and s. 29.598, Stats., shall be described in the plan.

NR 19.80 WILDLIFE DAMAGE CLAIMS. (1) Wildlife damage claims may be paid only to persons owning or controlling land within the county of administration who also have authority to control entry on those lands for purposes of hunting.

(2)(a) All wildlife damage claims approved by the county shall be filed with the department no later than March 1 following the calendar year in which the damage occurred.

(b) The department shall review and act on properly filed claims no later than June 1 following the calendar year in which the damage occurred.

(3) If the approved claims exceed the funds available, claims shall be paid on a prorated basis.

(4)(a) All claimants for damage payments, recognized and included in the county plan, shall meet the following eligibility requirements:

1. The lands subject to the claim shall have been in cultivation, a Christmas tree plantation or in an approved agriculture stabilization and conservation service set-aside program for at least 5 consecutive years prior to the application.

2. The crops subject to the claim were not planted or manipulated to attract deer, bear or geese, and

3. Unless otherwise provided by the county, the claimant shall have notified the county of his or her intent to harvest crops subject to damage but not less than 10 days prior to the harvest.

(b) The county, in addition to requirements in par. (a), may establish further requirements deemed reasonable and necessary to administer this subchapter.

(5) Crops subject to claims and payments under this subchapter and s. 29.598, Stats., shall be described in the plan.

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

(2) Prior to granting its approval, the department shall assure:

(a) Deer damage has occurred or is occurring on the lands of the applicant and is likely to occur in the future; and

(b) The applicant is eligible to receive deer damage claim payments.

(3) Should it appear that the cost of providing woven-wire fences to applicants will exceed the funds available for abatement and claims, the department, in reviewing applications, shall grant priority after considering:

(a) The crops to be protected are continuing and long-term in nature, and the costs of future damage claims may exceed the cost of fence construction over the lifetime of the fence.

(b) The applicant has fully cooperated and assisted in applying recommended damage abatement measures.

(c) The landowner agrees to construct and maintain the fence for a period of time determined reasonable in the county plan.

(4) The department, exercising reasonable judgment, shall base its decision on priority under sub. (3) on the criteria listed in sub. (3) and the best interest of the state, considering the costs of constructing the deer-proof fence, the projected amount of damages without the fence and the available funding.

NR 19.82 COUNTY RECORDKEEPING. (1) In this section, "records" means books, documents, papers, accounting records, audits, and other evidence and accounting procedures and practices.

(2) The county is responsible for maintaining a financial management system which shall adequately provide for:

(a) Accurate, current and complete disclosure of the financial results of the program in accordance with department reporting requirements and in accordance with generally accepted accounting principles and practices, consistently applied, regardless of the source of funds.

(b) Effective control over and accountability for all project funds, property, and other assets.

(c) Comparison of actual budget amounts for the program.

(d) Procedures for determining the eligibility and allocability of costs in accordance with the plan of administration.

(e) Accounting records supported by source documentation.

(f) Audits to be made by the county or at the county's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with the terms of the grant agreement. The county

shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size and complexity of the activity.

(g) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(3) The following record and audit policies are applicable to all department grants and to all subagreements.

(a) The county shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to properly reflect:

1. The amount, receipt and disposition by the county of all assistance received for the project, including both state assistance and any matching share or cost sharing; and

2. The total costs of the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the state grants have been awarded. In addition, contractors of grantees, including contractors for professional services, shall also maintain books, documents, papers, and records which are pertinent to a specific state grant award.

(b) The county's records and the records of contractors, including professional services contracts, shall be subject at all reasonable times to inspection, copying and audit by the department.

(c) The county and contractors of the county shall preserve and make their records available to the department:

1. Until expiration of 3 years from the date of final settlement, or

2. For such longer periods, if required by applicable statute or lawful requirement; or

3. If a program is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement; or

4. Records which relate to appeals, disputes, litigation on the settlement of claims arising out of the performance of the project for which funds were awarded, or costs and expenses of the project to which exception has been taken by the department or any of its duly authorized representatives, shall be retained until any appeals, litigation, claims or exceptions have been finally resolved.

(4)(a) Preaward or interim audits may be performed on applications and awards.

(b) A final audit shall be conducted after the submission of the final payment request. The time of the final audit shall be determined by the department and may be prior or subsequent to final settlement. Any settlement made prior to the final audit is subject to adjustment based on the audit. Counties and subcontractors of counties shall preserve and make their records available upon request.

NR 19.83 TERMINATION. The department shall, upon 30 days notice, terminate a county application and plan under s. 29.598, Stats., and this subchapter for any violation of the plan, the statute or rules or failure to properly report costs of the program or claims or comply with recordkeeping or audit procedures.

(1) A county may, upon 30 days notice to the department, terminate its application and plan under s. 29.598, Stats., and this subchapter.

(2) The department is responsible for payment of costs, in accordance with this subchapter, which are incurred for wildlife damage abatement prior to termination and for claims filed and approved by the county prior to that date.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on October 26, 1983.

The rules contained herein shall take effect as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin December 5, 1983

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besatny
Carroll D. Besatny, Secretary

(SEAL)