

## Chapter NR 16

## GAME FARMS, EXHIBITS AND FISH FARMS

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**Subchapter I — Game Farms and Exhibits****NR 16.001 Definitions.** In this subchapter:

- (1) "Adult" means any animal which has reached the age of one year.
- (2) "Department" means the department of natural resources.
- (3) "Heavily galvanized" means a zinc coating weight of 230 g/m<sup>2</sup> or 0.8 oz/ft<sup>2</sup>.
- (4) "High tensile" means a tensile strength of 1235 to 1450 mega pascals or 179000 to 210000 lb/in<sup>2</sup>.
- (5) "Medium tensile" means a tensile strength of 700 to 850 mega pascals or 101000 to 123000 lb/in<sup>2</sup>.
- (6) "Pen" means any cage, fenced-in plot, or other enclosure in which animals are held.
- (7) "Waterfowl" means any migratory bird of family Anatidae (wild ducks, geese, brant and swans).
- (8) "Wild animal" means any mammal, bird, fish or other creature of a wild nature endowed with sensation and the power of voluntary motion.

**History:** Cr. Register, April, 1978, No. 268, eff. 5-1-78; renum. (1) to (5) to be (2), (8), (7), (1), (6), cr. (3) to (5), Register, January, 1994, No. 457, eff. 2-1-94; cr. (intro.), Register, April, 1999 No. 520, eff. 5-1-99.

**NR 16.01 Deer farm fence specifications.** (1) Deer farm boundary fence construction, replacement or repairs shall comply with the following minimum specifications:

(a) *Minimum size.* There may not be less than 1/2 acre of land within the area enclosed as a licensed deer farm.

(b) *Fence height.* 1. Seven foot 10 inch woven wire fence or high tensile deer fence is required on deer farms licensed for all species of Cervidae except the genera listed in subd. 2. The top 6 inches of the fence may be single strand high tensile smooth wire.

2. Six foot woven wire fence or high tensile deer fence is required on deer farms licensed for species of the following genera: HYDROPOTES, Chinese water deer; MOSCHUS, musk deer; MUNTIACUS, muntjacs; PUDU, pudus.

(c) *Wood posts.* The minimum length for wood post is 12 feet. The tops of line post may not be less than 4 inches in diameter. The tops of corner and gate posts may not be less than 6 inches in diameter.

(d) *Steel or iron posts.* The minimum length for steel or iron post is 11 feet or 10 feet for T post.

(e) *Post spacing.* 1. The maximum distance between posts for standard woven wire fences is 12 feet.

2. The maximum distance between posts for high tensile heavily galvanized deer fencing is 20 feet.

(f) *Woven wire.* Mesh and gauge.

1. Fourteen and one half gauge wire, may not have a mesh larger than 36 sq. in.

2. Twelve and one half gauge wire, may not have a mesh larger than 48 sq. in.

3. Eleven gauge or heavier wire, may not have a mesh larger than 48 sq. in.

4. Adjoining strips or widths of woven wire shall be securely fastened together at intervals not exceeding 4 feet.

(g) *Staples.* Nine-gauge staples should be used which are of a 1.5 inches minimum size. The staple shall securely hold the fence to the post and allow for free movement of horizontal line wire.

(h) *High tensile deer fencing wire.* 1. Wire size and coating. a. Horizontal line wires may not be less than 2.50 mm in size and shall be heavily galvanized medium tensile wire.

b. Vertical stay wires may not be less than 2.50 mm in size and shall be heavily galvanized medium tensile wire.

c. Knot wire shall be 2.24 mm heavily galvanized mild steel.

2. Mesh size. a. Mesh size shall have a maximum of 6 inches space between all vertical stay wires.

b. The horizontal line wires shall be graduated with a maximum wire graduation of 4 inches for the bottom 1 foot of the fence; 6.5 inches for the next 2 feet of fence height; 8.5 inches for the top 5 feet of fence height.

(i) *Installation procedures.* The fence shall be installed on the animal side of the post except when completing corners.

(2) **EXCEPTIONS.** The use of materials, other than those specified in this section for deer farm boundary fence construction may be permitted by the secretary if found to exceed minimum specifications and sufficient to hold the deer inside the enclosure.

**History:** Cr. Register, April, 1958, No. 28, eff. 5-1-58; renum. from WCD 16.01 to be NR 16.01 and am. (2), Register, April, 1971, No. 184, eff. 5-1-71; am. (1) (intro.), (a) to (g), (2), cr. (1) (h), (i), (3), Register, January, 1994, No. 457, eff. 2-1-94; **CR 02-018: r. (3) Register September 2002 No. 561, eff. 10-1-02.**

**NR 16.02 Game farms.** (1) **APPLICATION.** This section applies to all game farms as provided in s. 29.867, Stats., including commercial operations, shooting game farms and hobbyists. The owner or lessee of any lands within the state suitable for the breeding and propagating of game birds or animals as may be approved by the department shall have the right upon complying with this section, to establish, operate and maintain a game bird and animal farm for the purpose of breeding, propagating, killing and selling game birds and game animals on such lands, except as identified under sub. (7). On areas where the hunting or killing of wild animals is to be permitted, the game farm license shall only include species listed in s. 29.001 (30), (36) and (39), Stats.

**Note:** 2001 Wis. Act 109 repealed s. 29.867, Stats.

(2) **SIZE OF HUNTING OR KILLING AREAS.** No game farm license shall be issued for any land area larger than 640 contiguous acres or less than 80 contiguous acres where hunting, trapping or killing of wild animals is allowed, except for such land areas licensed as game farms prior to the effective date of this subsection.

(3) **MIGRATORY BIRD DISPOSAL.** No person shall import, export or sell waterfowl or other migratory birds without compliance with federal regulations except captive-reared mallard ducks,

alive or dead, or their eggs may be acquired, transported, exported but not imported and disposed of by any person without a permit provided such ducks are properly marked as specified within the federal regulations.

**(4) WILDLIFE FEE ASSESSMENT.** In addition to an annual license fee, signs and expense payment for the inspection board, each applicant shall pay to the department a specified sum of money for each wild animal found on the lands which are desired for propagation. The fee assessed for each animal shall be the amount established in s. 29.977 (1), Stats.

**(5) PEN REQUIREMENT.** (a) When individual animals licensed under s. 29.867, Stats., are confined to an area which does not exceed one-fourth acre in size, the standards established in s. NR 16.10 (10) and (11) shall apply.

**Note:** 2001 Wis. Act 109 repealed s. 29.867, Stats.

(b) A person licensed prior to the enactment of these regulations shall be exempt from the pen requirement criteria.

(c) Variation in pen construction other than specified shall be submitted to the department and may be approved by the department if found to comply with the intent and purpose of this section.

(d) All waterfowl bred, propagated or held on a game farm licensed pursuant to this section shall be enclosed within a covered pen by the licensee throughout the open season for hunting waterfowl in the state when written or oral notice is given to the licensee by the department or its agents.

(e) All mute swans held on a game farm licensed pursuant to this section shall be enclosed within a covered pen by the licensee year-round unless pinioned and rendered sterile by a licensed veterinarian.

**(6) WATERFOWL DISEASE CONSIDERATIONS.** In addition to the above requirements if the department determines that any species of waterfowl licensed under this section may pose potential threat to native wildlife populations due to disease transmittal or other factors, the department may prescribe additional requirements including:

(a) If a contagious disease is suspected, all birds exposed to the disease shall be quarantined until certified free of contagious disease by a qualified veterinary authority.

(b) Separate pens for individual species and/or specific numbers of birds.

(c) Approved veterinary medicines or vaccines.

(d) Year-around covered pens.

**(7) WILD TURKEYS.** On game farms licensed for killing birds, captive wild turkeys are considered suitable and authorized only if the turkeys and the game farm are located outside a wild turkey hunting zone established under s. 29.164 (2) (c) 2., Stats., and s. NR 10.29.

**History:** Cr. Register, April, 1958, No. 28, eff. 5-1-58; cr. (1), Register, November, 1959, No. 47, eff. 12-1-59; am. Register, August, 1961, No. 68, eff. 9-1-61; renum. from WCD 16.02 to be NR 16.02, and am. (1) and (2), Register, April, 1971, No. 184, eff. 5-1-71; r. and recr. Register, September, 1972, No. 201, eff. 10-1-72; am. (2) (d) and r. and recr. (3), Register, July, 1976, No. 247, eff. 8-1-76; r. and recr. Register, April, 1978, No. 268, eff. 5-1-78; am. (4) (a) to (f), Register, September, 1983, No. 333, eff. 10-1-83; am. (1), Register, July, 1987, No. 379, eff. 8-1-87; am (4) (intro.), r. (4) (a) to (f), Register, July, 1988, No. 391, eff. 8-1-88; corrections in (1) and (4) to (6) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520; cr. (5) (e), Register, September, 2000, No. 537, eff. 5-1-01; CR 01-008: am. (1), cr. (7), Register November 2001 No. 551, eff. 4-1-02; **correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register, September 2002 No. 561.**

**NR 16.10 Wildlife exhibits.** **(1) APPLICATION.** This section applies to wildlife exhibits and wildlife exhibit licenses provided in s. 29.877, Stats.

**Note:** 2001 Wis. Act 109 repealed s. 29.877, Stats.

**(3) APPLICATION FOR LICENSE.** Application for wildlife exhibit licenses shall be on forms prepared and furnished by the secretary and shall show:

(a) The name and address of the applicant.

(b) The location of the proposed exhibit, including a legal description of the land and the approximate area devoted to the entire exhibit. Traveling exhibits shall include their itinerary and dates of exhibition.

(c) The species and number of wild animals to be exhibited.

(d) The source from which wild animals are to be obtained. If already in possession, include the license number under which they are possessed.

(e) Specifications of the pens and shelters provided for each kind of wild animal.

**(4) TRAVELING WILDLIFE EXHIBITS.** Applications for traveling wildlife exhibits having pen specifications that do not comply with the minimums required in sub. (11) may be approved by the secretary provided all other rules of wildlife exhibits are complied with.

**(5) STOCK TO BE LEGALLY OBTAINED.** All animals and birds retained in a wildlife exhibit shall have been obtained in a lawful manner. Evidence of lawful possession, such as the receipted invoice, bill of lading or similar evidence of the source from which any wild animal was obtained, shall be presented for inspection to any department officer upon request. All wild animals covered by license shall be made available for inspection upon demand of the department officer.

**(6) DISPLAY OF LICENSE.** Any person to whom a license for wildlife exhibit is issued shall publicly display such license at the place the exhibit is kept.

**(7) LABELS.** Each pen shall be labeled for the information of the public with the proper common name, in English, of the wild animals therein confined.

**(8) FEEDING.** (a) Regular feeding schedules for such wild animals shall be maintained by the licensee and the rations supplied shall be adequate to maintain proper strength and healthy appearance in such animals and, so far as possible, consistent with the food which is ordinarily eaten by such animals in a wild state.

(b) Fresh water shall be kept in pens by the licensee at all times, unless removed for sanitary reasons when it shall be supplied at intervals of not over 4 hours from sunrise to sunset. Drinking fountains and other receptacles shall be kept clean and in a sanitary condition. Proper signs shall be conspicuously posted on pens and enclosures requesting the public to refrain from annoying the animals or feeding them unless specified foods are provided for this purpose.

**(9) TREATMENT AND SANITATION.** (a) All animals so retained shall be handled in a humane manner and kept free, as far as possible, from parasites, sickness or disease and when afflicted or unsightly shall be removed from public display by the owner and given proper medical attention or be destroyed in a humane manner.

(c) All pens shall be cleaned daily and said pens and their surroundings shall be kept in a sanitary and attractive condition, free from offensive odors. All dens or shelter boxes shall have a ventilator and shall be vented in such manner as to prevent a draft.

(d) The wildlife exhibit shall have no paper, cartons, tin cans, bottles, garbage of any kind, animal excrement or other debris within 100 feet of any pen unless the same shall be contained in a suitable metal garbage container with cover, the contents of which shall be emptied and taken away daily.

**(10) PENS AND HOUSING.** (a) All wild animals held in captivity in wildlife exhibits shall be confined at all times in pens of such strength and type of construction that it will be impossible for said animals to escape and at no time shall animals be chained or otherwise tethered to stakes, posts, trees, buildings, or other anchorage.

(b) All pens confining carnivorous animals and such other animals that may be a hazard to public safety shall be surrounded on the side or sides where the public may approach them by substantial guard rails not less than 36" in height. Such guard rails shall be well supported and fully enclosed with 36" woven wire stock

fencing and shall be erected not less than 4 feet from the pens in which the animals are confined. Such pens, guard rails and fencing shall be kept in good repair at all times and all gates and doors shall be kept securely locked.

(c) All such pens shall be provided with rain-proof dens, nest boxes, shelters and bedding of sufficient size and quantity to protect the animals kept therein from inclement weather or the direct rays of the sun.

**(11) MINIMUM PEN SPECIFICATIONS.** Pens shall be constructed to comply with the following minimum specifications unless an exception is granted pursuant to sub. (12).

(a) *Deer of any species.* 1. Not more than 3 deer may be held together in one pen unless additional space is provided.

2. Deer farm licensee may exhibit not to exceed 4 fawn deer not confined in any manner from June 1 to the opening date of the bow and arrow season for deer in that county, provided that such fawn deer have been first ear tagged by the department with tags furnished free of charge.

3. 'Floor.' Natural soil, well drained.

4. 'Space.' a. 400 sq. ft.

b. 100 sq. ft. for each additional animal.

5. 'Fencing.' Deer farm fence specification shall be required.

6. 'Height.' Deer farm height specification shall be required.

7. 'Shelter.' Weatherproof shelter with roof and 3 walls and floor space of 24 square feet per animal shall be provided.

(b) *Buffalo, elk, moose and similar animals.* 1. 'Fenced area.'

a. Deer farm fence specifications s. NR 16.01 shall be required except the minimum fence height for buffalo shall be 5 feet.

b. The "safety fence" defined in sub. (10) (b) shall be constructed where needed or in lieu thereof may be constructed inside the enclosure of sufficient strength and design to carry out the purpose and intent of such "safety fence".

2. The use of "rubbing posts" for the well-being of these animals is recommended. Wooden posts 7 feet long and 10 inches or more in diameter are set in the ground to a depth of 4 feet with 3 feet exposed. Posts may be placed singly in a group of 3 in a triangle 6 feet apart.

(c) *Bear and cougar.* 1. No more than 2 adults and their offspring of the year may be held together in one pen. Pen must be enclosed completely, including a top.

2. 'Floor.' Concrete 4 inches thick.

3. 'Space.' 200 sq. ft. for one animal; an additional 100 sq. ft. for 2 animals and their young of the year.

4. 'Framework for the walls and top.' 2-inch iron pipe or 2-inch x 2-inch angle iron with all upright members set 2 feet deep in concrete.

5. 'Walls.' 9-gauge fencing with mesh no greater than 2-inch diameter, fastened at the bottom at each 4-inch interval to horizontal crossbar, 1-inch x  $\frac{3}{8}$ -inch in cross section, welded at the ends to the vertical framework of the pen; or vertical steel bars or rods of  $\frac{1}{2}$ -inch diameter, spaced no greater than 2 inches apart, set 4 inches deep in concrete, and having at every 36-inch interval above the floor a horizontal crossbar, 1-inch x  $\frac{3}{8}$  in cross section welded to each vertical bar; or 3 walls may be of cement block, stone or concrete construction.

6. 'Height.' a. Bear - 6 ft.

b. Cougar - 10 ft.

7. 'Top.' Materials: Concrete, stone, cement block, or 9-gauge fencing.

8. 'Perches.' A minimum of 2 perches measuring 2 ft. x 5 ft. should be provided for each cougar.

9. 'Shelter.' Concrete, stone or cement block, inside dimensions 4 ft. x 6 ft. x 4 ft. high. Den shall be built outside of pen with

gate to lock animal, either in or out of den, to permit cleaning and handling.

(d) *Timber wolf and coyote.* 1. Not more than 2 adults, and these must be of the same species, or one pair and their offspring of the year, may be held together in one pen. The pen as required herein must have an escape-proof top completely enclosed; however, additional but not required exercise yards do not require enclosed tops.

2. 'Floor.' Concrete, 4 inches thick. Additional exercise yard may be provided on natural soil, well drained.

3. 'Space.' a. Timberwolf: 300 sq. ft.

b. Coyote: 144 sq. ft.

c. Provided by rectangular or circular fence structure.

4. 'Walls.' a. Timber wolf: 9-gauge chain-link fence with mesh no greater than 2 inches.

b. Coyote: 14-gauge woven or welded wire with mesh no greater than 1-inch x 2 inches.

c. Additional exercise yards must be constructed of the same wall materials. Bottom of the wall to extend 6 inches beneath ground surface connecting to a 3-foot width of 12-gauge woven or welded wire which shall extend parallel and beneath the ground surface toward the inside of the pen.

5. 'Height.' a. Top enclosed - 6 ft.

b. Top not enclosed - 9 ft.

6. 'Top.' 14-gauge woven or welded wire with mesh no greater than 2 inches.

7. 'Shelter.' Weatherproof den box, wood, concrete, stone or cement block, inside dimensions 4 ft. x 6 ft. x 4 ft. high for timber wolf and 3 ft. x 4 ft. x 3 ft. high for coyote.

(e) *Bobcat (wildcat) and lynx.* 1. Not more than 2 adults, and these must be of the same species, or one pair and their offspring may be held together in one pen. Pen must have escape-proof top completely enclosed.

2. 'Floor.' Concrete 4 inches thick.

3. 'Space.' 144 sq. ft. with circular construction recommended.

4. 'Walls and top.' 12-gauge woven or welded wire with mesh no greater than 2 inches.

5. 'Height.' 10 ft.

6. 'Shelter.' Weatherproof den box, wood, concrete, stone or cement block, inside dimensions 3 ft. x 4 ft. x 3 ft.

7. 'Perches.' A minimum of 2 perches measuring 1 ft. x 2 ft. should be provided for each animal.

(f) *Red fox, gray fox or mutations fisher and pine martin.* 1. Not more than 2 adults, and these must be of the same species, and their offspring of the year, may be held together in one pen unless additional space is provided. Pen must be enclosed completely, including a top.

2. 'Floor.' Concrete 4 inches thick, or gravel or sand 4 inches deep with 16-gauge wire mesh base, or raised floor of 16-gauge fur-farm netting with hexagonal mesh no greater than 1-inch. Raised floor shall include a board runway 1-inch x 6 inches the length of the pen.

3. 'Space.' Concrete gravel or sand floor. a. 120 sq. ft.

b. 8 sq. ft. each additional animal

3m. 'Space.' Raised floor. a. 50 sq. ft.

b. 4 sq. ft. each additional animal

3x. Circular construction recommended.

4. 'Walls and top.' Material: 16-gauge fur-farm netting with mesh no greater than 1-inch.

5. 'Height.' a. Concrete gravel or sand floor - 6 ft.

b. Raised floor - 3 ft.

6. 'Shelter.' Weatherproof den box 2 ft. x 3 ft. x 2 ft. high.

(g) *Opossum, porcupine, raccoon, skunk and woodchuck.* 1. Not more than 3 adults, and these must be of the same species, or one pair and their offspring of the year, may be held together in one pen unless additional space is provided.

2. 'Floor.' Concrete 4 inches thick, gravel or sand 4 inches deep with 16-gauge wire mesh base, or raised 16-gauge fur-farm netting with mesh no greater than 1-inch.

3. 'Space.' Concrete, gravel or sand floor. a. 30 sq. ft.

b. 10 sq. ft. for each additional animal.

3m. 'Space.' Raised floor - 20 sq. ft.

3x. Circular construction recommended.

4. 'Walls.' 16-gauge fur-farm netting with mesh no greater than 1-inch, built with metal frames.

5. 'Height.' a. Concrete, gravel or sand floor - 6 ft.

b. Raised floor - 3 ft.

6. 'Top.' Same as walls, completely enclosed or top 2 ft. of walls with sheet metal or other nonclimbing material.

7. 'Shelter.' Weatherproof den box 2 ft. x 3 ft. x 2 ft. high.

(h) *Beaver and otter.* 1. Not more than 2 adults, and these must be of the same species, and their offspring of the year, may be held together in one pen unless additional space is provided. Pen must have escape-proof top either completely enclosed or have the top 2 feet of the walls covered with sheet metal or other nonclimbing material.

2. 'Floor.' The floor must be constructed containing a water trough 6 ft. long, 2 ft. deep and 4 ft. wide at top, with top of trough at floor level and drain at bottom.

3. 'Material.' Concrete 4 inches thick.

4. 'Space.' a. 100 sq. ft.

b. 10 sq. ft. for each additional animal.

5. 'Walls.' Material: 14-gauge woven or welded fence or netting, with mesh no greater than 1 inch x 2 inches.

6. 'Height.' 6 ft.

7. 'Shelter.' Weatherproof den box 2 ft. x 3 ft. x 2 ft. high.

8. 'Water supply.' Water shall be drained at frequent intervals to provide clean and sanitary conditions.

(i) *Badger.* 1. Not more than 3 adults or one pair and their offspring of the year may be held together in one pen unless additional space is provided. Pen must have escape proof top either completely enclosed or have the top 2 feet of the walls covered with sheet metal or other nonclimbing material.

2. 'Floor.' Material: Concrete 4 inches thick.

3. 'Space.' a. 100 sq. ft.

b. 6 sq. ft. for each additional animal.

4. Walls and top. 14-gauge woven or welded fence or netting, with mesh no greater than 1-inch, built with metal frames using 1-inch pipe or 2 inch x 2 inch angle iron.

5. 'Shelter.' Weatherproof den box 2 ft. x 3 ft. x 2 ft. high.

(j) *Weasel, mink, and muskrats.* 1. 'Weasel and muskrat.' Not more than 3 adults or one pair and their offspring of the year may be held together in one pen unless additional space is provided. Pen must have escape-proof top either completely enclosed or have the top 2 feet of the walls covered with sheet metal or other nonclimbing material.

2. 'Mink.' Only one animal per pen. Pen must have escape-proof top.

3. 'Floor.' Material: 4-inch concrete or a raised floor using hardware cloth with mesh no greater than 1/2-inch.

4. 'Space.' a. Weasel and muskrat: 15 sq. ft.; 5 sq. ft. for each additional animal.

b. Mink: 6 sq. ft.

5. 'Walls and top.' Material: hardware cloth with mesh not greater than, a. 1/2-inch for weasel.

b. 1-inch for mink and muskrat.

6. 'Shelter.' Weatherproof den box 1 ft. sq.

(k) *Rabbits and hares.* 1. Not more than one pair and their offspring of the year may be held together in one pen unless additional space is provided. Pen must be completely enclosed, including a top.

2. 'Floor.' A raised floor is to be used. 16-gauge fur-farm netting with mesh no greater than 1/2-inch.

3. 'Space.' a. 20 sq. ft.

b. 3 sq. ft. each additional animal.

4. 'Walls and top.' 18-gauge fur-farm netting or hardware cloth, with mesh no greater than 1/2-inch.

5. 'Height.' 3 ft.

6. 'Shelter.' Weatherproof den box, 1 ft. x 1-1/2 ft. x 1 ft. high.

(L) *Tree squirrels, ground squirrels, and chipmunks.* 1. Not more than 3 individuals, or one pair and their offspring of the year, may be held together in one pen unless additional space is provided. Pen must have escape-proof top either completely enclosed or have the top 2 feet of the walls covered with sheet metal or other nonclimbing material.

2. 'Floor.' Material: Dirt, gravel or concrete 4 inches thick, or raised floor using hardware cloth with mesh no greater than 1/2-inch.

3. 'Space.' a. 16 sq. ft.

b. 3 sq. ft. each additional animal.

4. 'Walls and top.' 18-gauge fur-farm netting with mesh no greater than 1-inch or hardware cloth with mesh not greater than 1/2-inch.

5. 'Height.' 4 ft.

6. 'Shelter.' Weatherproof den box, 1 ft. sq.

(m) *Waterfowl.* 1. Not more than 2 pairs of adults or one pair and their offspring of the year may be held together in one pen unless additional space is provided.

2. 'Floor.' Natural soil, well drained.

3. 'Space.' Ducks. a. 24 sq. ft.

b. 4 sq. ft. each additional bird.

3m. 'Space.' Geese or brant. a. 120 sq. ft.

b. 8 sq. ft. each additional bird.

3x. 'Swans.' a. 130 sq. ft.

b. 12 sq. ft. each additional bird.

4. 'Walls.' 20-gauge woven wire with mesh no greater than 2 inches.

5. 'Height.' 6 ft. including portion which may be buried beneath ground surface.

6. 'Top.' 20-gauge woven wire or plastic with mesh no greater than 2 inches.

7. 'Shelter.' Weatherproof shelter with roof and 3 walls and floor space of 8 sq. ft. per pair of birds in pen, or a lean-to furnishing equivalent space and protection.

8. 'Water supply.' Pens shall be provided with an adequate and constant water supply easily accessible to the waterfowl and cleaned and drained daily.

(n) *Pheasants and ruffed grouse.* 1. Not more than 2 adults or one pair and their offspring may be held in one pen unless additional space is provided. Pen must have top completely enclosed.

2. 'Floor.' a. Natural soil, well drained.

b. Cover crops consisting of dwarf-essex rape, dwarf sunflower, grain sorghum or similar types are recommended for pheasant rearing.

3. 'Space.' a. 20 sq. ft.

b. 4 sq. ft. for each additional bird.

4. 'Walls.' 20-gauge woven wire with mesh no greater than 2 inches, the lower 2 ft. of which shall be 16-gauge woven wire with mesh no greater than 1-inch.

5. 'Height.' 6 ft. including portion which may be buried beneath ground surface.

6. 'Top.' 20-gauge woven wire or plastic with mesh no greater than 2 inches.

7. 'Shelter.' Weatherproof shelter with roof and 3 walls and floor space of 8 sq. ft. per pair of birds in pen or a lean-to furnishing equivalent space and protection.

(o) *Quail, Chukar partridge and Hungarian partridge.* 1. Not more than 2 adults or one pair and their offspring may be held together in one pen unless additional space is provided. Pen must have top completely enclosed.

2. 'Floor.' Wire, wood, concrete or natural soil, well drained or raised floor constructed with  $\frac{1}{2}$ -inch hardware cloth, 3 feet above ground surface.

3. 'Space.' a. 3 sq. ft.

b. One sq. ft. for each additional bird.

4. 'Walls and top.' 20-gauge woven wire with mesh no greater than one inch.

5. 'Shelter.' Weatherproof shelter with roof and 3 sides, 2 ft. x 3 ft. x 3 ft. high or a lean-to furnishing equivalent space and protection.

(p) *Turkeys and peafowl.* 1. Not more than 2 pairs of adults, or one pair and their offspring of the year may be held together in one pen unless additional space is provided. Top shall be completely enclosed.

2. 'Floor.' Natural soil, well drained.

3. 'Space.' a. 100 sq. ft.

b. 8 sq. ft. for each additional bird.

4. 'Walls and top.' 18-gauge woven wire with mesh not greater than 2 inches.

5. 'Shelter.' A weatherproof shelter with a roof and 3 sides.

(q) *Eagles, hawks, falcons and owls.* 1. Not more than 2 adults or one pair and their offspring of the year may be held together in one pen. Pen must have escape-proof top.

2. 'Floor.' 2 inches of pea gravel, well drained.

3. 'Space.' a. Hawks, falcons and owls - 250 sq. ft.

b. Eagles - 400 sq. ft.

c. Circular construction recommended.

4. 'Walls.' A minimum of 2 walls shall be constructed of wood. The remainder shall consist of vertical bars spaced narrower than the width of the bird's body completely covered on the outside by 20-gauge woven or welded wire with mesh no greater than one inch or 18-gauge welded wire fabric with mesh no greater than one inch.

5. 'Height.' a. Hawks, falcons and owls - 8 ft.

b. Eagles - 12 ft.

6. 'Top.' Wood or 18-gauge welded wire fabric with mesh no greater than one inch or combination of wood and wire. Wire construction requires additional woven nylon netting with mesh no greater than one inch installed a minimum of 7 inches below and parallel to the wire surface.

7. 'Water supply.' Fresh water shall be provided daily. A minimum of one suitable container for each bird, 2 to 6 inches deep and wider than the length of the bird shall be required.

8. 'Perches.' a. Falcons - A minimum of one shelf-type perch, one ft. wide and covered with artificial turf or similar materials.

b. Hawks, owls and eagles - A minimum of 2 perches shall be required for each bird consisting of a tree limb which shall be covered with natural bark or hemp rope. The diameter of the covered perch shall conform to the bird's foot.

9. 'Marking.' a. Raptors held under a permit shall wear a numbered non-reusable marker supplied by the fish and wildlife service.

b. The marker must be attached to the raptor immediately upon acquisition.

c. It shall be unlawful to alter, counterfeit or deface a marker except that permittees may remove the rear tab on markers and may smooth any imperfect surface provided the integrity of the marker and numbering are not affected.

10. It is recommended that beaks and talons be inspected and filed down as necessary each month.

11. It is recommended that foot health and overall body condition be inspected at frequent intervals.

12. It is recommended that partitions to provide escape from public view be provided.

(r) *Other birds or animals.* 1. Not more than 5 adults, or 1 pair and their offspring of the year may be held together in one pen, unless additional space is provided.

2. 'Floor.' Natural soil or 4 inches of gravel or sand, well drained.

3. 'Space.' a. 100 sq. ft.

b. 10 sq. ft. for each additional animal.

4. 'Walls and top.' 20-gauge woven wire with mesh not greater than 1-inch. Top completely enclosed. A board shelter 18 inches high shall be built around the bottom sides of the pen to prevent current draft.

5. 'Shelter.' Weatherproof shelter house shall have a top and 3 sides, 2 ft. x 3 ft. x 3 ft. high.

**(12) GENERAL EXCEPTION.** The use of other materials or variation in pen or fence construction other than specified in this section shall be submitted to the secretary and may be permitted if found to comply with the intent and purpose of these rules.

**(13) EXCEPTION.** When wild animals are to be exhibited within a fenced area comprised of 40 acres or more and having adequate facilities for vehicular traffic, the pen and safety fence requirements contained in subs. (10) and (11) may be waived by the secretary if the following conditions are met:

(a) The outside fence meets the applicable requirements of s. NR 16.10.

(b) Vehicles are restricted to traveling on a well-defined roadway;

(c) Viewers are confined to and remain in cars, trucks or similarly enclosed vehicles;

(d) The doors and windows of viewers' vehicles remain closed at all times when the vehicles are within the enclosure;

(e) Viewers are prohibited from feeding the animals;

(f) A speed limit of 10 miles per hour or less is established within the enclosed area;

(g) The licensee has a safe procedure for removing vehicles which have broken down from the enclosure;

(h) The licensee maintains adequate liability insurance naming the department and its employees as an additional named insured.

**(13m) NOTICES.** The licensee shall be required to post notices and verbally inform viewers of conditions sub. (13) (b) through (g) and to enforce these conditions within the enclosed area. Failure by the licensee to meet and enforce any one of these conditions shall be sufficient cause for revocation of the wildlife exhibit license.

**History:** Cr. Register, April, 1958, No. 28, eff. 5-1-58; cr. (11) (p), Register, November, 1959, No. 47, eff. 12-1-59; renum. from WCD 16.10 to be NR 16.10 and am. (3) intro. par., (4), (5), (11) (a) 2a. and (n) 5. and (p) 1. intro. par., Register, April, 1971, No. 184, eff. 5-1-71; cr. (12), Register, April, 1976, No. 244, eff. 5-1-76; r. (2), r. and recr. (11), renum. (12) to be (13) and cr. (12), Register, April, 1978, No. 268, eff. 5-1-78; r. and recr. (3) (d) 3., Register, August, 1979, No. 284, eff. 9-1-79; r. (9) (b), Register, July, 1988, No. 391, eff. 8-1-88; corrections made under s. 13.93 (2m) (b) 1., Stats., Register, February, 1996, No. 482; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520.

## Subchapter II — Permitting the Use of Natural Bodies of Water as Fish Farms

**NR 16.70 Purpose and applicability. (1) PURPOSE.** The purpose of this subchapter is to establish fees, criteria and pro-

cedures to be used for permitting the use of natural bodies of water as fish farms as required under s. 29.733 (2) (f), Stats.

(2) **APPLICABILITY.** The provisions of this subchapter are applicable to:

(a) Fish farms and state-owned hatcheries located in or proposed to be located in freeze-out ponds.

(b) Natural bodies of water that were licensed as a private fish hatchery or licensed as a part of a private fish hatchery in 1997.

(c) A freeze-out pond or more than one freeze-out pond that is proposed as a fish farm at the time of application and is located on the same contiguous parcel of property under the same ownership or leasehold.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99.

**NR 16.71 Definitions.** In this subchapter:

(1) "Barrier equipped" means the placement of a structure or device which prevents the movement of fish or bait from a fish farm to a natural body of water.

(1m) "Department fish hatching and rearing facilities" means all fish hatching and rearing waterbodies owned by the department, or leased or controlled through a cooperative agreement between the property owner and the department and where the department owns all the fish.

(2) "Freeze-out pond" has the meaning specified in s. 29.001 (29), Stats.

(3) "Natural body of water" means any spring, stream, pond, lake or wetland that was historically present in a natural state but may have been physically altered over time except any waterbody that has been permitted by the department under ch. 30 or 31, Stats., or ch. NR 299 water quality certification and not declared public under s. 30.19 (5), Stats.

(4) "Preexisting fish rearing facility" has the meaning specified in s. 29.001 (64), Stats.

(5) "Transfer of permit" means the conveyance of a permit from one party to another as a result of change in ownership or leasehold interest of a fish farm.

(6) "Wetland" has the meaning specified under s. 23.32, Stats.

**Note:** For purposes of this subchapter, a natural body of water does not include an artificial wetland, as defined under s. NR 103.02 (1m) or any swale, bermed area or excavation that is not located in a wetland, pond, lake, stream or spring that was historically present in a natural state, if the artificial wetland, swale, bermed area or excavation retains water as the result of human modification of the landscape or is constructed of man-made materials.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: cr. (1m), am. (3) Register June 2002 No. 558, eff. 7-1-02.

**NR 16.72 Natural body of water permit application fees.** Permit application fees for the use of natural bodies of water for fish farms for a period of 10 years shall be as follows:

(1) Permit applicants for natural bodies of water reauthorized for use as fish farms under s. 29.733 (2) (b) and (c), Stats., shall pay a non-refundable renewal fee of \$50.00.

(2) Permit applicants for the initial use of freeze-out ponds as fish farms shall pay a \$500.00 non-refundable permit application fee.

(3) Recipients of permit transfers shall pay a non-refundable permit transfer fee of \$100.00. The expiration date of the original permit shall remain in effect for the transferred permit.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99.

**NR 16.73 Applicant permit procedures for use of natural bodies of water for fish farms.** (1) For permits reauthorized under s. 29.733 (2) (b), Stats., the applicant shall complete and submit an application form provided by the department and the appropriate permit fee by January 1, 2003.

(2) For renewal of permits under s. 29.733 (2) (c), Stats., the applicant shall submit a new application to the department not more than 16 months before the expiration date of the permit

granted under this chapter but not less than 2 months from the expiration date of the permit.

(3) Applications for permits under this subchapter shall include documents verifying all of the following:

(a) The land that is riparian to the body of water is owned, leased or controlled by the owners of the fish farm.

(b) None of the owners of the fish farm or of the riparian lands provides access to the body of water to the public by means of an easement or other right-of way or by means of a business open to the public, except that the owners of the fish farm may allow fishing by the public for a fee.

(c) Documentation that the natural body of water may be a freeze-out pond or that the natural body of water is a preexisting fish rearing facility that is barrier equipped.

(d) Copies of any other permits or authorization required by ch. 30 or 31, Stats., the Army corps of engineers and any other federal, state or local laws and zoning ordinances.

(e) All applicants shall identify the water source and quantity used for the fish farm and whether there is any discharge to a water of the state.

(f) Any other information requested by the department to determine whether a permit would or would not be granted by the department.

**Note:** Permit application forms are available from the Bureau of Fisheries Management and Habitat Protection, 101 South Webster St., P.O. Box 7921, Madison, WI 53707.

(4) The department shall issue a notice of intent to use a natural body of water as a fish hatching or rearing facility that was not being used as of January 1, 1998 by the department. The department shall comply with all provisions of s. NR 16.74 before it may use a natural body of water as a fish hatching or rearing facility.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: am. (1) Register June 2002 No. 558, eff. 7-1-02.

**NR 16.74 Department determinations.** (1) The department shall issue a permit for use of a natural body of water as a fish farm or as a part of a fish farm if all requirements of this subchapter have been met and if the department determines that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be adversely impacted. Among the factors considered, the following are indicative of public rights and interests including but not limited to:

(a) Plant and wild animal habitat or plant and wild animal populations.

(b) Threatened or endangered species or their habitat.

(c) Water quality related functional values or uses of wetlands identified in s. NR 103.03.

(d) Surface water quality standards identified in chs. NR 102, 104, 105, 106 and 107 and minimum water quantity requirements identified in s. 31.02, Stats.

(e) The public's right to navigate and associated incidents to navigation including fishing, swimming, wading and canoeing.

(2) Fish farms may not introduce or propagate any non-native fish species if the department has determined that having the fish in that particular self-contained fish rearing facility or preexisting fish rearing facility will pose a risk of being detrimental to the waters of the state.

(3) Physical improvements or modifications to natural bodies of water used as fish farms shall comply with all federal, state and local laws and ordinances.

(4) Permits approved under this subchapter may be transferred to another party if the department determines that all conditions of this subchapter and s. 29.733, Stats., have been satisfied.

(5) The department shall renew under s. 29.733 (2) (c), Stats., a permit issued under s. 29.733 (2) (a) and (b), Stats., for use of a natural body of water as a fish farm or any part of a fish farm in a natural body of water unless the department determines there has been a substantial adverse change affecting one or more of the cri-

teria specified in s. NR 16.74 (1) (a) to (e) resulting from the operation of the fish farm. The department shall consider the historical condition of the natural water body prior to the presence and operation of the fish farm as part of their permit renewal decision under s. 29.733 (2) (c), Stats.

**Note:** Under this paragraph, historical conditions refer to known uses of the natural body of water prior to the inception of the fish farm.

**(6)** The department shall deny a permit for use of a natural body of water as a fish farm or as part of a fish farm if the requirements of this subchapter have not been met.

**(6m)** A single permit shall be issued for multiple natural bodies of water located on the same contiguous parcel of property under the same ownership or leasehold.

**(7)** Upon receipt of a complete permit application, the department shall either schedule a hearing or provide notice stating that it will proceed on the application without a hearing if no substan-

tive written objections to issuance of the permit is received within 30 days after publication or notice. The notice shall be provided to news media and other persons according to the procedures in s. NR 27.07 (1) (b) and (c). The department may provide notice to other persons as it deems appropriate. The department will assume the cost of publishing the notice.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: r. and recr. (5), cr. (6m) Register June 2002 No. 558, eff. 7-1-02.

**NR 16.75 Enforcement.** The department may suspend or revoke a permit issued under this subchapter subject to the provisions of s. 29.733 (2) (e), Stats. A fish farmer operating a fish farm in a natural body of water as defined in s. NR 16.71 (3) without a valid permit under this subchapter may be penalized under s. 29.971, Stats.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: am. Register June 2002 No. 558, eff. 7-1-02.