

Chapter NR 19

MISCELLANEOUS GAME FUR AND FISH

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(Sections 23.09 and 29.573, Wis. Stats.)

NR 19.001 Definitions. (1) "File" or "filed" means receipt by the department of a written notice, verified claim or other document.

(2) "Harvested in accordance with normal agricultural practices" means that agricultural practice commonly used in the area of the lands to harvest mature crops.

(3) "In or near the area where damage occurs" means for purposes of s. 29.594, Stats., any parcel of land under one ownership wholly or partially within or abutting any zone where hunter numbers or concentrations are limited by law.

(4) "Lands" for purposes of ss. 29.594 and 29.595, Stats., means property under the same ownership or control and within a 3-mile radius of the exterior boundary of the damaged crop.

(5) "Posted against trespass or hunting" means notice in any form, including that given orally, in writing, by publication, by sign or by any other means that denies or discourages free entry to or permission to remain on lands to any person engaged in or about to engage in lawful deer or bear hunting, whichever is applicable, except:

(a) Signs located within 100 yards of a building which specifically prohibit or restrict trespass only within that 100-yard area.

(b) Lands entered under and managed in accordance with the department's "Project Respect" program.

(5m) "Protected wild animals" means those animals for which a closed season, bag limit, size limit or possession limit has been provided by statute or administrative rule, and includes:

(a) Nongame species unless specifically designated as unprotected by the department;

(b) Game fish, game animals, game birds and fur bearing animals during closed seasons;

(c) Endangered and threatened species listed in chapter NR 27, Wis. Adm. Code.

(6) "Public hunting" means for purposes of s. 29.594, Stats., lands on which the owner or occupant allows hunting for Canada geese by persons other than the immediate family and who have received permission from the owner or occupant to hunt said lands. The owner or occupant may limit such hunting as to time or place, but may not discriminate against persons requesting permission because of their age, race, religion, sex, familiarity of occupant or owner or any other arbitrary standards.

(7) "Unprotected wild animals" means those animals for which no closed season, bag limit, size limit or possession limit has been provided by statute or administrative rule.

(8) "Verified" means to confirm or establish by oath, normally in the form of a notarized statement.

History: Cr. Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. Register, January, 1980, No. 289, eff. 2-1-80; cr. (5m) and am. (7), Register, August, 1980, No. 296, eff. 9-1-80.

NR 19.03 Control of muskrats on cranberry marshes. (1) The owner or lessee of any improved cranberry marsh area shall comply with s. 29.596, Stats.

(3) The provisions of this section shall not apply to any person or persons who own or are interested in a cranberry marsh situated in the same area wherein said owners are the licensees of a muskrat farm or in which such person or persons have an interest.

(4) The department or its authorized agents may assist any owner or operator of improved cranberry marsh areas with the removal of muskrats from areas that have been damaged, or are being damaged by such muskrats, wherein they believe that the muskrats can be taken alive and removed to other localities deemed advisable by the department.

(5) Any such cranberry marsh areas where muskrats are being controlled as provided in this section shall be open to the inspection of the department or its authorized agents at any time.

History: 1-2-56; r. (2), Register, August, 1966, No. 128, eff. 9-1-66; rnum. from WCD 19.03 to be NR 19.03, and am. (1), (4) and (6), Register, April, 1971, No. 184, eff. 5-1-71; r. and recr. (1), Register, August, 1979, No. 284, eff. 9-1-79.

NR 19.05 Release and importation of fish and wildlife. (1) It shall be unlawful for any person, persons, firm or corporation to bring into the state to introduce or release or cause to be introduced or released in any manner into the inland or outlying waters, forests or fields of this state any variety or species of wild animal, hybrid of a wild animal, and any bird of fish or the eggs or spawn thereof, without first applying for in writing and receiving a written permit from the department or its duly authorized agents. Such permit shall be granted only after the department or its agents investigates and inspects such wild animals, hybrids of wild animals, or birds or fish, or the eggs or spawn thereof as it deems necessary to determine that such introduction or release will not be detrimental in any manner to the conservation of the natural resources of the state. Inspection may include removal of reasonable samples of fish and eggs for biological examination. The responsibility of licensees holding private fish hatchery licenses is stated in s. 29.52 (10), Stats.

(2) Permits to import fish or eggs of the family Salmonidae (trout, char, salmon) shall be issued at no charge to a person who has applied on a special form furnished by the department. Such permit will be issued only if the immediate source of fish or eggs is certified free of infectious

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hematopoietic necrosis, viral hemorrhagic septicaemia, whirling disease, enteric redmouth and *Ceratomyxa shasta*, except that eggs from wild stocks do not have to be certified free of whirling disease. Certification shall be made in the state of origin and may be accomplished only by biologists recognized by the department as competent in diagnosis of fish diseases. For informational purposes the source of fish or eggs will also be inspected for infectious pancreatic necrosis, kidney disease and bacterial furunculosis. Inspecting biologists will submit a written inspection report to the department. A copy of the importation permit must accompany each shipment of fish or eggs.

History: 1-2-56; am. (2), Register, October, 1969, No. 166, eff. 1-1-70; renum. from WCD 19.05 to be NR 19.05, and am. (1), (2) and (3), Register, April, 1971, No. 184, eff. 5-1-71; r. and recr., Register, August, 1977, No. 260, eff. 9-1-77.

NR 19.06 Fish nets and traps. (1) It shall be unlawful for any person or persons to take, catch or kill fish or fish for fish of any species when such fish are being held in any fish net, fish holding net, fish trap, fish pond, either artificial or natural, or any structure or net placed in any of the waters of the state by the department or under its authority for the purpose of taking or holding fish therein at any time, or for any person or persons to lift, molest, cut or destroy any fish net, fish holding net, fish trap, fish pond, or any structure or net placed in any of the waters of the state by the department or under its authority for the purpose of taking or holding fish therein.

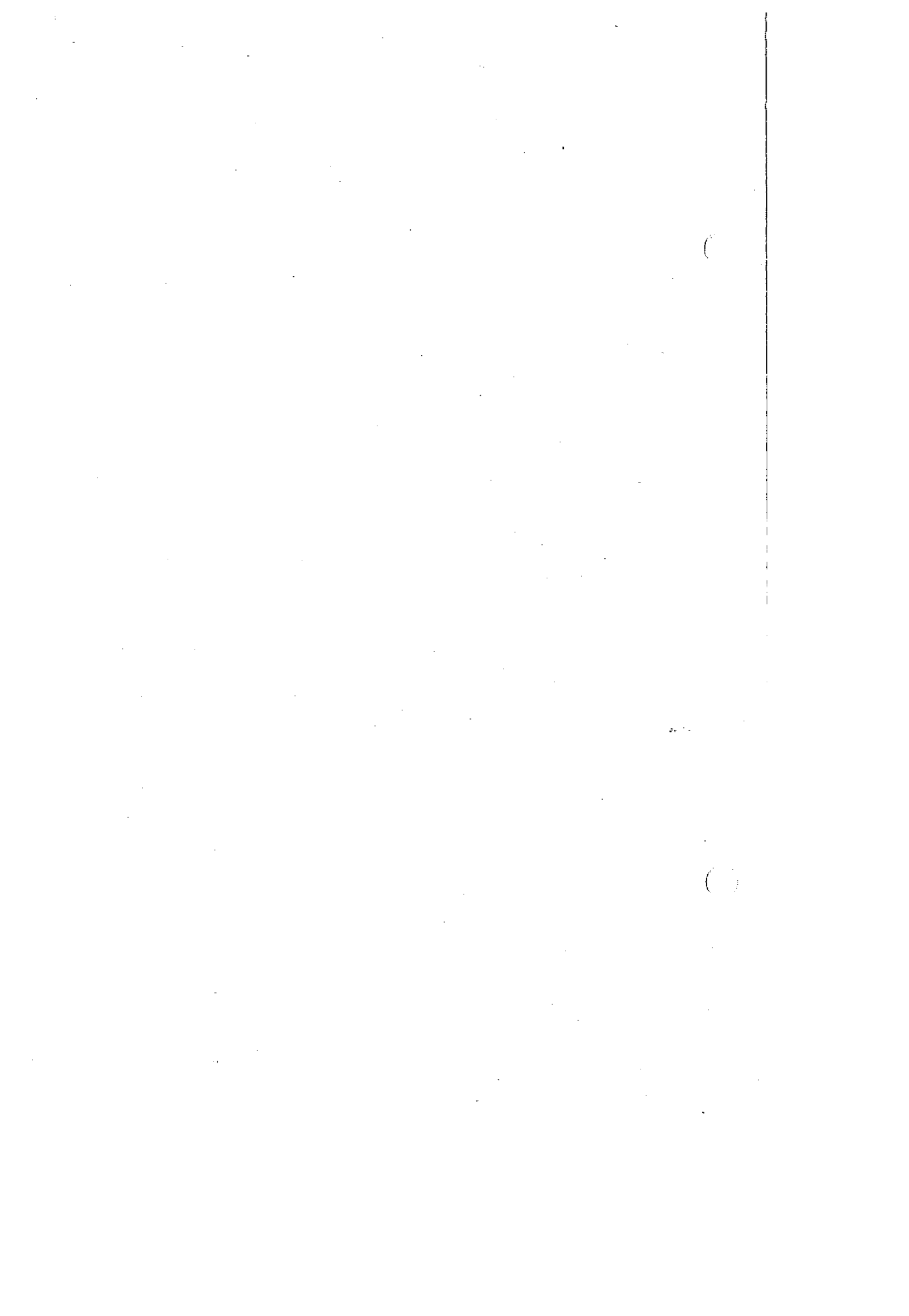
(2) It shall be unlawful for any person or persons to take, catch, capture or kill fish or pursue fish in any fishing operations within 500 feet above or 500 feet below any net, dam or weir wherein the state of Wisconsin is fishing or holding fish for commercial, scientific, or biological purposes, when the area is properly posted by the department.

(3) No provisions in this section shall prohibit the department, its agents, deputy conservation wardens or representatives of the division of fish, game and enforcement of such department from taking any of the fish mentioned in any of the sections of this order at any time or from lifting, setting, or transferring any nets or structures used in holding or capturing fish, wherein they deem it advisable and necessary to promote the department fish management program.

History: 1-2-56; am. (1), Register, December, 1960, No. 60, eff. 1-1-61; am. (1), Register, December, 1961, No. 72, eff. 1-1-62; renum from WCD 19.06 to be NR 19.06 and am. (1), (2) and (3), Register, April, 1971, No. 184, eff. 5-1-71.

NR 19.07 Shooting preserves. (1) **LAND OWNERSHIP OR LEASES.** Any person making application to the department for a shooting preserve license must file with the department a verified copy of any lease of lands contained in the area for which they are making application for a shooting preserve license after the area has been inspected and found eligible for license. In the event the person making application for a shooting preserve license is owner of the land, he or she shall file with the department a sworn affidavit stating that he or she is the owner of such lands and has legal title to them.

(2) **SEASON FOR TAKING PHEASANTS AND QUAIL.** The season for taking pheasants and quail on shooting preserves shall begin September 15 and



(9) One copy of permit shall be issued to permittee, one copy sent to the department, and one copy retained by issuing agency.

(10) Provisions of permit and restrictions shall be printed on the back of the permit form.

(11) If a deer is not released pursuant to subsection (1), it may be sold by the department at the highest price obtainable or otherwise disposed of.

(12) The entrails or any other parts of deer killed in vehicle-deer collisions shall not be disposed of on the highway right-of-way.

History: Cr. Register, June 1976, No. 246, eff. 7-1-76.

NR 19.21 Deer and bear damage. (s. 29.595). (1) **POSTING.** (a) A person shall be ineligible to collect deer or bear damage payments if the lands subject to the claim have been posted within 12 months prior to the filing of a verified claim.

(b) Leased lands posted by persons other than the lessee shall not disqualify the lessee from receiving deer and bear damage payments on other nonposted lands owned or leased by the lessee.

(c) Lands for which a verified claim has been filed for deer and bear damage may not be posted prior to completion of the department's investigation of the claim.

(2) **HARVEST.** (a) *Notification.* Damage claimants shall notify the department of their intent to harvest at least 5 days prior to the intended date of harvest.

(b) *Questionable practices.* If the department has determined that crops have not been harvested in a normal agricultural manner, the claimant, upon providing a certified statement from the county agricultural agent stating that the crop(s) were harvested in a normal agricultural manner, shall then be eligible for payment of the claim providing all other requirements of ss. 29.594 and 29.595, Stats., have been met.

(3) **STORAGE.** Damage incurred to harvested crops regardless of the method of storage shall not be eligible for claim payment.

History: Cr. Register, January, 1977, No. 253, eff. 2-1-77; r. and recr., Register, January, 1980, No. 289, eff. 2-1-80.

NR 19.22 Deer fence contracts. (1) **ELIGIBLE PERSONS.** The department may require a contract pursuant to s. 29.595 (3) (b), Stats., of those persons owning and leasing lands where:

(a) Deer damage to these lands has occurred or is occurring; and

(b) The department has reason to believe that there will be future deer damage on the lands; and

(c) The landowner and lessee are eligible to apply for and receive deer damage payments.

(2) **TERMS OF DEER FENCE CONTRACT.** When the department has determined that a deer proof fence is required that can be built at less cost than the estimated future damage, a deer fence contract shall be required. Such contract shall contain but not be limited to the following provisions:

(a) A contract shall be effective and prohibit deer damage payments for such lands for a minimum of 20 years from a date certain following delivery of the materials.

(b) The specifications for the fence construction.

(c) The materials provided by the department.

(d) Minimum maintenance of the fence by the landowner and lessee.

(3) **FENCE CONSTRUCTION.** Unless the department determines that a situation is so extraordinary to require different provisions, all materials for fence construction shall be provided by the department with fence construction to be completed by the landowner and lessee according to the specifications provided by the department.

(4) **DENIAL OF CONTRACT.** Any landowner and lessee who refuses to enter into a contract pursuant to s. 29.595 (3) (b), Stats., when notified by the department by certified mail shall be ineligible to receive deer damage payments on said lands from the date of refusal or 30 days from notification whichever occurs first.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 19.23 Duck, goose and sandhill crane damage (s. 29.594). (1) **NOTIFICATION.** Damage claimants shall notify the department of their intent to harvest at least 5 days prior to the intended harvest.

(2) **STORAGE.** Damage incurred to harvested crops regardless of the method of storage shall not be eligible for claim payments.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 19.24 Animal damage records (s. 16.61). (1) Animal damage records of the department are public records and as such are available for reasonable examination by and reproduction at reasonable cost for the public at the office authorized to render the final decision on a claim.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 19.25 Wild animal protection. Unless engaged in dog training as defined in section NR 17.001 (1) (h), Wis. Adm. Code, or other activity specifically authorized by the department, a closed season is established and no person may harass, disturb, pursue, shoot, trap, catch, take or kill protected wild animals by any means.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

wherein they are trapped by their own movement. Such nets may be referred to as shallow trap nets, submarine trap nets or deep water trap nets but shall not include drop nets or fyke nets.

(20) "Trawl" means a large conical bag of netting to which are often attached wings of netting, which is towed in the water and captures fish by scooping rather than encircling them. The mouth of the bag is normally kept open laterally by 2 large boards, one on each side so rigged that they serve to spread the entire net, and these boards are secured to towing lines running to the vessel or vessels engaged in towing the net through the water.

(21) "Trawl cast" means the single placement, towing and retrieval of a trawl.

(22) "Stretch measure" means the extension measure of net mesh size whenever the size of mesh of a net is specified. Stretch measure means the distance between the extreme angles of any single mesh.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79.

NR 25.03 Commercial fishing licenses. (1) LAKE SUPERIOR. (a) Not more than 21 licenses authorizing commercial fishing in Lake Superior may be issued for each license year.

(b) Applications for licenses authorizing commercial fishing on Lake Superior which have been filed in accordance with sub. (3) shall be reviewed and approved or denied pursuant to the following criteria:

1. For the first year of eligibility the applicant must show proof of a \$5,000 investment in commercial fishing equipment.

2. To retain eligibility for the second year and each consecutive year period thereafter, the applicant must show proof of:

a. A \$5,000 investment in commercial fishing equipment.

b. At least 50 days of commercial fishing, setting or operating nets on Lake Superior during the previous year.

3. Any licensee failing to meet the qualifications of par. (b) 1. and 2. shall not be eligible to reapply for such license until one year has elapsed since the end of the period in which that person was licensed.

4. Such licenses shall be issued according to the following priorities to applicants otherwise qualified.

a. First to individuals who have been licensed on Lake Superior or worked as crew members setting and operating nets at least 100 days in total during the 2 preceding years.

b. Next to individuals who have held a license on Lake Superior or worked as a member of a crew on Lake Superior for 2 years.

c. Next to other Wisconsin residents and nonresidents residing in states allowing Wisconsin residents similar privileges.

5. When the number of qualified new applicants for such license shall exceed the number of licenses available and such applicants are not affected by the priorities established in subd. 4. the licenses shall be

awarded on the basis of random selection from all eligible applications received.

(c) The Lake Superior commercial fishing board shall review applications for licenses and recommend approval or denial of licenses to the department no later than May 20 preceding the license year for which application is being made.

(2) LAKE MICHIGAN. (a) The number of licenses authorizing commercial fishing in Lake Michigan and Green Bay issued in each license year shall be limited to no more than the number issued and in effect at the time this rule becomes effective.

(3) APPLICATION. Application for licenses authorizing commercial fishing in the outlying waters shall be made and submitted as designated on forms provided by the department no later than April 30 preceding the license year for which application is being made.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79; am. (1), Register, August, 1980, No. 296, eff. 9-1-80.

NR 25.04 Transfer of commercial fishing licenses. (1) (a) A valid license authorizing commercial fishing in the outlying waters may be transferred by a licensee complying with this section to a member of the licensee's immediate family.

(b) For purposes of this section the immediate family means the spouse, parent, sibling or children by birth or adoption who are eligible to apply for a commercial fishing license under section NR 25.03.