

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.

(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 ch. NR 27.

(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; r. (2), (3), (4), (5) and (6), Register, January, 1984, No. 337, eff. 2-1-84.

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 (5), 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

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resources may take such revocation action without requiring that a hearing be held on the matter.

(c) The special lettered and numbered tag shall be distributed to the conservation warden or designated tribal member by the department of natural resources at such times and in such numbers as it deems appropriate. During the off-reservation closed season for such wild animal, bird or fish, no person shall remove any such carcass or part thereof from an Indian reservation without such a tag being attached and locked. No person shall remove the tag prior to consumption of the animal, bird or fish carcass tagged. No endangered species shall be tagged. No person other than a conservation warden or designated tribal member shall have unused tags in his or her possession.

History: Cr. Register, April, 1976, No. 244, eff. 5-1-76.

NR 19.13 Disposition of deer accidentally killed by a motor vehicle. (1) The driver of a motor vehicle involved in a vehicle-deer collision may have first priority to the deer killed. However, if the driver does not want to take possession of the deer it may be given to another party at the scene of the accident by the department or its agents.

(2) If a driver collides with and kills 2 or more deer at one time, the driver is eligible to receive as many of these deer as the driver wishes.

(3) No such deer, or any parts thereof, may be sold, bartered or given by the individual to any other person at any time, except the head or hide, which may be disposed of pursuant to s. 29.40 (3), Stats.

(4) Possession of vehicle-killed deer shall be limited to 90 days.

(5) Spotted fawns and white deer may not be released by the department.

(6) No deer shall be retained until it has been tagged with a metal seal provided by the department and a permit has been issued.

(7) Permits shall be issued and metal seals attached by the department or its agents for each deer released.

(8) The permit shall contain the following information:

(a) Name and address of permittee.

(b) Vehicle license number if deer given to driver involved in the collision.

(c) Date of accident.

(d) Date of issuance.

(e) Number of metal seal used.

(f) Identification of permittee as driver of vehicle, or other.

(g) Sex of deer and approximate weight.

(h) Location of kill as to county.

(i) Name of officer who issued permit and metal seal and the name and address of the officer's agency.

(j) Statement that permit valid for a period of 90 days after date of issuance.

(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 sub. (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. History: Cr. Register, January, 1977, No. 253, eff. 2-1-77; r. and recr., Register, January, 1980, No. 289, eff. 2-1-80; r. Register, January, 1984, No. 337, eff. 2-1-84.

NR 19.22 Deer fence contracts. History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; r. Register, January, 1984, No. 337, eff. 2-1-84.

NR 19.23 Duck, goose and sandhill crane damage. History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; r. Register, January, 1984, No. 337, eff. 2-1-84.

NR 19.24 Animal damage records. History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; r. Register, January, 1984, No. 337, eff. 2-1-84.

NR 19.25 Wild animal protection. Unless engaged in dog training as defined in s. NR 17.001 (1) (h), 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.

NR 19.26 Beaver dam removal. (s. 29.29, 29.60, Stats.). Explosives, including dynamite, may be used to remove beaver dams provided a permit is issued by the department to remove the structure by such means.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82.

NR 19.27 Live crayfish and crabs. (1) No person may possess live crayfish or crabs while on any inland water of the state, except the Mississippi river, unless that person is engaged in removal of crayfish or crabs from that body of water in accordance with s. NR 20.05. (ss. 23.09 (2), 29.085, 29.174 (2) and 29.175 (1), Stats.)

(2) No person may place, deposit, throw or otherwise introduce live crayfish or crabs into any water of the state unless a permit authorizing introduction has been issued under s. 29.535, Stats., (ss. 23.09 (2), 29.174 (2), 29.175 (1) and 29.535 (1), Stats.)

History: Cr. Register, December, 1982, No. 324, eff. 1-1-83.

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

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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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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;

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(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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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.

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(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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.

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 record-keeping 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.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84.