

Chapter NR 12

WILDLIFE DAMAGE AND NUISANCE CONTROL

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Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1999, No. 517.

Subchapter I — Wildlife Abatement Program

NR 12.001 Definitions. (1) "Contiguous land" means lands under the same ownership which are connected to lands on which wildlife are causing damage including lands separated by a roadway, easement, license or waterway.

(2) (a) "Lands suitable for hunting deer" has the meaning given in s. NR 12.31 (4e).

(b) "Lands suitable for hunting or trapping" means lands where the conduct of hunting or trapping is not likely to result in a violation under ss. 29.301 (1), 167.30, 167.31 and 941.20 (1) (d), Stats., or damage to buildings and where it is probable an animal causing damage may be harvested.

Note: Sections 29.301 (1), 167.30, 167.31 and 941.20 (1) (d), Stats., concern shooting near hospitals, schools, sanatoriums, parks, buildings and highways.

(3) "Landowner" means any person over 18 years of age and any partnership, firm or corporation that holds title to land whether or not this land is subject to easement, mortgage, lien, lease or restrictive covenant, except that this term does not include any person who is under guardianship, a person who is incompetent or a person who is mentally ill. A person, partnership, firm or corporation is deemed to hold title to land if the person, partnership, firm or corporation has any of the following:

- (a) Title as sole owner.
- (b) Title as a joint owner.
- (c) Title as owner of an undivided interest.
- (d) Title as sole or joint trustee or as sole or joint assignee.
- (e) A land contract vendee's interest therein.

(4) "Lessee" means any person possessing a written lease for use of land for the production of commercial seedlings, crops, orchard trees, Christmas trees, nursery stock, honey, and live-stock.

(5) "Management unit" and "hunting zone" mean those management units established for deer in s. NR 10.28, elk in s. NR 10.37 and those management zones established in ss. NR 10.30 and 10.31 for bear and Canada geese.

(6) "Municipality" means a county, city, village or town.

(7) "Participant" means any hunter or trapper authorized by the permittee, in writing, to assist the permittee in removing wild animals causing damage or nuisance.

(8) "Permanent barrier fence" means a fence erected for year-round protection from white-tailed deer and elk that meets the specifications in s. NR 16.45 (1), authorized under s. NR 16.45 (4) or adopted by a county participating under s. 29.889, Stats.

(9) "Permittee" means any person or municipality issued a permit by the department to remove or destroy wild animals causing damage or nuisance.

(10) "USFWS" means the United States department of the interior, fish and wildlife service.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; renum. (6) and (7) to be (8) and (10), cr. (6), (7) and (9), Register, May, 1994, No. 461, eff. 6-1-94; renum. (2) to be (2) (b) and cr. (2) (a), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018: am. (5) and (8) Register December 2003 No. 576, eff. 1-1-04; corrections made to (2) (a) under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.

NR 12.01 Purpose. This chapter is established to administer s. 29.885, Stats., relating to the removal of wild animals causing damage or nuisance.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

NR 12.05 Birds causing depredation. (1) FINDINGS. The natural resources board finds that unlimited shooting or trapping of cowbirds, crows, grackles, house sparrows, starlings, and red-winged blackbirds is necessary when causing depredation.

(2) PERMIT WAIVER. Neither a federal nor state permit are required of any person to shoot or trap birds listed in sub. (1) when found committing or about to commit depredations upon agricultural crops, livestock, ornamental or shade trees or when constituting a health hazard or other nuisance provided:

(a) *Disposition.* Birds killed and their plumage may not be sold or offered for sale.

(b) *Premises inspection.* Any person taking these birds shall at all reasonable times, including during actual operation, permit any federal or state game law enforcement officer, free and unrestricted access on the premises over which the operations have been or are being conducted, and shall furnish promptly to the officer whatever information he or she requests about the operation.

(3) LICENSE WAIVER. Hunting and trapping licenses are not required for shooting or trapping these birds when causing the depredations described under sub. (2) (intro.).

(4) SHOOTING HOURS. The hours for shooting depredating birds during the open season for migratory birds as specified under s. NR 10.01 (1) shall be the same as those established for migratory game bird hunting under s. NR 10.06 (5).

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; cr. (4), Register, September, 1990, No. 417, eff. 10-1-90; correction in (4) was made under s. 13.93 (2m) (b) 7., Register November 2001 No. 551.

NR 12.06 CWD eradication zone deer removal permits. (1) FINDINGS. Pursuant to s. 29.885 (4), Stats., the natural resources board finds that deer within any CWD eradication zone cause a nuisance and that the shooting of deer with nuisance permits is necessary within any CWD eradication zone defined in s.

NR 10.001 (6p) in order to reduce the spread of disease within the CWD eradication zone and to reduce the risk of disease spreading outside any CWD eradication zone.

(2) **PERMITS.** Unless otherwise authorized by the department, landowners, lessees, occupants or their duly authorized agents of a single parcel of land at least 5 acres in size, all within the CWD eradication zone may, under a department issued permit, remove deer from lands under their ownership or control in accordance with this section. Both antlerless and buck deer may be harvested unless otherwise restricted as a condition of the permit.

(3) **PARTICIPATION BY OTHERS.** Persons other than the permittee may assist as a participant in the removal of deer in accordance with this section on the land for which the permit is valid.

(a) *Number and selection of participants.* All participants shall be selected by the permittee.

(b) *Age and safety training.* All participants, including the permittee shall meet the requirements of ss. 29.304 and 29.593, Stats., pertaining to hunter safety and age.

(c) *Approval.* All participants shall possess written approval obtained from the permittee and the appropriate, valid hunting license unless exempted under sub. (4) (a) when carrying on removal activities. Written approval may include: name, address and phone number of landowner; name, address, phone number and DNR customer identification number, if applicable, of the person removing wild animals; property location and removal activities, authorized period of removal, signature of the permittee, or other form of approval authorized by the department.

(d) *No fees.* The permittee may not charge any form of fee to a participant.

(4) **LICENSES, STAMPS AND PERMITS.** (a) The permittee and participants are not required to possess the appropriate state hunting license or backtag for deer, unless otherwise required as a condition of the permit.

(b) Antlerless deer harvested under the authority of this section may be used to earn a CWD buck permit issued under s. NR 10.104 (11) for the authority to harvest a buck deer during the seasons listed in s. NR 10.01 (3) (et) within the herd reduction and CWD eradication zones identified in s. NR 10.28 (3).

(5) **CARCASS DISPOSITION.** Unless otherwise directed by the department, carcasses shall be disposed of in accordance with the procedures outlined on the permit issued by the department. Any part of any deer harvested under this section may be collected by the department for disease testing purposes.

(6) **HARVEST PERIODS.** Permits issued to landowners under this section are valid only for the periods specified by the department on the permit.

(7) **SHOOTING HOURS.** Permittees and participants shall comply with shooting hours described in s. NR 10.06 (5), unless exempted by the department.

(8) **FIREARM USE.** The following conditions shall apply to the use of firearms, bows or crossbows on deer shooting permits:

(a) Permittees and participants shall comply at all times when hunting with the blaze orange clothing regulations of s. 29.301 (2), Stats., unless exempted by the department. Exemptions to the blaze orange requirement are allowed where local ordinances prohibit the discharge of firearms and bow hunting by the general public, or a trained sharpshooter during the closed deer gun season is the only methods available to remove deer.

(b) Except as provided under par. (c), and unless otherwise directed by the department, the weapons designated by the department on the permit shall be valid to harvest deer under the authority of the permit under sub. (2).

(c) In counties with deer shotgun seasons, a permittee and participants that have been authorized by the permittee may use a rifle that is not otherwise prohibited by s. NR 10.09 (1) (c) 2.

(9) **REGISTRATION.** Permittees and participants shall register deer taken under this section in accordance with the procedures designated by the department on the permit.

(10) **VALIDATION.** Any person who kills a deer or if s. 29.324, Stats., applies, the person providing the carcass tag shall immediately validate and attach the carcass tag as designated by the department.

(11) **BAITING.** The use of bait to attract or hunt deer for removal purposes by the permittee and participants is not allowed unless specifically authorized by the department and under the conditions specified in the permit.

History: Emerg. cr. eff. 7-3-02; emerg. r. and recr. eff. 1-11-03; CR 03-016: cr. Register August 2003 No. 572, eff. 9-1-03; CR 04-020: am. (2), (3) (a) and (4) (b) Register August 2004 No. 584, eff. 9-1-04.

NR 12.10 Authorization to remove wild animals causing damage or nuisance. Landowners, lessees or occupants may remove from lands under their control wild animals and their associated structures causing damage or constituting a nuisance in accordance with this section.

(1) **WRITTEN APPLICATION REQUIRED.** (a) *General prohibitions.* Unless otherwise approved by the department, a municipality, landowner, lessee or occupant may not engage in the following without applying in writing and receiving written approval from the department to:

1. Destroy any wild animal classified as:
 - a. A furbearing animal or game fish, animal or bird under s. 29.001 (30), (33), (36) and (39), Stats.; or
 - b. Protected under s. NR 10.02; or
 - c. Endangered or threatened under s. NR 27.03;
2. Use any restricted-use pesticides listed in s. NR 80.01 (4); or
3. Live-capture and relocate any wild animal to department controlled lands.
4. Live-capture and relocate white-tailed deer, elk, black bear or any wild animal classified as endangered or threatened under s. NR 27.03.
5. Live-capture and relocate any coyote to a hound dog training enclosure permitted under s. NR 17.045.

Note: Application forms are obtained from department field stations.

- (b) *Exemptions.* Written authorization is not required to:
1. Destroy by shooting or trapping:
 - a. Any unprotected wild animal under s. NR 10.04; or
 - b. Any bird causing depredation under s. NR 12.05; or provided that all game and furbearing animals are disposed of as directed by the department;
 - c. Any species listed in s. 29.337, Stats.; or

Note: Animals listed in s. 29.337, Stats., are beavers, foxes, raccoons, rabbits, squirrels, coyotes and woodchucks. However, s. 29.337, Stats., provides for the protection of coyotes from hunting during an open season for hunting deer with firearms in an area that is closed by the department by rule to coyote hunting.

- d. Muskrats damaging dikes, dams, shoreline or roadways.
2. Live-trap and relocate any wild animal, except white-tailed deer, elk, black bear or any wild animal classified as endangered or threatened under s. NR 27.03, to open unenclosed lands not controlled by the department with the permission of the owner. Pursuit of animals released under this subdivision by dogs may not occur in an area where a wild animal has been released for a period of 2 hours after release of the animal, except dogs may be released to pursue raccoons at anytime after the raccoon has reached cover by climbing a tree or pole to a height of at least 10 feet.
3. Remove beaver dams.
4. Harass or disturb protected wild birds, not listed as endangered or threatened in s. NR 27.03, in such a way as to relieve a damage or nuisance situation in urban areas, golf courses, and airports provided the bird is not physically harmed.

5. Live-trap and relocate rabbits to a hound dog training enclosure permitted under s. NR 17.045.

6. Conduct any of the following activities in order to control Canada geese at an airport or within a 3 mile radius of the airport with landowner permission, if the activities are conducted by airport employees or their designees in compliance with the restrictions, requirements and conditions as described by the U.S. fish and wildlife service in 50 CFR 21.49 and provided that all birds are disposed of as directed by the department:

- a. Live-trap and relocate Canada geese.
- b. Destroy nests and eggs of Canada geese from March 1 to June 30.
- c. Kill adult Canada geese and goslings by trapping or shooting from April 1 to September 15.

(c) *Application deadline.* The department may not consider any application to shoot deer causing damage to corn, alfalfa, clover, other hay, soybeans, small grains, vegetable crops, melons, strawberries, cabbage, potatoes, cucumbers, popcorn, sunflowers or ginseng filed after October 1, unless the department finds that extraordinary conditions exist. Extraordinary conditions include, but are not limited to, ongoing, severe damage to crops occurring after October 1, which will cause extensive yield reductions or winter losses.

(2) APPROVAL CRITERIA. Prior to authorizing the removal of wild animals causing damage, the department shall find that:

(a) *Abatement attempt.* The applicant is employing or has agreed to employ alternative abatement methods deemed reasonable by the department.

(b) *Damage extent.* 1. Damage to applicant's property in the current calendar year exceeds or is likely to exceed \$1,000 if caused by any species included under s. 29.889, Stats.; or

2. White-tailed deer are causing damage on lands enclosed by a permanent barrier fence that has been certified to be in proper working order by either the department or the county wildlife damage program administrator; or

3. Damage will result in a loss of plants or animals listed as threatened or endangered under s. NR 27.03; or

4. Extraordinary damage other than specified in subs. 1. to 3. is occurring or is likely to occur.

(c) *Access control.* The applicant has the authority to control access as required by s. 29.885 (4m), Stats., for purposes of hunting and trapping on the lands being damaged and any contiguous lands under the same ownership that are suitable for hunting or trapping.

(d) *Previous performance.* The applicant has complied with the conditions of any previous department authorizations to remove wild animals causing damage or nuisance issued within the preceding 12 months and this chapter.

(e) *County involvement.* For species and lands covered under an approved county wildlife damage plan of administration under s. 29.889, Stats., the county wildlife damage administrator has conducted a damage investigation and made recommendations on abatement measures to be implemented by the applicant.

(f) *Migratory birds.* The USFWS has authorized the department to remove or authorize the removal of birds classified as migratory under 50 CFR 10.13.

(3) RULE COMPLIANCE AND PARTICIPATION BY OTHERS. The landowner, lessee, occupant or other persons assisting in the removal of wild animals causing damage or nuisance, shall comply with all hunting and trapping rules specified under ch. NR 10 or ch. 29, Stats., unless otherwise provided under this chapter, ch. 29, Stats., or by permit. Permittees and participants who fail to comply shall be subject to the penalty applicable to the appropriate ch. NR 10 or ch. 29, Stats., violation. Persons other than the landowner, lessee or occupant, may assist in the removal of wild animals causing damage or nuisance in accordance with this subsection.

(a) *Number and selection of participants.* The department may limit the number of persons assisting in a removal subject to s. NR 12.10 (1). All participants shall be selected by the permittee. First preference may be given to members of the permittee's immediate family. Next preference shall be given to persons that are able to provide immediate removal assistance and meet the requirements specified under par. (b) and s. NR 12.15 (11).

(b) *Age and safety training.* All participants shall meet the requirements of ss. 29.304 and 29.593, Stats., pertaining to hunter safety and age.

(c) Except as authorized in s. NR 12.06 (3) (c), all participants and persons assisting participants shall possess written approval from the permittee and the appropriate, valid hunting or trapping license when carrying on removal activities. Written approval shall include: name, address and phone number of landowner; name, address and phone number of the person removing wild animals; property location and removal activities, authorized period of removal, species of animals authorized for removal, signature of the landowner or lessee, and date.

(d) *No fees.* The permittee may not charge any form of fee to a participant.

(e) *Animal or carcass care and disposition of permit exempt wild animal removals.* Wild animals removed according to authority described in sub. (1) (b) which are live-trapped for relocation shall comply with s. 169.04 (2), Stats., or which are destroyed by shooting or trapping shall comply with s. 23.095, Stats., with fur or fur-bearing animals sold to a licensed fur dealer. Unusable animals or animal by-products shall be disposed of in a sanitary manner.

(4) NUISANCE APPROVAL. An applicant meeting the approval criteria described in sub. (2) (a), (d) and (f) may be authorized to remove wild animals causing a nuisance under conditions the department considers reasonable.

(5) LICENSE REQUIREMENTS. Municipalities, landowners, lessees or occupants that are not required to obtain written authorization under sub. (1) (b) to remove wild animals causing damage or that they consider to be a nuisance, are also not required to possess a valid hunting or trapping license when carrying out removal activities.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (1) (a) (intro.), (2) (intro.), (c), (d), (3) (c) and (d), cr. (1) (c) and (4), Register, May, 1994, No. 461, eff. 6-1-94; am. (3) (a), cr. (3) (e), Register, July, 1995, No. 475, eff. 8-1-95; CR 01-006: cr. (1) (b) 4., Register August 2001 No. 548, eff. 9-1-01; emerg. am. (3) (c), eff. 7-3-02; CR 03-016: am. (3) (c) Register August 2003 No. 572, eff. 9-1-03; CR 03-018: am. (1) (a) 4., (b) 2. and (2) (b) 2. Register December 2003 No. 576, eff. 1-1-04; CR 04-046: cr. (5) Register September 2004 No. 585, eff. 10-1-04; CR 05-031: am. (3) (intro.) and (e) Register October 2005 No. 598, eff. 11-1-05; CR 05-104: cr. (1) (a) 5. and (1) (b) 5., am. (1) (b) 2. Register June 2007 No. 618, eff. 7-1-07; **CR 07-055: am. (1) (b) 4., cr. (1) (b) 6. Register January 2008 No. 625, eff. 2-1-08.**

NR 12.15 Conditions of permits to shoot or trap wild animals causing damage. The following general conditions apply to all permits to remove wild animals causing damage:

(1) PUBLIC USE DURING OPEN SEASONS. All lands described on the application and any contiguous lands under the same ownership suitable for hunting or trapping shall be open to public hunting or trapping of the species causing the damage for a period of one year from the effective date of the permit. These lands may be posted to indicate that hunting permission is required from the permittee. The department may require a permittee to keep a daily log of hunter's names and telephone numbers on forms provided by the department as a condition of the permit.

(2) USE REFUSAL. Permittees may refuse access to hunters or trappers for reasonable cause. Reasonable cause may not be based on age, race, religion, color, handicap, sex, physical condition, development disability, creed, sexual orientation, or national origin. The presence of at least 2 hunters or active trapping of at least one trapper per each 40 acres suitable for hunting or trapping, respectively, shall constitute a reasonable cause for refusal.

Note: Other examples of reasonable cause may include drunkenness, vandalism, littering, or reckless conduct.

(3) **RULE COMPLIANCE.** The permittee and all participants shall comply with all hunting and trapping rules specified under ch. NR 10 or ch. 29, Stats., unless otherwise provided under this chapter, ch. 29, Stats., or by permit. Permittees and participants who fail to comply shall be subject to the penalty applicable to the appropriate ch. NR 10 or ch. 29, Stats., violation.

(4) **REPORTING.** Each permittee shall keep a current, correct and complete record of all participants and permit activities as required by the department on forms furnished by the department. Permit records may be inspected by the department at any time. Copies of records shall be provided to the department upon request. The permittee shall report the total number of wild animals or structures removed and return all unused permit materials and any participant authorizations issued, to the department within 10 days after the permit expiration date.

Note: Permit materials may include carcass tags, armbands and hunter permission slips.

(5) **CARCASS CARE AND DISPOSITION.** Unless otherwise directed by the department, each animal shall be:

(a) Tagged with a carcass tag provided by the department immediately upon killing;

(b) Field dressed and stored in a cool location; and

(c) As soon as practical, turned over to the department designee authorized to receive the carcass.

(6) **DEPARTMENT ASSISTANCE.** The department may not assist the permittee in shooting or trapping unless:

(a) Extraordinary damage is occurring; or

(b) The permittee has demonstrated an inability to kill an adequate number of wild animals and damage to the permittee's property in the current calendar year exceeds or is likely to exceed \$5,000 if caused by any species included under s. 29.889, Stats.

(7) **PERMIT MATERIALS POSSESSION.** Each participant shall have in their possession while hunting or trapping under the authority of a permit to remove wild animals causing damage any materials issued to the participant by the department or permittee.

(8) **PERMIT MATERIALS RESTRICTION.** Permit materials are not transferable and may not be altered or defaced.

(9) **PERMIT KILL LIMIT.** The department may specify the sex and age of the animals to be removed and limit the number of carcass tags issued under this section after consultation with the applicant and, if the damage is occurring in a county participating under s. 29.889, Stats., the appropriate county wildlife damage program personnel.

(10) **AUTHORIZED AREA.** The permit applies to all lands subject to public use under sub. (1) and may extend 1/4-mile onto adjoining lands of consenting landowners.

(11) **LICENSES, STAMPS AND PERMITS.** (a) Except as provided under s. 29.337, Stats., and excluding the permittee, all participants shall possess the appropriate state and federal hunting or trapping license, and stamps for hunting or trapping for that animal.

(b) *Bear damage shooting permits.* Participants shall possess a current Class A or B bear hunting license when engaged in bear damage shooting permit activities, such as hunting or baiting.

(c) *Elk damage shooting permits.* Participation of others under elk damage shooting permits shall be restricted to those persons who have applied for an elk hunting license under application procedures described in s. NR 10.111 (2), and who have indicated on their elk hunting applications their willingness to assist farmers having elk damage problems. Unless as authorized by the department, participants shall possess a valid elk license and a valid shooting permit when engaged in elk damage shooting permit activities.

(d) *Turkey damage shooting permits.* Others participating under a turkey damage shooting permit shall possess a license authorizing small game or turkey hunting, during that license

year, and a valid shooting permit when engaged in turkey damage shooting permit activities.

(12) **VIOLATIONS.** No person may violate the terms of any permit issued under this chapter.

(13) **USE RESTRICTIONS.** Hunting bear with the aid of dogs under this chapter is prohibited, unless the department determines there are extraordinary conditions which warrant an exemption. When the department grants an exemption, permittees may restrict hunting access of bear hunters using dogs if trespass problems on adjoining private properties are likely to occur.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (intro.), (1), (3) and (4), cr. (12), Register, May, 1994, No. 461, eff. 6-1-94; renum. (11) to be (11) (a), cr. (11) (b) and (13), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018; cr. (11) (c) Register December 2003 No. 576, eff. 1-1-04; CR 05-017; am. (11) (b) Register October 2005 No. 598, eff. 11-1-05; CR 05-031; cr. (11) (d) Register October 2005 No. 598, eff. 11-1-05.

NR 12.16 Conditions of permits to shoot deer causing damage. In addition to s. NR 12.15, the following conditions shall apply to all shooting permits for deer causing damage.

(1) **SHOOTING HOURS.** Permittees and participants shall comply with shooting hours described in s. NR 10.06 (5), unless exempted by the department. Exemptions shall be granted to allow hunting of deer one hour before sunrise to one hour after sunset during the closed season in situations where permit eligibility is based under s. NR 12.10 (2) (b) 2. and with permit conditions restricting permit shooting of deer to within the fenced area and restricting shooter presence to one person at any one time.

Note: Copies of hunting tables showing these hours shall be provided to all permittees for their reference and for distribution to participants.

(2) (a) *Harvest objective.* The permittee and participants, unless granted an exemption under par. (b) or issued a shooting permit under s. NR 12.37 (4) (a) 5., shall kill at least 80% of the number of deer authorized for harvest on the permit and shall kill at least 50% of the number of deer authorized for harvest during the first 45 days after permit issuance. If issued a shooting permit under s. NR 12.37 (4) (a) 5., the permittee shall kill at least 80% of the number of deer authorized for harvest on the permit by September 15 of the same year. The permittee is not eligible for a shooting permit the next year if the permittee fails to comply with these harvest objectives unless a shooting permit is prescribed damage abatement under s. 29.889, Stats.

(b) *Harvest objective exemption.* 1. The department may exempt the permittee from killing the deer necessary to meet harvest objectives if deer are unavailable for harvest within the authorized area.

2. The department may grant an exemption to the harvest objective requirement in par. (a) if there is compelling evidence that deer were unavailable to be shot. The following criteria and procedures shall be used to determine if deer were unavailable to be shot.

a. Compelling evidence that deer were not available include accurate shooting permit participant hunting logs documenting significant hunter effort. These logs shall include participant names and phone numbers and dates participants hunted. If a significant number of hunters regularly attempted to remove deer, but were unsuccessful this information along with other supporting evidence may establish that deer were unavailable to be shot.

b. A minimum of 5 hunter days per week for the duration of the permit valid period may be used as an indication of significant hunter effort. A minimum of 5 hunter days per week requirement means any combination of hunters hunting deer a total of 5 days under the permittee's deer damage shooting permit during each week of the valid period of the permit. One day of hunting shall be a total of at least 3 hours hunted in a day or a hunter successfully harvesting at least one deer in a day.

c. If a permittee had difficulty getting participants, the permittee contacted the department, the county or its agent to seek assistance.

d. Documents to support the information in the hunting log of significant hunter effort to meet the harvest objective include: written statements by these hunters with descriptions of hunting conditions; aerial photos documenting lack of deer habitat; records that show the permittee was in regular contact with county or its agent and local department staff keeping them informed of the permittee's difficulty; that the permittee implemented reasonable measures prescribed by the county, its agent or the department to improve shooting permit performance; and any other evidence deemed appropriate by the county, its agent and local department staff.

e. The county, its agent and the department shall consult before making a recommendation to grant an exemption to the harvest objective requirement under this section. This group shall review the evidence and, if there is consensus that an exemption is warranted, shall recommend that the department grant an exemption allowing eligibility for a permit the subsequent year.

(3) **CARCASS TAG DISTRIBUTION.** The number of carcass tags provided to the permittee shall be based upon the harvest objective specified under sub. (2) and the expected harvest success rate. The permittee may distribute the carcass tags provided to the permittee to the persons they have authorized to assist or retain them for their use.

(4) **EFFECTIVE DATES.** Authorization to kill deer commences the date of permit receipt by the permittee and continues through the open season for the appropriate zone described in s. NR 10.01 (3) (e) and (em), except that no deer may be killed during 24 hour period prior to the open season for hunting deer with gun.

(5) **TAGGING, TRANSPORTATION AND REGISTRATION OF CARCASSES.** (a) Each person who has killed a deer or if s. 29.324, Stats., applies, the person who has tagged the deer, shall comply with s. 29.347, Stats., and ss. NR 10.103 and 10.105.

(b) Any deer taken during the closed or bow deer season and retained by a participant or permittee shall be registered in accordance with s. NR 10.106 (2) (d). Any deer taken during the regular deer gun season and retained by a participant or permittee shall be registered in accordance with s. NR 10.106 (2) (a). Deer shall be registered at a location designated by the department.

(6) **CARCASS SALE AND PRICE.** The department shall offer the permittee and each participant the opportunity to retain one deer killed under the deer shooting permit. All deer not retained under this subsection shall be disposed of by the department.

(7) **DEER TYPE.** Unless exempted by the department, only deer without antlers or with an antler less than 3 inches in length may be killed.

(8) **WEAPON USE.** The following conditions shall apply to the use of firearms and bows on deer shooting permits:

(a) Permittees, all participants and persons assisting participants, shall comply with the blaze orange clothing regulations of s. 29.301 (2), Stats., unless exempted by the department. Exemptions will be granted where local ordinances prohibit the discharge of firearms and bow hunting or a trained sharpshooter during the closed deer gun season are the only methods available to remove deer.

(b) Except as provided under par. (c), all participants shall comply with the firearm type restrictions applicable to the permittee's land during the gun-deer season specified under s. NR 10.01 (3) (e) or (et).

(c) In counties with shotgun seasons, a permittee, their employees or members of their family that have been authorized to participate by the permittee may use a rifle during the time period closed to gun deer hunting.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (intro), (1), (2) and (8) (a), r. and recr. (5), Register, May, 1994, No. 461, eff. 6-1-94; am. (8) (intro.), (a), (b), Register, July, 1995, No. 475, eff. 8-1-95; am. (2) (a), renum. (2) (b) to be (2) (b) 1. and cr. (2) (b) 2., Register, January, 1999, No. 517, eff. 2-1-99; CR 01-006; am. (1), Register August 2001 No. 548, eff. 9-1-01; CR 00-154; am. (2) (a), Register January 2002 No. 553, eff. 2-1-02; corrections made to (2) (a) under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; CR 04-046; am (8) (b) Register Sep-

tember 2004 No. 585, eff. 10-1-04; CR 05-031; am. (8) (b) Register October 2005 No. 598, eff. 11-1-05.

NR 12.17 Conditions of permits to shoot Canada geese causing damage. In addition to s. NR 12.15, the following conditions shall apply to all shooting permits for Canada geese causing damage:

(1) **GOOSE HUNTING PERMIT REQUIRED.** All participants other than the permittee shall have been issued a permit to hunt Canada geese under s. NR 10.125 that is valid for the current license year and goose hunting zone which contains the lands on which the permittee has been authorized to shoot Canada geese causing damage.

(2) **CARCASS TAG DISTRIBUTION.** The permittee may retain 2 of the carcass tags provided to them by the department for their use. The permittee shall distribute the remaining carcass tags to the hunters he or she has authorized to assist. The permittee may not provide more than 2 carcass tags to each authorized hunter and may not distribute the second carcass tag until they have used their first carcass tag.

(3) **USE OF OTHER PERMITS.** All persons authorized to participate under this section shall have used any other goose hunting permit and carcass tags issued to them which are valid for the locations and effective dates specified in the permit prior to using the carcass tags issued sub. (2).

(4) **REPORTING.** Any person receiving a permit from a permittee under this section shall report the harvest of a Canada goose to the permittee and mail a completed goose harvest report card to the department within 48 hours of the time of harvest.

(5) **BAG LIMIT.** No person may take or possess more than 2 Canada geese under each permit issued under this section.

(6) **WEEKDAYS ONLY HUNTING.** No person may kill a Canada goose under a permit issued under this section on a Saturday or Sunday during the effective dates of their permit.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (intro.), Register, May, 1994, No. 461, eff. 6-1-94.

Subchapter II — Wildlife Damage

NR 12.30 Purpose. This subchapter is adopted to implement and administer the beaver damage control provisions under s. 29.885, Stats., deer damage provisions under s. 29.887, Stats., and the wildlife damage abatement and claim program established under s. 29.889, Stats. In its administration of the wildlife damage abatement and claim program the department shall assure that the funds appropriated by the legislature are used in the most cost-effective manner. Wildlife 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; am. Register, July, 1987, No. 379, eff. 8-1-87; am. Register, June, 1988, No. 390, eff. 7-1-88; CR 03-029; renum. from NR 19.75 Register December 2003 No. 576, eff. 1-1-04.

NR 12.31 Definitions. For purpose of this subchapter and s. 29.889, Stats.:

(1) "Contiguous land" means lands under the ownership, lease or control of an applicant for deer, elk, bear, turkey 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. 29.889, Stats.

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

(3m) "Enrollee" means a farmer, grower, livestock raiser, beekeeper, nursery operator, orchardist, Christmas tree grower, or other person or corporation or partnership enrolled in the wildlife damage abatement and claims program for services under this program.

(4) "Lands suitable for hunting" means contiguous land where the conduct of hunting is not likely to result in a violation under s. 29.301 (1), 167.30 or 941.20 (1) (d), Stats., and shall include all areas within the contiguous land under the same ownership, lease or control except those areas identified by the county or its agent pursuant to s. NR 12.36.

Note: This definition of "land suitable for hunting" shall be used to determine hunter numbers for access to hunt species other than deer and elk.

(4e) "Land suitable for hunting deer and elk" means the deer range calculated under s. NR 10.104 (4) (a) and where the conduct of hunting is not likely to result in a violation under s. 29.301 (1), 167.30 or 941.20 (1) (d), Stats., except those areas identified by the county or its agent pursuant to s. NR 12.36.

Note: This definition of "land suitable for hunting deer or elk" shall be used to determine hunter numbers for access to hunt deer and elk.

(4m) "Livestock holding areas" means barns, pole sheds and other buildings for the protection and sheltering of livestock.

(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. 29.889, Stats., by a county and approved by the department.

(7) "Reasonable cause" means a presence of at least 2 hunters per 40 acres of land suitable for hunting or the presence of one hunter on less than 40 acres of land suitable for hunting; the hunter is intoxicated, has caused damage to property, littered, used abusive or threatening language, used a firearm in violation with s. 941.20 (1), Stats., used a vehicle or a permanent deer stand on enrolled land without being authorized by the enrollee; the hunter has otherwise engaged in, or displayed a propensity to engage in, conduct contrary to public safety or the protection of personal property; the hunter failed to seek permission or register to hunt; or failure of the hunter to comply with any of the conditions he or she certifies by his or her signature on hunting log forms provided by the county, its agent and the department, including failure to record the time of arrival and departure.

(8) "WDACP" means the wildlife damage abatement and claims program under s. 29.889, Stats., and this chapter.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84; emerg. am. (1) and (4), cr. (3m), (4e), (4m), (4t) and (7), eff. 7-1-98; am. (1) and (4), cr. (3m), (4e), (4m), (7) and (8), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018: am. (1) and (4e) Register October 2003 No. 574, eff. 1-1-04; CR 03-029: renum. from NR 19.76 Register December 2003 No. 576, eff. 1-1-04; corrections in (4) and (4e) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; CR 05-031: am. (4e) Register October 2005 No. 598, eff. 11-1-05.

NR 12.32 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. 29.889, 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; CR 03-029: renum. from NR 19.77 Register December 2003 No. 576, eff. 1-1-04.

NR 12.33 WDACP technical manual. The department's WDACP technical manual (Wildlife Damage Abatement and Claims Program Technical Manual, Volume 1/Reference Handbook/134pp., Volume 2/Field Handbook/153pp., Wis. Dept. of Natural Resources, July 1, 1998) shall specify WDACP procedures and requirements including the following:

(1) Authorized wildlife damage abatement measures and methods for implementing and paying for these abatement measures.

(2) Forms and procedures for payment and processing of statement of claims and applications for abatement assistance.

(3) Procedures and standards for determining the amount of wildlife damage.

(4) Procedures for record keeping, audits and inspections.

Note: Copies of any WDACP technical manual may be obtained from the Wildlife Damage Specialist, WDNR, Bureau of Wildlife Management, GEF 2, P.O. Box 7921, Madison, WI 53707-7921.

Note: The WDACP technical manual is on file at the offices of the department of natural resources, the secretary of state and the revisor of statutes bureau.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99; CR 03-029: renum. from NR 19.775 Register December 2003 No. 576, eff. 1-1-04.

NR 12.34 Administrative and abatement costs and fund advancement to counties. (1) (a) Except as provided in par. (b), the department shall, based upon the county's annual estimate of anticipated administrative and abatement costs, advance to the county for administration purposes one-fourth the amount indicated in the annual estimate or one-fourth of such other amount deemed reasonable by the department within 30 days following department approval of the annual budget estimate.

(b) The department may not process an advance until the county has submitted a final reimbursement request for the year previous to that for which participation is applied for. Upon receipt of this reimbursement request, the advance payment shall be paid within 30 days of approval of the annual budget estimate.

(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) **REIMBURSEMENT DEADLINES.** Counties shall submit reimbursement requests for administration and abatement costs to the department quarterly according to the following schedule: by May 31 for the first quarter, January 1 through March 31; by August 31 for the second quarter, April 1 through June 30; by November 30 for the third quarter, July 1 through September 30; and no later than March 1 for the final reimbursement request for the fourth quarter, October 1 through December 31.

(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; emerg. am. (1), r. and recr. (3), eff. 7-1-98; am. (1) (a) and (b), r. and recr. (3), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-029: renum. from NR 19.78 Register December 2003 No. 576, eff. 1-1-04.

NR 12.35 Wildlife damage abatement. (1) Costs of wildlife damage abatement measures rendered by a county under the plan are eligible for reimbursement under s. 29.889, Stats., only when rendered to persons owning or controlling land within the county of administration.

(2) Abatement measures rendered by a county under s. 29.889, Stats., are limited to those which are detailed in the WDACP technical manual, or authorized in writing by the department and shall be cost-effective as required by s. 29.889 (5) (bm), Stats.

(3) Woven-wire barrier fences, for which an application has been approved by the county and department, under s. NR 12.38, shall be included in the plan for the calendar year succeeding the fence application, unless otherwise approved by the department.

(4) The county shall, as a condition of providing abatement assistance, require full cooperation and assistance of the enrollee in operating, maintaining and applying all abatement measures. An enrollee who engages in abusive or threatening language shall also be considered uncooperative. Uncooperative enrollees shall be ineligible for program abatement assistance for the remainder of the calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance, the county or its

agent shall notify the enrollee in writing that the enrollee's program participation is terminated.

(5) (a) *Cost-sharing.* In accordance with the WDACP technical manual, the county or its agent shall determine the actual costs of providing wildlife damage abatement assistance to provide 75% cost-sharing. For permanent damage abatement measures, the enrollee shall provide 25% of the cost of materials and installation. For the purpose of determining the total cost of temporary damage abatement measures, cooperation by the enrollee in installation, construction, operation, notification if required, or maintenance of the temporary measure shall be considered 25% of its total costs. Permanent damage abatement measures include barrier woven wire and high-profile electric fences. Temporary damage abatement measures include the use of temporary low-profile electric or barrier snow fencing, scare techniques, repellents, depredation shooting permits, trap and translocation, or other temporary methods determined by the department.

(b) All of the following costs of abatement measures are eligible for reimbursement to the county:

1. The costs of abatement equipment, supplies and services.
2. Installation costs that are part of the of 75% WDACP cost-share.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84; am. (2) and (3), r. and recr. (4) and cr. (5), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018: am. (3) and (5) (a) Register October 2003 No. 574, eff. 1-1-04; CR 03-029: renum. from NR 19.79 Register December 2003 No. 576, eff. 1-1-04; corrections made to (3) under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.

NR 12.36 Open hunting access requirement.

(1) Enrollees shall have hunting access control over all contiguous land on which they seek wildlife damage abatement assistance or claims. Enrollees shall open their land to hunting, using one of the access options in sub. (3), during the regular hunting seasons for the species causing the damage for which they have enrolled in the WDACP as required by s. 29.889 (7m), Stats. Enrollees may not charge any fees for hunting, hunting access or any other activity that includes hunting the species causing damage. This hunting access requirement shall also apply to enrollees who have also been issued a shooting permit under the authority of s. 29.885, Stats., and ch. NR 12.

(2) Enrollees shall enroll with the county by completing an agreement which certifies their hunting access control for all contiguous lands of the same ownership or control where wildlife damage is occurring and for which they are seeking program services under this chapter.

(3) Enrollees shall choose one of the 2 following hunting access options:

(a) *Open public hunting for the species causing damage.* The enrollee may not place limitations on which hunters or how many hunters may access the property enrolled by the enrollee. The enrollee may not require registration of hunters, but the hunter shall establish an acceptable arrangement with the enrollee for notifying the enrollee of the hunter's intent to hunt prior to hunting. The enrollee may choose how often notification is required and that notification be made in writing, by phone or in person each day the hunter intends to hunt or otherwise.

(b) *Managed hunting access.* Enrollee notification and hunter registration with the enrollee is required. The following provisions shall apply to the managed hunting access option:

1. 'Land suitable for hunting.' The county, or its agent, shall determine the area of land suitable for hunting in accordance with the WDACP technical manual and this chapter. The following criteria shall be used to determine land suitable for hunting:

a. The acreage of land suitable for hunting as defined in s. NR 12.31 (4) or (4e), depending on the species causing damage.

b. Enrollees may prohibit or restrict discharge of firearms within 100 yards of livestock holding areas.

c. Permanent barrier woven-wire and high-profile electric fences. Land inside a permanent barrier fence, which meets construction and maintenance standards in the WDACP technical manual, may not be considered land suitable for hunting.

2. 'Hunting access map.' The county or its agent shall provide property maps to enrollees using aerial photos or plat maps to identify property boundaries and land suitable for hunting. The county, in consultation with the enrollee and in accordance with the WDACP technical manual, may delineate hunting zones for parcels of the property to assist the enrollee in distributing hunting effort to promote distribution of hunting effort and safety. The enrollee shall use these maps to explain to hunters boundaries and hunting constraints on the enrolled property.

3. 'Registration.' To register for hunting access, hunters shall contact the program enrollee after obtaining the county's list. The county or its agent shall provide the current year's list and a fact-sheet which describes the WDACP hunting access system and the obligations of the hunter under this system. The hunter shall arrange a meeting with the enrollee. The enrollee shall describe the registration process, including completion of a hunting log, where the log will be located on the property, any hunting constraints on the property, and any information necessary to promote safety and prevent trespass. The registration form shall be provided to the enrollee by the county or its agent and be in the form of a log book following the format in the WDACP technical manual. The enrollee shall keep his or her hunting log current, recording hunters under this section and shooting permit participant hunters under ch. NR 12 to show compliance with the hunting access requirement. Enrollees shall make these records available for review by the county, its agent and department staff as required by s. 29.889 (8r) (a), Stats.

4. 'Hunting access.' Hunting access shall be on a first come, first serve basis. Hunters may contact enrollees before the dates they intend to hunt, but may not register until their intended hunting date. Hunters shall register by signing in on the hunting log every time they arrive to hunt and signing out on the hunting log every time they leave.

5. 'Hunter densities.' The enrollee shall allow at least 2 hunters per 40 acres of land suitable for hunting at any given time of the appropriate hunting season. The enrollee and hunting members of the immediate family that reside in the enrollee's household may be counted towards this hunter density restriction.

6. 'Refusal.' Enrollees may refuse hunting access for reasonable cause as defined in s. NR 12.31 (7).

7. 'Complaints.' Upon receiving a written complaint from a hunter denied access, the county, its agent or the department shall review hunting access records required under this chapter to verify compliance. Verification that access requirements have been violated shall require the county or its agent to deny further abatement and claims assistance to the enrollee for the calendar year in which the violation occurred. In addition, an enrollee may be subject to the penalties in s. 29.889 (10), Stats.

8. 'Enrollee registration.' An enrollee and his or her immediate family who live year round on the enrollee's property shall register by signing in on the daily hunting access log when they hunt.

9. 'Parking.' Enrollees shall ensure adequate parking exists with enough parking area to accommodate the minimum required number of hunters and shall clearly describe these arrangements to the hunters.

(4) The county shall maintain the current year's list of all enrollees and make the list available upon request for public inspection.

(5) Hunters may hunt only the species causing damage unless the enrollee or landowner has granted permission to hunt other species.

Note: Hunting other species or engaging in other activities not authorized by the enrollee or landowner may be considered trespass in violation of s. 943.13, Stats.

(6) Enrollees may restrict hunting access of bear hunters using dogs if trespass on adjoining private properties is likely to occur.

(7) Motorized vehicles may not be used anywhere but the designated drive-way and parking location on the enrollee's land unless authorized by the enrollee.

(8) Access hunters may not use permanent deer stands on enrolled properties unless authorized by the enrollee. An access hunter may use his or her own portable stand, but it shall be removed daily at the end of shooting hours, unless otherwise authorized by the enrollee. When registering on the hunting log, the hunter shall certify that he or she holds the enrollee and landowner harmless from any injuries associated with the hunter's hunting activity on the enrolled property, including any authorized use of hunting stands.

(9) EXEMPTION. The hunting access requirement does not apply to enrollees where the damage is to apiaries on lands where the applicant does not have hunting access control, pursuant to s. 29.889 (7m) (am), Stats.

(10) POSTING. Enrollees may not post the enrolled land "no hunting" or "no trespassing" and shall remove any such existing signs. Enrollees may post their lands "hunting by permission only".

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018: am. (3) (b) 1. c. Register October 2003 No. 574, eff. 1-1-04; CR 03-029: renum. from NR 19.795 Register December 2003 No. 576, eff. 1-1-04; corrections made to (3) (b) 1. a. and (3) (b) 6. under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.

NR 12.37 Wildlife damage claims. (1) (a) 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.

(b) Row crops which are stranded by weather catastrophe over winter are not eligible for wildlife damage claims.

(c) Row and forage crops remaining unharvested after 90% of these crops have been harvested in the county are not in compliance with normal agricultural practices, as required by s. 29.889 (6) (dm), Stats.

(d) Wildlife damage claims shall be paid only to persons owning the eligible types of damaged crops stated in s. 29.889 (6) (em), Stats., if caused by any species included under s. 29.889, Stats.

(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. When prorating claims, the department shall pay a percent of each eligible claim equivalent to the percent of the total approved claim amount that can be paid with the total available funds.

(4) (a) All claimants for damage payments, recognized and included in the county plan, shall meet all of 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, elk, turkey, bear or geese.

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.

4. a. If a claimant has been issued a deer shooting permit under s. NR 12.16, the claimant has complied with the deer harvest objectives in s. NR 12.16 (2).

b. The county may adopt an exemption recommendation resulting from procedures described in s. NR 12.16 (2) (b) 2. for a permittee enrolled in the WDACP.

5. If an enrollee has participated in the WDACP the previous year, and had in excess of \$1,000 of appraised deer or elk damage losses in the previous year on contiguous land or land within the same section, as documented by the enrollee's previous claims appraisal conducted by the respective county, or the county's agent, to be eligible for claims the enrollee shall implement a deer damage shooting permit that shall automatically be issued by the department to the enrollee by February 15 and shall comply with subd. 4.

6. The county shall, as a condition of providing claims assistance, require full cooperation and assistance of the enrollee in operating, maintaining and applying appraisal equipment as deemed needed by the county or its agent. An enrollee who engages in abusive or threatening language shall also be considered uncooperative. Uncooperative enrollees shall be ineligible for program claims assistance for the remainder of the calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance, the county or its agent shall notify the enrollee in writing that the enrollee's program participation is terminated.

(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. 29.889, Stats., shall be described in the plan.

(6) In order to be eligible for claims, a claimant shall comply with the hunting access provisions described in s. NR 12.36.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84; am. (4) (a) (intro.) and 2., cr. (4) (a) 4., Register, May, 1994, No. 461 eff. 6-1-94; (1) renum. to be (1) (a), and (4) (a) 4. to be (4) (a) 4. a., cr. (1) (b), (c), (4) (a) 4. b., 5., 6. and (6), am. (3), Register, January, 1999, No. 517, eff. 2-1-99; CR 00-154: am. (4) (a) 5., Register January 2002 No. 553, eff. 2-1-02; CR 03-018: am. (4) (a) 2. and 5. Register October 2003 No. 574, eff. 1-1-04; CR 03-029: renum. from NR 19.80 Register December 2003 No. 576, eff. 1-1-04; corrections made to (6) under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; CR 05-031: cr. (1) (d) Register October 2005 No. 598, eff. 11-1-05.

NR 12.38 Woven-wire and electric barrier fence construction. (1) Specific applications and funding for woven-wire and electric barrier fences shall be approved by the department and county and included in the county plan. Woven-wire and electric barrier fences are permanent, high-profile fences built to function 15 years or more.

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

(a) Deer or elk 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 or elk 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 barrier fence, the projected amount of damages without the fence and the available funding.

(5) (a) The county and its agent shall follow permanent barrier fence project development, contracting, bidding, funding, billing,

and contract term inspection procedures detailed in the WDACP technical manual.

(b) A permanent fence contract approved by the department shall be used by the county and its agent for any WDACP funded fence. In addition, the county and its agent may not solicit bids for a fence contract without written approval of the department. This contract shall be signed by the enrollee, the county and its agent, and the department prior to expenditure of program funds for fence costs.

History: Cr. Register, January, 1984, No. 337, eff. 2-1-84; am. (1), cr. (5), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018: am. (1), (2) (a), (b), (4) and (5) (a) Register October 2003 No. 574, eff. 1-1-04; CR 03-029: renun. from NR 19.81 Register December 2003 No. 576, eff. 1-1-04.

NR 12.39 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; CR 03-029: renun. from NR 19.82 Register December 2003 No. 576, eff. 1-1-04.

NR 12.40 Termination. The department shall, upon 30 days notice, terminate a county application and plan under s. 29.889, 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. 29.889, 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; CR 03-029: renun. from NR 19.83 Register December 2003 No. 576, eff. 1-1-04.

NR 12.41 Permits to hunt Canada geese causing agricultural damage. (1) ISSUANCE AUTHORITY. Contingent upon the establishment of a federal harvest quota and goose season framework valid for Wisconsin and in accordance with this section, the department may issue Canada goose damage hunting permits to agricultural crop land owners or lessees experiencing crop damage by Canada geese. Permittees may issue Canada goose damage hunter permits to other persons and authorize them to assist by hunting Canada geese causing damage.

(2) DEFINITIONS. For purpose of this section:

(a) "Goose hunting zone" means those established under s. NR 10.31.

(b) "Lands suitable for hunting" means as defined in s. NR 12.31 (4).

(3) APPLICATION REQUIREMENT. An applicant shall apply for a landowner or lessee permit to hunt Canada geese causing agricultural damage under this section on forms supplied by the department. A separate application is required for each parcel of non-contiguous crop lands.

Note: The forms may be obtained from department field stations or county wildlife damage program offices.

(4) PERMIT ISSUANCE CRITERIA. After determining that issuance or extension of permits under this section will not result in the harvest of Canada geese which exceeds the federally assigned quota, the department may issue goose damage hunting permits only to landowners or lessees meeting the following criteria:

(a) *Ownership of crops being damaged.* The applicant shall be an individual who owns or leases the crop lands being damaged or be one officer of the corporation that owns or leases the crop lands being damaged. No more than one landowner or lessee permit may be issued for a parcel of land at the same time.

(b) *Hunting access control.* Applicants shall possess the authority to control entry for goose hunting on the damaged crop

lands and any contiguous lands under the same ownership which are suitable for hunting;

(c) *\$1,000 damage extent.* Damage to the applicant's crops shall be ongoing and either exceed or be likely to exceed \$1,000 in the current calendar year as determined by the county wildlife damage administrator.

(d) *Alternative abatement attempted.* The applicant shall comply with all alternative damage abatement techniques recommended by either:

1. The authorized county administrator for lands located in a county participating in a wildlife damage program under s. 29.889, Stats., or

2. The department for lands located in all other counties.

(e) *Normal crop management.* The applicant shall be managing the crop lands sustaining damage in accordance with methods normally used by no less than 50% of the other growers in the county. A permit may not be issued for crop lands when 90% or more of any row crop described in the application have been harvested in the county of application.

(f) *Permit and license compliance.* The applicant shall have complied with the conditions of any permit to hunt Canada geese causing damage issued to him or her within the 12 months immediately preceding application and may not currently have their hunting license privileges revoked.

(5) PERMIT CONDITIONS. Any landowner or lessee permit issued under this section is subject to the following conditions:

(a) *Public goose hunting.* 1. The permittee shall keep the damaged crop lands and any contiguous lands under the same ownership which are suitable for hunting open to public goose hunting subject to subd. 2. during the current calendar year's goose hunting season.

2. Permittees may refuse access to goose hunters for reasonable cause. Reasonable cause may not be based on age, race, religion, color, handicap, sex, physical condition, development disability, creed, sexual orientation or national origin. However, the presence of at least 2 hunters per each 40 acres of land suitable for hunting shall constitute reasonable cause for refusal.

3. All lands required to be open to public goose hunting under subd. 1. may not be posted against hunting except to indicate that hunting is by permission only.

4. The landowner or lessee permittee may not charge any form of fee to a person hunting geese pursuant to a Canada goose damage permit issued under this section.

(b) *Hunter authorization.* Upon request by a person who meets the conditions in sub. (6), the permittee shall provide the person with a Canada goose damage hunting permit and no more than 2 carcass tags which will authorize the person to hunt geese causing damage within the authorized area subject to the conditions stated in the permit and this section unless all permits and carcass tags have been issued by the landowner or lessee permittee.

Note: The department will provide the permittee with Canada goose damage hunting permit forms.

(c) *Authorized area.* A permit issued under this section applies only to the lands described on the permit.

(d) *Kill limit.* The department may authorize the harvest of up to 20 Canada geese per landowner or lessee permit under the initial authorization depending on the acreage of damaged crop lands and numbers of Canada geese using the site.

(e) *Carcass tags.* The department shall issue to the landowner or lessee permittee one carcass tag for each goose authorized for harvest under the landowner or lessee permit. The landowner or lessee permittee may retain 2 carcass tags for his or her use and shall issue the remaining carcass tags free of charge to other hunters authorized to participate by the landowner or lessee.

(f) *Reporting.* The landowner or lessee permittee shall maintain a record of all hunters, including themselves, who partici-

pated and were issued carcass tags. Within 3 days following permit expiration, the landowner or lessee permittee shall return their permit, all hunter permit records, all unused carcass tags, and report the number of Canada geese harvested under permit to the department office indicated on the permit.

(g) *Permit length.* Permits shall remain in effect until all carcass tags issued under this section have been used, but not longer than 7 days, unless the department grants an extension under par. (h).

(h) *Permit extensions.* If, upon permit expiration, Canada geese continue to cause damage to the landowner or lessee's crops and the permittee has complied with the conditions of the permit, the department may:

1. Authorize the harvest of additional geese if all previously issued carcass tags have been used; and

2. Extend the effective dates of the permit to allow use of any subsequent or previously issued carcass tags.

(6) CONDITIONS OF HUNTING. No person may hunt or possess Canada geese under a permit issued under this section unless they have complied with the following conditions:

(a) *Licensing.* 1. The landowner or lessee permittee shall only be required to comply with the federal migratory bird stamp purchase and possession requirements.

2. All persons other than the landowner or lessee permittee who are authorized to participate under this section shall possess all state and federal licenses, permits and stamps required to hunt Canada geese within the goose hunting zone which contains the lands described on the permit.

(b) *Use of other permits.* All persons authorized to participate under this section shall have used any other goose hunting permit and carcass tags issued to them which are valid for the locations and effective dates specified in the landowner or lessee permit prior to using the carcass tags issued under this section.

(c) *Reporting.* All persons issued a permit under this section shall report the harvest of a Canada goose to the landowner or lessee permittee and mail a completed goose harvest report card to the department within 48 hours of the time of harvest.

(d) *Carcass tags.* All persons issued carcass tags under this section shall immediately peel off and affix the carcass tag identification number to the appropriate location on the forms provided by the department. Carcass tags are nontransferable.

(e) *Goose disposition.* No person may take or possess more than 2 Canada geese under each permit issued under this section.

(f) *Regulation compliance.* Except as otherwise authorized in this section, all participants shall comply with all state and federal waterfowl hunting regulations including tagging and the daily bag limit. Any geese taken by a person who has not complied fully with this section shall be considered illegally obtained.

(g) *Permit possession.* All persons hunting Canada geese under a permit issued under this section shall carry on his or her person the permit authorizing their participation.

History: Cr. Register, July, 1987, No. 379, eff. 8-1-87; am. (3) (f), July, 1988, No. 391, eff. 8-1-88; emerg. r. and recr., eff. 9-21-88; r. and recr. Register, January, 1989, No. 397, eff. 2-1-89; emerg. am. (3), (5) (e), r. and recr. (5) (c) and (d), r. (5) (g), cr. (5) (i), eff. 9-15-89; CR 03-029; renum. from NR 19.84, corrections in (2) (b) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576, eff. 1-1-04.

Subchapter III — Endangered/Threatened Wildlife and Gray Wolf Damage

NR 12.50 Purpose. This subchapter is adopted to implement and administer the payment of claims for damage associated with endangered and threatened species funded under s. 20.370 (1) (fs), Stats., and for damage caused by gray wolves authorized by s. 71.10 (5) (am), Stats.

History: CR 05-004; CR 05-005; cr. Register October 2005 No. 598, eff. 11-1-05.

NR 12.51 Applicability. This subchapter applies to claims for damages caused by E/T species and gray wolves. It is not

applicable to damage caused by gray wolves when the department authorizes either public hunting or trapping of gray wolves, or both.

History: CR 05-004; CR 05-005; cr. Register October 2005 No. 598, eff. 11-1-05.

NR 12.52 Definitions. For the purposes of this subchapter:

(1) “Confirmed depredation” means that the department has found clear evidence that wolves or an E/T species were responsible for the depredation or injury, such as a carcass present with bite marks and associated hemorrhaging, tracks in the immediate vicinity or other sign.

(2) “Confirmed non-wolf or non-E/T species depredation” means the department has found conclusive evidence that something other than an E/T species or wolf killed or injured the animal.

(3) “Department” means the Wisconsin department of natural resources or agents designated by the department.

(4) “E/T species” means any animal on the Wisconsin list of endangered species under s. NR 27.02 or threatened species under s. NR 27.03.

(5) “Hunting dogs” means any dog used in the pursuit of game animals.

(6) “Livestock” means the following farm animals: bison and other bovine animals, sheep, goats, swine, farm-raised deer, equine animals, poultry, ratites, llamas, alpacas, captive game animals, guard animals for livestock, and fish.

(7) “Pets” mean dogs and other domestic animals maintained as companion animals.

(8) “Probable depredation” means that the department did not find a carcass from a reported depredation or the damage observed on the carcass was inconclusive but there is evidence of depredation such as a kill site, blood trails, tracks or scat located in the immediate vicinity.

(9) “Unconfirmed depredation” means any depredation that is not a confirmed depredation or a probable depredation.

History: CR 05-004; CR 05-005; cr. Register October 2005 No. 598, eff. 11-1-05.

NR 12.53 Depredation verification procedures.

(1) **RESPONSE TIME.** Any person who believes that livestock, pets or hunting dogs owned by the person has been injured or killed by an E/T species or a gray wolf and wishes to seek compensation under this subchapter shall contact the department within 24 hours of the depredation or within 24 hours of becoming aware of missing livestock, pets or hunting dogs. The complainant shall provide the location of the depredation and a description of the animals injured, killed or missing. The department shall make an onsite inspection within 48 hours of receipt of the complaint and draft a written report of the investigation, which shall include an estimate of the value of the loss.

Note: The Department will contract with the U.S. Department of Agriculture-APHIS-Wildlife Services to handle complaint contacts and response.

(2) **VERIFICATION CATEGORIES.** Each complaint received under this section shall be classified by the department under one of the following:

- (a) Confirmed E/T species or wolf depredation.
- (b) Probable E/T species or wolf depredation.
- (c) Confirmed non-wolf or non-E/T species depredation.
- (d) Unconfirmed depredation.

(3) **CLAIM SUBMITTAL.** The complainant shall submit a claim for reimbursement within 14 days of the loss on forms provided by the department.

History: CR 05-004; CR 05-005; cr. Register October 2005 No. 598, eff. 11-1-05.

NR 12.54 Depredation reimbursement procedures.

(1) **ELIGIBLE CLAIMS.** (a) *Verified claims.* Only cases classified as confirmed depredation or probable depredation by the depart-

ment shall be eligible for reimbursement, except as provided in sub. (2) (c).

(b) *Compliance.* Claimants need to be in compliance with carcass disposal requirements of s. 95.50, Stats., for livestock claims and, for farm-raised deer claims, the farm-raised deer fencing requirements of ss. 90.20 and 90.21, Stats., in order to be eligible for reimbursement.

Note: Section 95.50, Stats., regulates disposal of livestock carcasses and requires burning or burying the carcass when the animal is suspected of dying from highly dangerous diseases. Sections 90.20 and 90.21, Stats., specify fencing requirements for those who raise or keep farm-raised deer.

(2) **AMOUNT OF PAYMENTS.** (a) *Livestock.* The department shall reimburse the claimant the fair market value, that is the feeder market value for young of the year or replacement value for adult (1+ years), of livestock killed by E/T species or wolves not to exceed the established maximum for that animal type. A maximum amount to be paid for each type of animal shall be established annually by the department. These maximums shall be determined each year by January 30, by a panel of 3 agriculture experts, one each from Wisconsin department of agriculture, trade and consumer protection, University of Wisconsin-Madison agricultural extension, and the Wisconsin farm bureau federation.

Note: The list of maximum allowable claims will be available from the Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707-7921.

(am) *Hunting dogs and pets.* The department shall reimburse the claimant the fair market value based upon recent sale records for similar animals of hunting dogs or pets killed by E/T species or wolves up to a maximum of \$2,500 per animal.

(b) *Veterinary expenses.* The department shall pay for all veterinary expenses incurred in the treatment of livestock, hunting dogs or pets injured by E/T species or wolves. If the animal dies from the injury, the veterinary treatment costs shall be paid in addition to the fair market value of the animal. If the animal does not die, only the veterinary treatment costs shall be paid. A detailed receipt shall be submitted to the department within 14 days of paying the veterinarian bill.

(c) *Missing calves.* The department shall reimburse the claimant for missing calves beyond those that would be lost according to the normal mortality rate determined by U.S. department of agriculture and that research has shown to be attributed to wolf depredation when all of the following criteria are met:

1. The claimant tags all calves within 2 weeks of birth and provides a list certifying to the department an exact count at the beginning of the grazing season including information on the tag number, date and sex of all calves.

2. The claimant records and provides a list certifying to the department an exact count of all calves rounded up at the end of the grazing season and a list of all tagged calves determined to be missing.

3. The claimant provides a list certifying to the department all known deaths and losses of calves during the grazing season.

4. The department has documented that at least one livestock loss on the claimant's property within the same grazing season that is verified as a confirmed or probable wolf depredation and there is evidence that wolves continued to be present on the property during that period of time.

5. The claimant certifies that they will cooperate with any research conducted by the department to determine the amount of mortality of missing calves that is caused by wolves, if such cooperation does not impact the claimant economically in a significant manner or impose an unreasonable burden or hardship on the claimant. Disputes as to whether claimants are impacted economically in a significant manner or what is an unreasonable burden or hardship shall be resolved by the panel of 3 agricultural experts identified in par. (a).

Note: The U.S. department of agriculture calculates the normal calf mortality rate for beef cow-calf operations nationwide. In 2003 that rate was 2.3 %. The department will conduct scientific field research in Wisconsin to determine how much mortality to missing calves can be attributed to wolves.

(3) INSURANCE. The department shall reimburse owners for losses due to E/T species or wolf depredation regardless of any other insurance the owner may have on the animals that were killed or injured.

History: CR 05-004; CR 05-005: cr. Register October 2005 No. 598, eff. 11-1-05.

NR 12.55 Personal property. The department may not provide compensation for damage done by E/T species or wolves to personal property other than livestock, hunting dogs and pets.

History: CR 05-004; CR 05-005: cr. Register October 2005 No. 598, eff. 11-1-05.