



CR 87-175

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

File Ref:

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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES)

MAY 5 1988
1:50 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WM-39-87 was duly approved and adopted by this Department on February 25, 1988. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 3rd
day of May, 1988.


Bruce B. Braun, Deputy Secretary

(SEAL)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES
BOARD AMENDING, REPEALING AND RECREATING AND CREATING RULES

.....
IN THE MATTER of amending ss. NR 10.01(4)(c),
10.13(1)(b)4., 5., 11., (2)(c), 19.26, and
19.75; repealing and recreating ss. NR 10.01(4)(b)
and 10.13(1)(a); creating ss. NR 19.001(2e)
and 19.85 of the Wisconsin Administrative
Code pertaining to beaver damage control.
.....

WM-39-87

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.174(3), 29.59(3)(a), and
227.11(2)(a), Stats.

Statutes interpreted: ss. 29.174(1) and (2)(a), 29.59 and 29.596,
Stats.

The proposed rules establish additional beaver harvest methods
within Beaver Damage Control Areas (shooting in addition to
trapping) and damage control procedures including beaver subsidy
monies. Specific provisions include:

1. Modifying regular season trapping rules to complement beaver
damage control activities.
 2. Updating NR 19.26 (beaver dam removal) and NR 19.75 (wildlife
damage purpose description) to include new beaver damage control
references.
 3. Defining beaver damage control areas.
 4. Establishing beaver damage control methods.
 5. Allocating beaver subsidy monies by county (DNR administered)
based on the proportion of beaver damage occurring within the
county. A beaver damage assessment would be conducted by the
department that includes participation by county landowners and
governmental bodies. Funds may be reallocated to other counties if
not used by a certain date.
 6. Establishing a system of administration for beaver control
subsidy funds and subsidy agreements. Features include an
application system and agreement performance conditions.
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SECTION 1. NR 10.01(4)(b) and (c) is repealed and recreated to read:

NR 10.01(4)(b) Incidental take of muskrats. During the closed season for muskrats, licensed trappers may retain for salvage any muskrats taken incidentally while trapping for beaver in the portions of the state open to beaver trapping as described in par. (c) and s. NR 19.85.

SECTION 2. NR 10.01(4)(c) is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
NR 10.01(4)(c) <u>Beaver trapping</u>	The opening date for the beaver trapping season is the same as the opening date for muskrat and mink as established in par. (a) and continuing through April-30 <u>March 15</u>	None

SECTION 3. NR 10.13(1)(a) is repealed and recreated to read:

NR 10.13(1)(a) Hunting. Hunt any beaver, fisher, mink, muskrat, or otter with the aid of any spear, gun or dog except that: 1. The owner or occupant of any land and members of their families may shoot or trap beaver on their respective lands without license as established in s. 29.24, Stats.

2. Agents possessing written authorization from the landowner, land lessee or responsible governmental body may use firearms to shoot beaver in damage control areas established in s. NR 19.85.

SECTION 4. NR 10.13(1)(b)4., 5., 11., and (2)(c) are amended to read:

NR 10.13(1)(b)4. Water sets. Take, capture or kill, or attempt to take, capture, or kill any furbearing animals at any time by means of water sets except during that period when and in those areas where there is an open season for trapping muskrat, beaver, or otter. In addition, persons removing beaver under s. NR 19.85 may use watersets.

5. Trap placement. Set any trap or traps at any time within 15 feet of any beaver house or beaver dam, except when participating under a beaver damage control subsidy agreement as established in s. NR 19.85 or when trapping under the landowner authority established by 29.24, Stats.

Note: The rule exception allows trapping on beaver houses and dams.

11. Minimum waterset. Except when the muskrat and mink season is open, ~~it shall be unlawful for any person to~~ no person may set, place or operate any waterset smaller than 5 1/2" jaw spread for steel jaw traps and 6 3/4" x 6 3/4" for killer traps of the conibear type ~~during the beaver and otter season.~~

(2)(c) Muskrat and beaver. Molest any muskrat house, muskrat feeding house, beaver house or beaver dam. However, beaver dams may be altered by persons participating under a beaver damage control subsidy agreement as established in s. NR 19.85 or when participating under the landowner authority established by s. 29.24, Stats.

SECTION 5. NR 19.001(2e) is created to read:

NR 19.001(2e) "Beaver damage control area" means:

(a) Roads and railways. The area within 200 yards of either side of the center line of all roads and active railways shown on the current, official county highway map published by the department of transportation; and

(b) Public forests. The area within 200 yards of either side of the center line of all roads within the ownership boundaries of county, state or national forests shown on the current, official county plat map; and

(c) Adjacent land. Any lands adjacent to those identified in pars. (a) and (b) on which a beaver dam causing rights-of-way flooding is located; and

(d) Trout streams. All streams classified as trout streams under s. NR 1.02(7).

(e) Other sites. Any specific site containing beaver damage to roads, timber, streams, agriculture or property that is reported by the landowner or lessee to the department. These beaver damage control area designations shall terminate September 30 of the year following the year of identification unless continued by department approval.

SECTION 6. NR 19.26 is amended to read:

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~~ the area or site is identified as a beaver damage control area under s. NR 19.001(2e).

SECTION 7. NR 19.75 is amended to read:

NR 19.75 PURPOSE. This subchapter is adopted to implement and administer the beaver damage control provisions under s. 29.59, Stats., deer damage provisions under s. 29.595, Stats., and the wildlife damage abatement and claim program established under s. 29.598, 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.

SECTION 8. NR 19.85 is created to read:

NR 19.85 BEAVER DAMAGE CONTROL. (1) Department authority.

The department may establish beaver damage control areas based upon the assessment identified in sub. (3) and administer the beaver control subsidy in accordance with this section.

(2) BEAVER DAMAGE CONTROL METHODS. The following methods may be used to control beaver damage:

(a) Open season. Beaver may be trapped by licensed trappers during the open season established in s. NR 10.01(4)(c).

(b) Landowner privilege. Beaver may be trapped or shot by owners or occupants of any land and members of their families on their respective lands without license as established in s. 29.24, Stats.

(c) Other privileges. Beaver may be shot or trapped by employees or agents possessing written authorization from the landowner, lessee, or responsible governmental body without a department permit provided the area or site is identified as a beaver damage control area.

(d) Structure removal. Beaver dams may be removed by landowners, lessees, the governmental body in charge, or employees or agents with written authorization from the land control authority cited in this paragraph without a department permit provided the area or site is identified as a beaver damage control area.

(3) BEAVER CONTROL SUBSIDY. Any beaver control subsidy funds under s. 20.370 (1)(1r), Stats., shall be allocated and distributed in the following manner:

(a) County beaver damage assessment. If beaver subsidy funds are available, the department shall biannually assess beaver damage within each county by conducting:

1. A determination of the number of active beaver colonies on trout streams.

2. A survey of landowners and governmental bodies to identify sites experiencing beaver damage.

(b) Subsidy allocation. By June 30 each year, the department shall calculate the amount of funds available for beaver control subsidies during the subsequent state fiscal year and allocate the calculated amount by county in accordance with this section and the following formula:

$$\left[\frac{\text{Number of active beaver colonies on county trout streams} + \text{Number of identified county beaver damage control areas}}{\text{Statewide total}} \right] \times \text{Available subsidy funding}$$

(c) Application requirement. Any person desiring to receive beaver control subsidy payments shall submit an application on department provided forms to the appropriate department office indicated on the application. All applications shall be received by the department no later than January 15.

(d) Subsidy agreements. Upon determining that an application is complete and funds are available, the department may enter into an agreement to pay the applicant \$7.50 for each beaver removed from beaver damage control areas. The department may limit subsidy agreements to a specified number of beaver, and require that all agreements are subject to the conditions in par. (f).

(e) Subsidy reallocation. The department may reallocate any subsidy funds not encumbered by subsidy agreements under par. (d) after April 30 for use in other counties.

(f) Agreement conditions. Beaver damage subsidy agreements shall be subject to the following conditions:

1. Agreements shall commence on March 16 and terminate upon depletion of the county subsidy allocation, but no later than September 30.

2. The applicant shall comply with all hunting and trapping rules and laws.

Note: Exceptions for persons under subsidy agreement are established in ss. NR 10.01(4)(b) and 10.13(1) and (2).

3. The permittee shall possess a copy of the subsidy agreement when exercising agreement activities and when presenting beaver for verification and marking by the department.

4. The applicant shall present each beaver killed to the department for verification and marking as a condition of payment. Beaver must be presented unskinned with the tail attached. All beaver must be presented no later than 4:00 PM of the next department working day following September 30.

5. Live non-target animals shall be released immediately except any eagle shall be taken to the nearest department facility. Dead non-target animals shall be left in the trap and reported to the nearest conservation warden.

Note: Injured animals may be transported to the nearest rehabilitation facility, but a conservation warden shall be contacted within 24 hours.

6. The department may terminate any agreement upon the applicant's failure to comply with its terms or conditions.

7. Failure to comply with the agreement conditions shall render the applicant ineligible to receive payment, but also ineligible to apply for or enter into a subsidy agreement for the next subsequent subsidy agreement period.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on February 25, 1988.

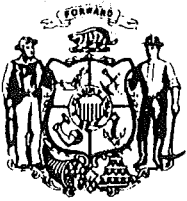
The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin May 3, 1988

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

1020

File Ref:

May 3, 1988

Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 702
30 W. Mifflin Street

RECEIVED

MAY 5 1988

Revisor of Statutes
Bureau

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. WM-39-87. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Transportation, Tourism and Conservation pursuant to s. 227.19, Stats. A summary of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


C. D. Besadny
Secretary

Enc.