

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.

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 19.76 (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, and those management zones established in ss. NR 10.30 and 10.31 for deer, 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 deer fence” means a fence erected for year-round protection from white-tailed deer that meets the specifications in s. NR 16.01, authorized under s. NR 16.10 (12) 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.

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 12.10 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, black bear or any wild animal classified as endangered or threatened under s. NR 27.03.

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
 - d. Muskrats damaging dikes, dams, shoreline or roadways.
2. Live-trap and relocate any wild animal, except white-tailed deer, black bear or any wild animal classified as endangered or threatened under s. NR 27.03, to lands not controlled by the department.
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 and golf courses, provided the bird is not physically harmed.

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.

(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 deer 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 subds. 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) **PARTICIPATION BY OTHERS.** 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) 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. 29.853 (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.

Note: 2001 Wis. Act 56 repealed s. 29.853 (2), Stats.

(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.

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.

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.* Participation of others under bear damage shooting permits shall be restricted to those persons who have applied for a Class A or B bear hunting license under application procedures described in s. NR 10.102 (2), and who have indicated on bear hunting license applications their willingness to assist farmers having bear damage problems. Participants shall possess a Class A or B bear hunting license when engaged in bear damage shooting permit activities, such as hunting or baiting.

(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.

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 19.80 (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 19.80 (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 permit-

tee's land during the gun-deer season specified under s. NR 10.01 (3) (e).

(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.**

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.