

Chapter NR 19

MISCELLANEOUS FUR, FISH, GAME AND OUTDOOR RECREATION

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Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1999, No. 517; CR 03-029: renum. NR 19.75 through 19.84 to be NR 12.30 through 12.41 Register December 2003 No. 576, eff. 1-1-04.

Subchapter I — Miscellaneous

NR 19.001 Definitions. (1) “Active service”, for purposes of s. 29.194, Stats., means full time employment as a member of the armed services and does not include annual summer training by members of the national guard or reserves.

(1m) “Animal part or animal byproduct” has the meaning given in s. NR 10.001 (1r).

(2) “Application” means a written request for an approval required to do business in this state as defined in s. 560.41 (2), Stats., completed in the form required by and acceptable to the department and accompanied by additional plans, information and the appropriate fee.

(3) “Approval” means a license, permit or other form of approval required from the department to conduct business activities in Wisconsin.

(4) “Bird feeding devices and structures” means any device or structure that has the primary purpose of attracting or feeding birds or small mammals.

(4m) “Business” means a building used primarily to carry out commercial activities at which regular scheduled business hours are maintained for employees and the public such as restaurants and retail stores, but does not include associated lands, warehouses, outbuildings or other buildings that are not normally open to the public.

(5) “Carcass” means the dead body of any wild animal to which it refers, including the head, hair, skin, plumage, skeleton, or any other part thereof.

(5m) “Daily bag limit” as used in s. NR 19.275, means the maximum number of a turtle species or group of turtle species which may be taken by a person each day.

(6) “Environmental consulting organization” means an individual or consortium of individuals funded to provide consulting

services including status assessment of wild animals and their habitats.

(6d) “Feed” has the meaning given in s. NR 10.001 (10).

(6h) “Feeding site” has the meaning given in s. NR 10.001 (10c).

(6m) “Fish, fur, game seal” or “seal” means a numbered, non-reusable, locking device bearing the embossed inscription Fish, Fur, Game F-(number) which is issued by the department.

(7) “File” or “filed” means receipt by the department of a written notice, verified claim or other document.

(7m) “Hooking”, as used in s. NR 19.275, means any activity which utilizes a dull-pointed, metal, barbless hook attached to a staff to remove a turtle from a body of water.

(8) “In the process of being mounted” means, for the purposes of the sale of part or all of a private collection, as authorized by s. 29.354, Stats., a physical process which includes taxidermy work accomplished on the carcass, including at least removal of the skin.

(9) “Maintain records” means, for the purpose of s. 29.503 (5), Stats., to legibly prepare triplicate records and retain at least one copy of each record at the place of business for inspection purposes.

(10) “Mount”, “mounted”, or “mounting” means, for the purposes of ss. 29.354 (3) and 29.506 (1), Stats., and this section, to prepare and preserve the head, skin or carcass in a lifelike manner.

(11) “Natural resources”, for purposes of s. 23.095, Stats., includes wild rice growing in navigable lakes.

(12) “Navigable lake”, for the purpose of interpreting s. 29.607, Stats., means a natural navigable lake or a flowage or pond, or portion of a flowage or pond, where the bed is in town, county, city, village, state or federal ownership.

(12e) “Owner-occupied residence” for the purpose of this section means a dwelling or building devoted to human occupancy when used while feeding deer as a residence by the owner, members of the owner’s immediate family, or when used as a residence by individuals as a rental property while feeding deer.

(12m) "Possession limit" as used in s. NR 19.275, means the maximum number of a turtle species or group of turtle species which may be possessed by a person at any time.

(13) "Private collection" means, for the purposes of s. 29.354, Stats.:

(a) A privately owned collection mounted for the purpose of display, exhibition or personal use and does not include wild animals mounted for the purpose of sale. In determining whether a wild animal was mounted for the purpose of sale, at a minimum, factors to be considered are the intent of the owner at the time of mounting, the length of time from mounting to sale, display or use of the mounted wild animal prior to sale, frequency of such sales by the owner and the reasons provided by the owner for the sale. This does not preclude the ultimate sale of a mount from a private collection.

(b) A mounted collection sold upon the death of the owner.

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

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

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

(c) Endangered and threatened species listed in ch. NR 27.

(15) "Records" means, for the purpose of s. 29.506 (7) (b), Stats., the taxidermist permit, sales forms, information records, records of deliveries and shipments, and the identification tag as described in s. 29.506 (5) (b), Stats.

(15m) "Small mammals" mean all mammals other than bear, deer and elk.

(16) "Stationed", for purposes of s. 29.194, Stats., means residing in Wisconsin in compliance with military orders.

(16m) "Turtle", as used in this chapter, means a reptile having horny, toothless jaws and a body enclosed in a bony or leathery shell into which the head, limbs and tail may be partially or fully withdrawn, and includes parts of turtles and turtle eggs.

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

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

(19) "Wild animal" means any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion.

History: Cr. Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. Register, January, 1980, No. 289, eff. 2-1-80; cr. (5m) and am. (7), Register, August, 1980, No. 296, eff. 9-1-80; r. (2), (3), (4), (5) and (6), Register, January, 1984, No. 337, eff. 2-1-84; renum. (1) to be (3), cr. (1), (2), (4) and (4m), Register, August, 1985, No. 356, eff. 9-1-85; cr. (2m), Register, August, 1986, No. 368, eff. 9-1-86; cr. (2f), (3m), (3p), (3t), (5), (6) and (9), Register, March, 1987, No. 375, eff. 4-1-87; cr. (2e), Register, June, 1988, No. 390, eff. 7-1-88; renum. (1) to (9) to be (2) to (15) and (17) to (19), cr. (1) and (16), Register, October, 1988, No. 394, eff. 11-1-88; emerg. r. (4), eff. 10-16-89; cr. (6m), Register, March, 1990, No. 411, eff. 4-1-90; r. (4), Register, May, 1990, No. 413, eff. 6-1-90; cr. (5m), (7m), (12m) and (16m), Register, February, 1997, No. 494, eff. 3-1-97; CR 04-078: cr. (1m), (4), (4m), (6d), (6h), (12e), and (15m) Register April 2005 No. 592, eff. 5-1-05.

NR 19.01 Approval deadlines. (1) GENERAL. Upon receipt of an application for an approval required to conduct business activities under ch. 29, Stats., ss. 30.50 to 30.54, 350.12 and 350.125, Stats., the department shall review and issue a decision on the application within 10 business days unless a different period is otherwise provided in subs. (2) to (6) or other statutes or rules.

(2) SPECIFIC APPROVAL DEADLINES. The following approvals will be acted on as follows:

APPROVALS	BUSINESS DAYS
(a) Commercial fishing licenses issued under s. 29.519, Stats.	50
(b) Approvals for falconry, wildlife rehabilitation and chemical control of birds and animals under ss. 23.09, 29.053, 29.088 and 29.601, Stats.	30
(c) Boat certificates of number and registration under s. 30.52, Stats.	30
(d) Snowmobile registrations under ss. 350.12 and 350.125, Stats.	30

(2m) APPROVAL TO REMOVE WILD ANIMALS CAUSING DAMAGE. Permits to remove wild animals causing damage shall be issued within 48 hours of receipt of a written complaint. Permits may be granted orally, but shall be confirmed in writing by the department.

(3) STANDARDS AND CONDITIONS. If the department requires standards or conditions to be met or complied with prior to issuance of an approval, the time periods for issuing an approval do not begin to run until the applicant has met such standards or conditions as determined by the department.

Example: An applicant for a wildlife exhibit, game, bird and animal farm, or deer farm license is required to meet pen specifications or fencing requirements before the time system for issuance of approvals begins to apply.

(4) WILDLIFE SURVEYS. If a survey of wildlife on the property is required, the time periods for issuing an approval do not apply until completion of that survey. The survey shall be completed within 30 business days from the time of year that, in the opinion of a professional department wildlife manager, is optimum for determining accurate wildlife populations. At the time the application is received, the department shall inform the applicant of the date by which the survey will be completed.

(5) ENVIRONMENTAL IMPACT. If an environmental impact analysis, environmental impact report or environmental impact statement is required under ss. 1.11 and 23.11 (5), Stats., and ch. NR 150, the time periods for issuing an approval do not apply until ss. 1.11 and 23.11 (5), Stats., and ch. NR 150 have been complied with.

(6) OTHER APPROVALS. The time for an approval for an activity under sub. (1) will not begin to run until other approvals for that activity are obtained.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; cr. (2) (l) and (m), Register, July, 1987, No. 379, eff. 8-1-87; emerg. cr. (2) (n), eff. 9-21-88; cr. (2) (n), Register, January, 1989, No. 397, eff. 2-1-89; emerg. r. (2) (l) to (o), cr. (2m), eff. 10-16-89; r. (2) (l) to (n), cr. (2m), Register, May, 1990, No. 413, eff. 6-1-90; CR 05-031: r. (2) (b) to (h), renum. (2) (i), (j) and (k) to be (b), (c) and (d) and am. (c) and (d) Register November 2005 No. 599, eff. 12-1-05.

NR 19.02 Handling fees for certain approvals.

(1) PURPOSE. This section establishes and describes handling fees which may be charged for processing requests for approvals ordered by mail, telephone or electronic means.

(2) APPLICABILITY. The provisions of this section apply to licenses, permits, stamps and other approvals issued under the authority of ch. 29, Stats., and offered by the department under extended issuance options and ordered by mail, telephone, or electronic means.

(3) DEFINITIONS. As used in this section:

(a) "Approval" has the meaning in s. 29.001 (12), Stats.

(b) "Department" means the department of natural resources.

(c) "Extended issuance options" means the ability to obtain an approval in person and by mail, telephone or electronic means.

(d) "Order" means a single request from a person for an approval or approvals.

(4) FEE FOR HANDLING APPLICATIONS FOR CERTAIN APPROVALS.

(a) In addition to the obligation to pay all fees imposed under s. 29.563, Stats., a person who orders an approval by mail, telephone

or electronic means is required to pay a handling fee established in accordance with this section for each order.

(b) The handling fee for each order shall be established by the department based upon projected mailing costs, credit transaction fees, credit verification fees, personnel costs, telecommunications costs and lock box charges associated with processing the order and may not exceed \$5.00 per order.

(c) The handling fee under this section shall be established consistent with par. (b) annually prior to April 1 by the secretary of the department.

(d) An order submitted by mail, telephone, or electronic means without payment of all associated fees required under s. 29.563, Stats., and the handling fee in a manner acceptable by the department is not a complete application for the approval and the order will be returned.

(e) If an application for an approval is denied, the handling fee is not refundable.

History: Cr. Register, July, 1996, No. 487, eff. 8-1-96; CR 04-020: am (2) and (3) (c) Register August 2004 No. 584, eff. 9-1-04; CR 05-086: am. (4) (b) Register June 2006 No. 606, eff. 7-1-06.

NR 19.025 Waivers for an educational recreational activity. (1) PURPOSE. This section contains rules for the procedures required to apply to the department for a waiver of approvals, applicable fees and other requirements pursuant to s. 29.197 (2) and (5), Stats., for an educational, recreational and skills development activity that is sponsored or approved by the department. It further explains the reasonable conditions, limitations and restrictions that will be necessary to allow for approval of the waiver.

(2) DEFINITIONS. As used in this section:

(a) "Accompany" means be in immediate presence of the novice participant.

(b) "Educational outdoor skills activity" means a course to teach novice participants how to hunt or fish.

(c) "Mentor" means a person who is instructing or assisting with teaching of the educational outdoor skills activity.

(d) "Novice participant" means for hunting any person who is 10 years old or older, who has had less than 2 years of hunting experience. For fishing, it means any person who is 5 years of age or older who has less than 2 years of fishing experience.

(e) "Substantial loss of revenue" means a loss of fishing and hunting license fees from persons who are not novice participants.

(3) GENERAL; CONDITIONS, LIMITATIONS AND RESTRICTIONS. (a) An applicant shall submit a request for a waiver at least 30 days prior to the event on forms provided by the department.

(b) A written course outline shall be submitted along with the request for waiver for approval by the department.

(c) There shall be a minimum of 4 hours of classroom and field instruction prior to the hunting or fishing activity.

(d) A novice participant may not obtain more than one waiver of fees for the same hunting or fishing instructional activity.

(e) Where applicable, written authorization from host landowner shall be obtained and submitted with the application. It shall include the legal description of the lands on which the activity will be conducted. If department lands are to be used, the written approval of the property manager shall be obtained.

(f) Unless otherwise approved, the novice participants and mentors participating in the activity shall comply with all natural resource rules and regulations.

(g) Waivers may not be issued that allow for the shooting of wild animals or the catching of fish by a mentor or instructor.

(h) Novice participants may not be charged a fee which exceeds the costs of materials used in the course, equipment rental, meals and overnight accommodations.

(i) Upon receipt of information indicating prior illegal activity relevant to a mentor's ability to properly assist or instruct novice

participants, the department may make appropriate inquiry into criminal history, character and background of mentoring applicants and determine their suitability for the proposed activity.

(j) One of the mentors shall carry the department approved waiver with list of participants during the educational recreational activity.

(k) Waivers under this section shall only apply to novice participants.

(L) The waiver of the approval and applicable fees will not result in a substantial loss of revenue to the department.

Note: Applications may be obtained from any department office.

(4) SPECIAL HUNTING CONDITIONS, LIMITATIONS AND RESTRICTIONS. (a) During the field portion of the hunting activity a mentor shall accompany a novice participant.

(b) During hunting skills field activities the area shall be posted with a sign advising of the activity.

(c) At least one mentor shall be a certified hunter education instructor.

(d) Mentors shall have at least 5 years of hunting experience.

(5) SPECIAL FISHING CONDITIONS, LIMITATIONS AND RESTRICTIONS. (a) During the field portion of the fishing activity there may be no more than 3 novice participants per mentor.

(b) Non-licensed mentors may be involved with assisting but will need approvals if they take part in the actual fishing activity unless they are enrolled as a novice participant.

(6) STATE PARKS. Waivers may be issued that allow the following activities in state parks:

(a) Possession of loaded and uncased firearms.

(b) Possession of strung and uncased bows.

(c) Shooting of deer and turkey on properties opened for the hunting of these species under s. 29.089 (3), Stats.

(d) Use of unleashed dogs.

(7) EXEMPTIONS. This section does not apply to special hunting events established under s. NR 10.01.

History: Cr. Register, July, 1997, No. 499, eff. 8-1-97; CR 06-012: am. (2) (d) Register December 2006 No. 612, eff. 2-1-07.

NR 19.03 Control of muskrats on cranberry marshes. (1) The owner or lessee of any improved cranberry marsh area shall comply with s. 29.885, Stats.

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

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

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

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

NR 19.05 Release and importation of fish. (1) No person, persons, firm or corporation may bring into the state to introduce or release or cause to be introduced or released in any manner into the inland or outlying waters any fish or the eggs or spawn thereof, without first applying for in writing and receiving a written permit from the department or its duly authorized agents. The permit shall be granted only after the department or its agents investigates and inspects the fish or the eggs or spawn thereof as it deems necessary to determine that the introduction or release will not be detrimental in any manner to the conservation of the natural resources of the state. Inspection may include removal of reasonable samples of fish and eggs for biological examination.

The responsibility of licensees holding private fish hatchery licenses is stated in ss. 29.735 and 29.736, Stats.

(2) Permits to import fish or eggs of the family Salmonidae (trout, char, salmon) shall be issued at no charge to a person who has applied on a special form furnished by the department. Such permit will be issued only if the immediate source of fish or eggs is certified free of infectious hematopoietic necrosis, viral hemorrhagic septicaemia, whirling disease, enteric redmouth and *Ceratomyxa shasta*, except that eggs from wild stocks do not have to be certified free of whirling disease. Certification shall be made in the state of origin and may be accomplished only by biologists recognized by the department as competent in diagnosis of fish diseases. For informational purposes the source of fish or eggs will also be inspected for infectious pancreatic necrosis, kidney disease and bacterial furunculosis. Inspecting biologists will submit a written inspection report to the department. A copy of the importation permit must accompany each shipment of fish or eggs.

History: 1-2-56; am. (2), Register, October, 1969, No. 166, eff. 1-1-70; renum. from WCD 19.05 to be NR 19.05, and am. (1), (2) and (3), Register, April, 1971, No. 184, eff. 5-1-71; r. and rec. Register, August, 1977, No. 260, eff. 9-1-77; CR 03-030: am. (1) Register October 2003 No. 574, eff. 11-1-03.

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

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

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

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

NR 19.09 Wild rice conservation. (1) REMOVAL OR DESTRUCTION OF WILD RICE. (a) No person may remove or destroy by hand, mechanical or chemical means wild rice growing in navigable lakes unless the department has approved the removal or destruction under par. (b).

(b) In addition to harvest in accordance with s. 29.607, Stats., and subs. (2) to (8), the department may authorize by written approval the removal of wild rice growing in navigable lakes upon a finding that:

1. The wild rice resource in the navigable lake will not be substantially affected. The department may consider cumulative effects of an approval on such a lake under this paragraph; and

2. The removal or destruction is necessary to allow reasonable access to the lake by the riparian owner.

(c) Persons requesting an approval under this subsection, shall apply on department forms and provide information requested by the department.

Note: The forms may be obtained from department regional offices.

(2) A closed season is established for the harvesting or gathering of wild rice in the following described areas at all times except as hereinafter provided and it is unlawful for any person to harvest or gather wild rice in any manner or at any time during such closed season.

(3) The secretary is authorized and directed, after determining by investigation and study that the wild rice is ripe, to designate the open season for harvesting or gathering wild rice in each of the areas described in sub. (4). The open season in any area may continue in effect for not more than 60 days. The open season in any area as designated by the secretary pursuant to this subsection shall be put into effect by posting of proper notice of the open season on the shores of, and at places of public access to, the lakes and streams in which the open season is effective at least 24 hours before the beginning of the open season.

(4) There is no closed season for the harvesting of wild rice in any other area of the state of Wisconsin not herein described:

(a) *Ashland county.* All waters north of highway 2 including outlying waters.

(aa) *Barron county.* Bear lake, Beaver Dam lake and Red Cedar lake.

(b) *Bayfield county.* Totogatic lake.

(c) *Burnett county.* Bashaw lake, Big Clam lake, Big Sand lake, Briggs lake, Gaslyn lake, Long lake, Mud lake, town of Oakland, Mud lake, town of Swiss, Mud Hen lake, Spencer lake and Trade lake.

(d) *Douglas county.* In Allouez Bay in the city of Superior and Mulligan lake.

(e) *Forest county.* Atkins lake, Riley lake, Big Rice lake and Wabigon lake.

(f) *Marinette county.* Noquebay lake.

(g) *Oneida county.* Atkins lake, Big lake and Big lake thoroughfare, Gary lake, Little Rice lake, Rice lake and Spur lake.

(h) *Polk county.* Balsam Branch, Big Round lake, East lake, Glenton lake, Little Butternut lake, Nye lake, Rice lake and White Ash lake.

(i) *Sawyer county.* Musky Bay located in sections 10 and 11, T39N, R9W, on Big Lac Court Oreilles lake.

(j) *Vilas county.* Allequash lake, Little Rice lake, Nixon lake, Irving lake, Aurora lake, West Plum lake, Devine lake, West Ellerson lake, Micheys Mud lake, Frost lake, Rice lake, Sand lake and Sugar Bush Chain.

(k) *Washburn county.* Bear lake, Gilmore lake, Little Mud lake, Long lake, Mud lake, Nancy lake, Rice lake, Spring lake and Tranus lake.

(5) No person may harvest or gather any wild rice in any area of the state of Wisconsin between sunset and the following 10:00 a.m. central daylight time.

(6) No person may harvest or gather any wild rice in any navigable lake by the use of any method other than smooth, rounded, wooden rods or sticks not more than 38 inches in length and which are held and operated by hand.

Note: Section 29.607, Stats., prohibits the use of any mechanical device in any water of the state for harvesting or gathering wild rice.

(7) No person may harvest or gather any wild rice in any navigable lake by the use of any boat longer than 17 feet or greater than 38 inches in width or by the use of any boat propelled by other than muscular power using only a push-pole or canoe paddle.

(8) (a) All licensed wild rice dealers shall file reports on forms furnished by the department covering the license period with the Department of Natural Resources, Box 7924, Madison, 53707, prior to obtaining a wild rice dealer's license.

(b) Such reports shall summarize the book records required and shall include the total number of transactions and the total amount of wild rice bought, sold or processed during the period covered by such license.

(9) Nothing in the provisions of this section shall prohibit authorized agents of the department from harvesting or gathering wild rice in the performance of their official duties.

History: Cr. Register, July, 1960, No. 55, eff. 8-1-60; r. and recr. Register, July, 1964, No. 103, eff. 8-1-64; renum. from WCD 19.09 to be NR 19.09 and am. (2), intro. par., (6) and (7), Register, April, 1971, No. 184, eff. 5-1-71; am. (2) (c), (k) and (m), Register, November, 1976, No. 251, eff. 12-1-76; am. (5), Register, April, 1978, No. 268, eff. 5-1-78; am. (1) (c), Register, December, 1978, No. 276, eff. 1-1-79; r. and recr. (2) (a) to (m), and am. (6), Register, August, 1979, No. 284, eff. 9-1-79; am. (2m) (c), Register, September, 1983, No. 333, eff. 10-1-83; emerg. cr. (2m) (aa), am. (2m) (c), (d), (g), (h) and (k), eff. 8-13-84; emerg. am. (3) eff. 8-27-84, cr. (2m) (aa), am. (2m) (c), (d), (e), (g), (h), (k) and (3), Register, May, 1985, No. 353, eff. 6-1-85; r. (8), renum. (1) to (7) to be (2) to (9) and am. (6) and (7), cr. (1), Register, August, 1985, No. 356, eff. 9-1-85; am. (3), Register, July, 1987, No. 379, eff. 8-1-87; am. (3), Register, July, 1988, No. 391, eff. 8-1-88.

NR 19.11 Scientific collectors permits and scientific research licenses. (1) DEFINITIONS. For the purposes of implementing ss. 29.614 and 169.25, Stats., and within this section, the following definitions apply:

(a) "Qualified natural person" or "person" means any individual complying with s. 29.614, Stats., and this section, not including a corporation, partnership, cooperative, society, association or other organization.

(b) "Bonafide research program" means planned study and investigation undertaken to discover or establish facts or principles leading to increased, useful scientific knowledge.

(c) "Useful scientific knowledge" means new information contributing to the long-term well-being of wild animals and their habitats, or providing educational opportunities in the natural sciences.

(2) **APPLICABILITY.** (a) *Permits not required.* Scientific collectors permits are not required for the collection of wild plants, unprotected wild animals taken legally, or wild animals obtained from licensed game farms or fish hatcheries.

(b) *Bird banding.* Scientific collectors permits will be required for trapping and banding protected nonmigratory upland game birds.

(c) *Licenses.* A person is not required to possess a separate hunting, fishing or trapping license while collecting under a scientific collector permit.

(d) *Endangered species.* Endangered or threatened wild animals may be collected only under authority of endangered species permits issued by the department pursuant to s. 29.604, Stats., and ch. NR 27.

(e) *Tagging of fish.* Scientific collectors permits are required to capture a wild fish, attach a tag to any part of it, and then to release it back into waters of the state.

(3) **PERMIT APPLICATIONS.** (a) *Forms.* Applications for scientific collectors permits shall be made on application forms provided by the department and include:

1. Name and address of the applicant;
2. Applicant's personal description;
3. Purpose of the request;
4. Species and number of specimens to be collected;
5. Places and times when specimens are to be collected;
6. Method of collecting;
7. Place where collections will be kept; and
8. Such additional information as may be requested by the department.

9. The period of the permit.

(b) *Narrative proposal.* All permit applications shall be accompanied by a written proposal stating the objectives, justifications, procedures, times and places of collection, application of results and sponsor, if any, of the project described in the application.

(4) **PERMIT ISSUANCE.** (a) *Issuance.* Permits shall be issued in the name of the applicant. All agents of the permittee assisting in the permitted collections will be listed on the permit. Separate copies of permits shall be signed and carried by each person

named in the permit when that person is acting under it in the absence of the permittee.

(b) *Specimen materials.* A permit will be issued for collections yielding preserved specimen materials only when such materials are to be kept in a place and manner where students and the public have access to them. Private collections to be kept in a manner not open to the public will not be approved.

(c) *Conditions.* 1. 'Contents.' Permits will contain conditions deemed necessary by the department to protect the resources of the state and assure use of specimens taken are in compliance with s. 29.614, Stats.

2. 'Nonresidents.' Permits issued to nonresidents will set forth conditions of removal of specimens from the state.

3. 'Federal permits.' a. Permits involving the capture, marking, collection, possession or salvage of migratory birds or parts, nests or eggs of migratory birds will not be issued under this section until the applicant possesses a permit issued by the U.S. fish and wildlife service for that activity.

b. Permits under this section are not required for banding or marking capture-and-release activities authorized under a permit issued by the U.S. fish and wildlife service.

4. 'Size of collections.' Permits will not be issued which authorize collections endangering the population of animals the collection would draw from, or exceeding the number of animals required to meet the permittee's objectives.

5. 'Unprotected species.' Permits will not be issued for the collection of protected species if unprotected species can be used to accomplish the same purposes.

(5) **PERMIT USAGE.** (a) *Disposition of specimens.* 1. Living unharmed specimens collected during the course of permitted activities shall be returned to the wild at the point of capture, unless otherwise provided in the permit.

2. Any endangered or threatened species taken unintentionally during the course of permitted activities shall be immediately released if unharmed.

3. Injured or dead wild animal specimens shall be immediately turned over to the department employee named in the permit unless otherwise provided in the permit.

(b) *Notification of department.* Each permittee shall notify the department employee named in the permit at least 48 hours prior to collecting of the time and place where specimens will be collected.

(c) *Marked gear.* All traps, nets and any other gear used for capturing wild animals under terms of a permit shall be marked with the permit number, name and address of the permittee.

(d) *Trap and net tending.* All traps, nets and other capture emptied by the permittee at least once each 24-hour period.

(e) *Fishing gear restrictions.* 1. 'Gill nets.' Gill nets may not be used in inland waters unless specifically authorized by a permit.

2. 'Buoys.' All buoys and buoy staffs shall be marked and maintained as required by the department. The permit number, name and address of the permittee shall be maintained in plain figures on the bowl of the buoy.

3. 'Sport fishing equipment.' Hook and line fishing equipment and spearing equipment may not be possessed on a boat operating under a permit without prior approval of the department.

(6) **RECORDKEEPING AND ANNUAL REPORTS.** (a) *Records.* Each permittee shall keep current records, in the English language, of all collections under the permit. Records of collections shall be made available to the department during normal business hours, or upon 8 hours notice at other times.

(b) *Required reports.* Permittees shall supply information requested by the department and annually file a complete and accurate report on forms covering activities conducted under authority of the permit. Unless otherwise provided in the permit,

such reports shall be filed using a report form provided by the department not later than January 10 of the year following expiration of the permit.

(c) *Content.* Annual reports by permittees shall include:

1. The common name, scientific name and number of each species and type of specimen material collected;
2. The date and geographic location of each collection;
3. Disposition of collected specimens; and
4. Any other information requested by the department.

(7) **DISPOSITION.** Specimens collected under the authority of the scientific collector permit may be transferred to and possessed by an educational institution for exhibition or education purposes upon completion of the project or expiration of the permit. Environmental consulting organizations may retain specimens following permit expiration provided the specimens are marked in a manner prescribed by the department. An educational institution or environmental consulting organization possessing specimens shall possess written proof of source, including the scientific collector permit number of the source and present that proof upon request by the department.

Note: Application forms for scientific collectors permits under this section may be obtained from any department regional office. Federal permits for migratory birds may be obtained from the Special Agent in Charge, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, MN 55111.

History: Cr. Register, April, 1966, No. 124, eff. 5-1-66; renum. from WCD 19.11 to be NR 19.11, and am. (1) intro. par., (1) (h), (2) intro. par. and (2) (c), Register, April, 1971, No. 184, eff. 4-1-71; cr. (5) (e) and (6), Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. (2), r. (5) (a), Register, August, 1979, No. 284, eff. 9-1-79; r. and recr. Register, November, 1981, No. 311, eff. 12-1-81; r. and recr. (2) (c), cr. (3) (a) 9., (4) (c) 3.b. and (7), am. (4) (c) 3., r. (6) (c) 3., renum. (6) (c) 4. and 5. to 3. and 4., Register, August, 1986, No. 368, eff. 9-1-86; CR 03-030: am. (1) (intro.) Register October 2003 No. 574, eff. 11-1-03; CR 03-014: cr. (2) (e) Register October 2003 No. 575, eff. 4-1-04.

NR 19.115 Fish, fur, game seals. Fish, fur, game seals shall be attached by or at the direction of the department to fish, fur or game articles which may be sold pursuant to s. 29.934 (1), Stats. Each seal shall be issued for a particular article only and no seal may be attached or assigned to any other article. No person may possess or transfer any seal to another person except as incidental to the possession, purchase, sale, trade or transfer of the article of fish, fur, or game for which the seal was issued.

History: Cr. Register, March, 1990, No. 411, eff. 4-1-90.

NR 19.12 Tagging the carcasses of wild animals, birds and fish taken on Indian reservations. (1) (a) Each authorized person who has taken a protected wild animal, bird or fish on an Indian reservation, under provisions of the reservation's treaty rights during the off-reservation closed season for such game set by the department of natural resources, shall before removing the carcass or part thereof of such animal, bird or fish from the reservation, contact and exhibit it during ordinary working hours to a conservation warden of the department of natural resources or to any tribal member authorized by the particular tribe and designated by the department of natural resources.

(b) The conservation warden or designated tribal member shall inspect all such carcasses, attach and lock a special lettered and numbered tag to each carcass or part thereof, and maintain a record book containing the following information: the date, the reservation, the name and address of the person being issued the tag, the species and description of the wild animal, bird or fish being tagged, the destination, and the name and address of the person issuing the tag. Such record book shall be exhibited to the department of natural resources at reasonable hours for inspection and duplication. Failure to maintain and exhibit such a record book containing the above information shall be sufficient cause for the department of natural resources to revoke the authority of the official to issue any more tags. The secretary of the department of natural resources may take such revocation action without requiring that a hearing be held on the matter.

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

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

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

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

(3) No vehicle-killed deer, or any parts thereof, may be sold or bartered by the individual to any other person at any time, except the head or hide, which may be disposed of pursuant to s. 29.539, Stats. Vehicle-killed deer may be given to another person or to charitable organizations, except that spotted hides or velvet antler possession shall comply with sub. (4).

(4) Possession of vehicle-killed deer shall be limited to 90 days. Pursuant to s. 29.347 (3) and (5), Stats., if the vehicle-killed deer is a spotted fawn or a deer with antlers in velvet and the person who possesses the deer wants to retain the spotted hide or velvet antlers for more than 90 days, the person shall contact the department for written authorization to retain the spotted hide or velvet antlers before the end of the 90 day period. Written authorization to possess spotted hides and velvet antlers from a vehicle-killed deer does not allow sale or transfer to another.

(5) White deer may not be released by the department.

(6) No deer may be retained until it has been tagged as required under this section.

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

(8) The permit shall contain the following information:

- (a) Name and address of permittee.
- (b) Vehicle license number if deer given to driver involved in the collision.
- (c) Date of accident.
- (d) Date of issuance.
- (e) Identification of permittee as driver of vehicle, or other.
- (f) Sex of deer and approximate weight.
- (g) Location of kill as to county and deer management unit.
- (h) Name of officer who issued permit carcass tag and the name and address of the officer's agency.

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

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

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

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

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

History: Cr. Register, June 1976, No. 246, eff. 7-1-76; am. Register, August, 1994, No. 464, eff. 9-1-94; am. (3), Register, October, 1997, No. 502, eff. 11-1-97; CR 04-046: am. (4) and (5) Register September 2004 No. 585, eff. 10-1-04; CR 05-031: am. (3) Register November 2005 No. 599, eff. 12-1-05.

NR 19.25 Wild animal protection. Unless engaged in dog training or dog trials as authorized by the department in s. NR 17.001 (3) and (5), or other activity specifically authorized by the department, a closed season is established and no person may harass, disturb, pursue, shoot, trap, catch, take, or kill protected wild animals by any means, except as described under s. NR 12.10 (1) (b) 4.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; correction made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1997, No. 502; CR 01-006: am. Regis-

ter August 2001 No. 548, eff. 9-1-01; CR 05-031: am. Register November 2005 No. 599, eff. 12-1-05.

NR 19.26 Season and restrictions for taking frogs.

(1) The open season for frogs runs from the Saturday nearest to May 1 to December 31.

(2) No person may take frogs with the aid of a firearm or air gun.

(3) Possession limits for frogs are established in s. NR 16.12.

History: Cr. Register, May, 2000, No. 533, eff. 6-1-00; CR 03-030: r. and recr. Register October 2003 No. 574, eff. 11-1-03.

NR 19.27 Seasons, limits, restrictions on taking crayfish. There is a closed season established for taking crayfish except when taken during the open season by the following methods:

Animal and locality	Open season (both dates inclusive)	Bag limit	Size limit	Methods of taking
(1) Crayfish All areas except Wis.-Minn. boundary waters. See s. NR 21.04 (12)	Continuous	None	None	Crayfish may be taken by hand, minnow seine, minnow dipnets or minnow traps, as defined in s. NR 20.10, and by crayfish traps with any entrance not to exceed 2 1/2 inches at its greatest diagonal measurement. All traps used to take crayfish shall be raised and crayfish removed at least once each day following the day set unless otherwise authorized by the district director. All traps shall be tagged with a tag clearly bearing in the English language the name and address of the owner and trapper.

(4) ADDITIONAL RESTRICTIONS. (a) *Crayfish*. 1. 'Prohibitions.' No person may:

a. Use live crayfish as bait on the inland waters except on the Mississippi river.

b. Possess live crayfish while on any inland waters of the state, except the Mississippi river, unless that person is engaged in crayfish removal. Simultaneous possession of live crayfish and hook and line fishing equipment while on the inland waters, except the Mississippi river, shall be considered prima facie evidence of a violation of this subsection.

c. Place, deposit, throw or otherwise introduce live crayfish into any waters of the state unless a permit authorizing introduction has been issued by the department.

2. 'Bait.' a. Crayfish may be taken with use of bait consisting only of parts of fish lawfully taken or fish by-products including fish meal or prepared parts of such fish.

b. Bait or parts of bait authorized in this subdivision may not be deposited in the waters of this state unless they are enclosed within the trap.

3. 'Floats or markers.' Floats or markers used to locate traps for the taking of crayfish:

a. May not exceed 5 inches in size at its greatest dimension;

b. May not extend more than 4 inches above the surface of the water.

c. Shall plainly and clearly display in the English language the name and address of the owner or operator; and

d. Shall be of a color other than orange or fluorescent colorations.

4. 'Traps.' Crayfish traps placed in trout streams shall conform to the dimensions of minnow traps described in s. NR 20.03 (26) unless otherwise authorized by the department.

History: Cr. Register, December, 1982, No. 324, eff. 1-1-83; r. and recr. Register, June, 1984, No. 342, eff. 7-1-84; cr. (4) (a) 4., Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, July, 1988, No. 391, eff. 8-1-88; am. (intro.), r. (3), Register, February, 1997, No. 494, eff. 3-1-97; correction in (4) (a) 4. made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525; am. (intro.), r. (2) and (4) (b), Register, May, 2000, No. 533, eff. 6-1-00.

NR 19.275 Turtles. (1) APPLICABILITY. This section applies to the taking and possession of turtles in Wisconsin, except for the Wisconsin-Minnesota boundary waters and the Wisconsin-Iowa boundary waters, where the taking and possession of turtles is governed by ss. NR 21.13 and 22.13, respectively.

(2) SEASONS; POSSESSION AND DAILY BAG LIMITS. No person may take turtles except during the open seasons established in sub. (4). For the purpose of turtle harvest, the possession limits are the same as the daily bag limits.

(3) ADDITIONAL RESTRICTIONS. No person may do any of the following:

(a) Take, possess or control a turtle unless the person is in possession of a valid approval issued under s. 29.624, 29.161, 29.204, 29.207, 29.231 or 29.235, Stats., which authorizes the hunting of small game, or an approval issued under s. 29.624, 29.228, 29.219, 29.231, 29.235, 29.531, or 29.533, Stats., which authorize fishing, unless otherwise exempt from the need to possess one of more of these approvals to hunt or fish under ch. 29, Stats.

Note: The s. 29.228, Stats., fishing license exemption for nonresidents under age 16 only applies to taking fish by hook and line. Therefore, any nonresident under age 16 who takes turtles by hand, hooking or with hoop net turtle traps must possess a valid fishing or small game authorization.

(b) Take turtles by methods other than hoop net turtle traps that comply with par. (c), hand, hook and line or hooking.

(c) Use a hoop net turtle trap to take turtles unless it complies with all of the following criteria:

1. It is constructed with no less than 6 inch stretch measure mesh net as defined in s. NR 25.02 (28).

2. The net is nylon or other stretchable fabric. Wire may not be used.

3. It is constructed with a funnel entrance at one or both ends which are tied off to the sides or the opposite ends. The opening in the funnel may be round or oval.

4. It is designed and set so the closed sides sit horizontal in the water.

Note: There is no restriction on the size of the trap itself or the number of hoops used in its construction.

(d) Use a hoop net turtle trap unless it is placed on the bed of the stream, river, lake or pond so that a minimum of 2 inches of the trap is above the water's surface.

(e) Use a hoop net turtle trap unless it is checked and the entrapped contents removed at least once each day.

(f) Place, use or tend more than 3 hoop net turtle traps.

(g) Use a hoop net turtle trap unless a stamped or engraved

metal tag, bearing the name and address of the operator of the trap in the English language, is attached in a manner that is visible above water and legible at all times.

(h) Place, use or tend a hoop net turtle trap or remove its entrapped contents unless that person is the operator identified on the trap tag.

(4) SEASONS AND LIMITS:

Turtle species	Open seasons (both dates inclusive)	Daily bag and possession limit	Size limit
(a) Snapping turtle	July 15 to Nov. 30	3	12 inch minimum 16 inch maximum top shell measured from front to back
(b) Softshell turtle	July 15 to Nov. 30	3	None
(c) All other turtles not listed as threatened or endangered in ch. NR 27	July 15 to Nov. 30	5 in total	None

History: Cr. Register, February, 1997, No. 494, eff. 3-1-97; CR 06-011: am. (3) (a) Register September 2006 No. 609, eff. 4-1-07.

NR 19.28 Taxidermy. (1) TRANSPORTATION. Whenever a permitted taxidermist, or his or her agent, takes a wild animal carcass into possession at a location other than the taxidermist's place of business, the records required by s. 29.506 (5) (b) and (6), Stats., shall be completed immediately and shall accompany the carcass during transportation.

(2) POSSESSION. (a) If a permitted taxidermist holds wild animal carcasses received in connection with his or her business pursuant to the authorization in s. 29.506 (4), Stats., in the same storage area or freezer with personally acquired wild animal carcasses, every wild animal carcass so held shall be tagged in the manner described in s. 29.506 (5) (b), Stats. Wild animal carcasses so tagged and stored may not be considered to be commingled.

(b) The authorization of s. 29.506 (4), Stats., does not apply to wild animal carcasses acquired by a taxidermist for purposes not related to the business of taxidermy.

(3) MOUNTED COLLECTION OF A TAXIDERMIST. This section does not permit seizure of, nor prohibit possession or sale of a lawfully obtained wild animal carcass by a permitted taxidermist which is mounted or is in the process of being mounted for the private collection of a permitted taxidermist provided that the tagging and record keeping requirements and the commingling prohibitions of s. 29.506, Stats., have been complied with. Included is any such wild animal carcass received by a permitted taxidermist in connection with his or her business which has been abandoned by the customer.

History: Cr. Register, March, 1987, No. 375, eff. 4-1-87.

NR 19.30 Criminal history checks; volunteer safety instructors. Whenever application is made to the department by a person interested in becoming certified to instruct as a volunteer all-terrain vehicle, boating, bowhunter, hunter education, Wisconsin cooperative trapper education program or snowmobile safety instructor, the bureau of law enforcement shall conduct a criminal history, character and background check on the applicant.

History: Cr. Register, July, 1996, No. 487, eff. 8-1-96; am. Register, September, 1998, No. 513, eff. 10-1-98.

NR 19.40 Department authority to void local hunting, fishing and trapping ordinances. (1) PURPOSE. These rules are developed, pursuant to s. 227.11, Stats., to establish procedures for determining when local ordinances should be voided under s. 29.038, Stats., because they have more than an incidental effect on hunting, fishing or trapping, or do not have public health and safety as a primary purpose.

(2) DEFINITIONS. In this section:

(a) "Building devoted to human occupancy" has the meaning used in s. 941.20 (1) (d), Stats.

(b) "Undeveloped lands" has the meaning given in s. 943.13 (1e) (f), Stats.

(3) DEPARTMENT DETERMINATIONS. Department determinations related to the legality of local ordinances regulating hunting, fishing or trapping shall consider the following factors when determining the validity of a local ordinance. The listed factors are not weighted and are factors which would favor a department decision to void the ordinance.

(a) The extent to which the ordinance affects undeveloped lands or lands which are zoned agricultural, forestry, lowland conservancy, upland conservancy or flood plain.

(b) The extent to which the department has received complaints about the ordinance.

(c) Whether the ordinance purports to directly regulate hunting.

(d) Whether the ordinance requires a permit to discharge a firearm or a bow, whether a fee is charged which exceeds 150% of the issuance fee established by s. NR 19.02 (4) (b), creates a higher fee for non-residents or requires a background check.

Note: At the current time, the fee established by s. NR 19.02 (4) (b) is \$3.00.

(e) Whether the ordinance restricts the discharge of fine shot while the shooter is in or on the water more than 100 yards from the nearest developed shoreline, and shooting away from or parallel to that shoreline.

(f) Whether the ordinance prohibits the discharge of fine shot when on undeveloped lands which are more than 100 yards from buildings devoted to human occupancy, and shooting away from the buildings.

(g) Whether the ordinance prohibits hunting, fishing or trapping on department property otherwise open to hunting, fishing or trapping or on property leased by or under easement to the department for the purpose of hunting, fishing or trapping.

(h) Whether the ordinance prohibits the discharge of shotguns or bows within all areas of the municipality.

(i) Whether the ordinance prohibits the discharge of bows.

(j) Whether existing state laws adequately address the local safety concerns.

(k) Whether the ordinance prohibits fishing by individuals located on public waters.

(L) Whether less restrictive alternatives are available to address a municipality's safety concerns.

(m) Whether the ordinance prohibits live trapping.

(n) Whether the ordinance has no apparent health or safety purpose.

(4) **EXCEPTION.** This section does not apply to fishing rafts subject to regulation under s. 30.126, Stats.

(5) **PROCEDURES.** (a) Prior to holding a hearing to determine the validity of a local ordinance under s. 29.038, Stats., the department shall mail the affected municipality a notice of the time and location of the hearing. The department shall also publish a class I notice under ch. 985, Stats., of the hearing in the county in which the municipality is located. The notice shall be given at least 30 days prior to the date set for the hearing.

(b) Hearings shall be conducted to the extent possible in a manner consistent with s. 227.18 (1) and (2), Stats.

(c) The final decision shall be made by the secretary or the secretary's designee.

(d) The decision shall be in writing and accompanied by findings of fact and conclusions of law.

(e) The department may void ordinances found to be in violation of s. 29.038, Stats., in whole or in part, or as applied to certain areas, certain classes of persons, certain times of the year, or certain circumstances.

History: Cr. Register, May, 2001, No. 545, eff. 6-1-01.

NR 19.50 All-terrain vehicle and bowhunter, snowmobile and hunter education program fee. The fee for the all-terrain vehicle and bowhunter, snowmobile and hunter education certification programs shall be \$10.00 per student. The department may authorize the instructors to retain up to 50% of the fee to defray authorized expenses incurred locally to operate the program based on the actual cost incurred to the instructor. The remaining funds shall be turned in to the department to defray expenses incurred to operate these programs during the year. The fee for advanced hunter education courses shall only be the amount necessary, but not to exceed \$50 per student. Only instructors certified by the department to teach advanced education courses under this section may charge a fee for the advanced education courses. The department may authorize specialized fees for Internet based all-terrain vehicle and snowmobile education certification programs pursuant to a memorandum of understanding with entities managing these programs for the department. The specialized fee shall be in lieu of the \$10.00 per student fee and shall be sufficient to defray authorized operational costs of entities managing these programs for the department as well as operational costs of the department.

History: CR 00-110: cr. Register April 2002 No. 556, eff. 5-1-02; emerg. am. eff. 10-3-05; CR 05-088: am. Register March 2006 No. 603, eff. 4-1-06; CR 06-134: am. Register August 2007 No. 620, eff. 9-1-07.

NR 19.60 Feeding of wild animals. (1) GENERAL PROHIBITIONS. (a) No person may place, deposit or allow the placement of any material to feed or attract wild animals for non-hunting purposes including recreational and supplemental feeding, except as provided in sub. (2) or (3), or as specifically authorized in a permit or license issued under s. 29.614 (1) or 169.25 (1) (a), Stats., or s. NR 12.06 (11) or 12.10 (1).

Note: Section 29.614, Stats., states: Scientific collector permit. (1) Application for a scientific collector permit shall be submitted to the department. The department may issue a scientific collector permit if the department determines that the applicant is a natural person and is engaged in a bona fide program leading to increased, useful scientific knowledge.

Note: Section 169.25, Stats., states: Scientific research license. (1) Issuance. (a) The department shall issue a scientific research license to any person who is engaged in a study or in research that the department determines will lead to increased, useful scientific knowledge and who files a proper application and who pays the applicable fee.

(b) Any person placing feed to attract wild animals in violation of this section or s. NR 10.07 (2) or (2m) shall remove all feed or other material illegally placed or deposited when notified by the department to do so.

(c) Landowners, lessees or occupants of any property where feed or other material in violation of this section or s. NR 10.07

(2) or (2m) is present shall remove all feed or other material illegally placed or deposited upon notification by the department of the illegal activity if not otherwise removed in accordance with par. (b).

(d) Except as authorized under sub. (3) (a) 1., no person may place feed in a feeder designed to deposit or replenish the feed automatically, mechanically or by gravity.

(2) **FEEDING DEER AUTHORIZED.** (a) *Affected area.* This subsection applies statewide, except for those counties where deer baiting and feeding is prohibited under par. (b).

(b) *Excluded area.* Deer baiting and feeding is prohibited in entire counties where any of the following criteria apply:

1. CWD eradication zones or herd reduction zones have been established in the county or a portion of the county, or

2. A CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county, or

3. The county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997.

(c) *Inclusion of additional counties.* 1. The department may add additional counties under par. (b) if they meet the criteria established in par. (b) 1., 2. or 3.

2. The prohibitions and exemptions in this subsection shall become effective upon issuance of an order by the secretary of the department and publication in the official state newspaper. In addition, a notice of the order shall be provided to newspapers, legislators and hunting license outlets in the area affected.

(d) *Deer feeding.* A person may place or deposit material to feed or attract wild deer for recreational and supplemental feeding purposes outside of the counties where deer feeding is prohibited under par. (b), but may not place or allow the placement of any feed material:

1. In excess of 2 gallons of feeding material within 50 yards of any owner occupied residence or business.

2. More than 50 yards from an owner occupied residence or business.

3. Within 100 yards from a roadway, as defined in s. 340.01 (54), Stats., having a posted speed limit of 45 miles per hour or more.

Note: Section 340.01(54), Stats., "Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway, the term "roadway" refers to each roadway separately but not to all such roadways collectively.

4. That contains any animal part or animal byproduct.

5. Without the approval of the owner of the owner-occupied residence or business.

(3) **EXCEPTIONS.** (a) This section does not prohibit any of the following activities:

1. Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy unless authorized by the department. If the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.

2. Feeding of wild animals, other than deer, elk or bear, by hand if:

a. Feed placed not more than 30 feet away from the person feeding, and

b. The person feeding makes all reasonable attempts to clean up the unconsumed feed before moving a distance greater than 30 feet from the deposited feed.

3. Feed deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.

4. Standing crops planted and left standing as wildlife food plots that may be used by wild animals.

5. Feed material placed for deer or bear hunting or bear dog training as authorized under s. NR 10.07 (2m).

6. Feed material placed for trapping as specified in s. NR 10.13.

7. The use of scents, provided the material is not accessible for consumption by deer or elk or scent placed in compliance with s. NR 10.07 (2) (b) 4.

8. Feed or bait material placed or used for fish, reptiles, amphibians or arthropods, provided the material is not accessible to bear, deer or elk.

9. Feeding of deer as authorized under sub. (2).

Note: These feeding rules do not apply to captive wild animals held and licensed under ch. 169, Stats.

History: CR 04-078: cr. Register April 2005 No. 592, eff. 5-1-05.

Subchapter II — Wildlife Rehabilitation

NR 19.70 Purpose. This subchapter is adopted to establish consistent standards for the rehabilitation of wildlife in Wisconsin. The intent is to ensure all persons engaged in wildlife rehabilitation are qualified and provide humane care and housing for wildlife being rehabilitated.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.71 Definitions. In this subchapter:

(1) "Advanced license" means a wildlife rehabilitation license issued by the department to a person qualifying under s. NR 19.73 (1) and (3).

(2) "Basic license" means a wildlife rehabilitation license issued by the department to a person qualifying under s. NR 19.73 (1) and (2).

(3) "Department" means the department of natural resources.

(4) "Euthanasia" means the humane killing of a wildlife in accordance with the current American veterinary medical association standards contained in the 2000 Report of the AVMA Panel on Euthanasia.

Note: Copies of the 2000 Report of the AVMA Panel on Euthanasia, JAVMA, Vol. 218, No. 5, dated March 1, 2001, are available for inspection at the offices of the Secretary of State, 30 W. Mifflin Street, Madison, WI, the Revisor of Statutes, 131 W. Wilson Street, Madison, WI, or the department.

(5) "Facilities" means any equipment, housing or shelter used for wildlife rehabilitation.

(6) "Federal permit" means a special purpose permit issued under 50 CFR Part 13 and 50 CFR 21.27 by the United States fish and wildlife service for the rehabilitation of migratory birds and federally endangered or threatened species.

(7) "Protective device" means a device that is designed to prevent the escape of an animal at the entrance of a primary enclosure.

(8) "Sponsor" means an advanced licensee who has volunteered to mentor a basic licensee.

(9) "Sponsorship agreement" means a document that establishes an advanced licensee as a sponsor for a basic licensee.

(10) "Volunteer" means any person, including interns, working under the supervision of an advanced licensee on wildlife rehabilitation activities.

(11) "Wildlife" means "wild animal" as defined in s. 169.01 (37), Stats.

(12) "Wildlife rehabilitation" means "rehabilitate" as defined in s. 169.01 (30m), Stats.

(13) "Wildlife rehabilitation advisory committee" means a group of volunteers appointed by the secretary or secretary's designee to advise and provide recommendations about wildlife rehabilitation to the department.

(14) "Wildlife rehabilitator" means a person authorized to capture, receive, temporarily possess, transport or transfer orphaned, sick or injured wildlife for the purpose of wildlife rehabilitation under a valid license issued pursuant to this subchapter.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.72 General wildlife rehabilitation provisions.

(1) The title to all wildlife and their offspring held under a wildlife rehabilitation license remains under the jurisdiction of the department as described in s. 169.02, Stats., and may not be sold, traded or bartered without the consent of the department.

(2) The department may restrict wildlife rehabilitation of specific wildlife species, either statewide or in certain geographic areas to control the spread of disease, to protect public health or to prevent harmful environmental impacts.

(3) The department may restrict wildlife species authorized for rehabilitation based on the facilities and qualifications of the applicant or licensee.

(4) A wildlife rehabilitation license does not authorize the capture, receipt, possession, transportation or transfer of wildlife for any purpose other than wildlife rehabilitation.

(5) This license does not exempt the licensee from local ordinances that apply to activities authorized by this license.

(6) This license does not authorize the practice of veterinary medicine as defined in s. 453.02 (6), Stats.

(7) The licensee shall display his or her license to department agents or other law enforcement agents upon request.

(8) Any costs incurred by the licensee for wildlife rehabilitation activities shall be the responsibility of the licensee.

(9) Unless specifically authorized by the department for educational purposes, no person may place wildlife being rehabilitated on public exhibit, in ways that may lead to inappropriate imprinting, socialization, habituation or stress.

(10) Wildlife being rehabilitated may not be transported outside Wisconsin for release or any other purpose unless the licensee has verbal, or written, permission from the department and possesses a wildlife rehabilitation license pursuant to this subchapter.

(11) No person may import or accept wildlife for rehabilitation from outside Wisconsin unless he or she has verbal, or written, permission from the department and possesses a wildlife rehabilitation license pursuant to this subchapter.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.73 Licenses. (1) **GENERAL RESTRICTIONS.** (a) *Requirements.* No person may rehabilitate wildlife unless he or she possesses a valid license pursuant to s. 169.24, Stats.

(b) *Transferability.* A rehabilitation license is not transferable.

(c) *Reporting.* The licensee shall notify the department within 7 days of any change of name, address, telephone number, associated federal permit status, substantial changes to facility, a decision to discontinue as a sponsor or wildlife rehabilitation activities before license expiration.

(2) **BASIC LICENSE.** (a) *Requirements.* An applicant for a basic license shall meet all of the following requirements:

1. Possess a signed sponsorship agreement stating an advanced licensee is willing to mentor the applicant's wildlife rehabilitation activities.

2. Possess a signed consulting veterinarian agreement stating a veterinarian, licensed to practice in Wisconsin or state of residence, is willing to consult and assist with care and treatment of wildlife being rehabilitated.

3. Pass an examination meeting the requirements of s. NR 19.75.

4. Allow an inspection of facilities to assure that the applicant's facilities meet the requirements of s. NR 19.77.

(b) *Restrictions.* Basic licensees may not possess any of the following:

1. Federal migratory birds or federal or state endangered or threatened species unless authorized by appropriate federal and state permit.

2. Mammals belonging to the family cervidae (deer, elk, and moose) or other harmful wild animals designated under s. 169.11, Stats.

3. Species of bird belonging to the order ciconiformes (vultures, bitterns and herons), falconiformes (hawks, eagles, harriers, osprey, kites and falcons) with the exception of American kestrel, the order Strigiformes (all owls), with the exception of saw-whet and screech owls or the families gruidae (cranes) or gavidae (loons).

(c) *Euthanasia*. Euthanasia may only be performed under direct supervision of the sponsoring advanced licensee or consulting veterinarian.

(d) *Volunteers*. Basic licensees may not list volunteers on their license.

(3) ADVANCED LICENSE. (a) *Requirements*. Except as provided under par. (e), applicants shall meet all of the following requirements:

1. Possess a basic evaluation form signed by the applicant's advanced licensee sponsor stating that the applicant has been a licensed basic rehabilitator for a minimum of 2 years and has satisfactorily engaged in the practice of wildlife rehabilitation.

2. Possess a signed consulting veterinarian form stating a veterinarian, licensed to practice in Wisconsin or licensee's state of residence, is willing to consult and assist with care and treatment of wildlife being rehabilitated.

4. Allow an inspection of facilities to assure that the applicant's facilities meet the requirements of s. NR 19.77.

(b) *Restrictions*. Advanced licensees may not possess any of the following:

1. Species of wildlife not authorized by their license.

2. Federal migratory birds or federal or state endangered or threatened species unless authorized by the appropriate federal and state permit.

(c) *Euthanasia*. Euthanasia may be performed by the advanced licensee or consulting veterinarian.

(d) *Volunteers*. Volunteers may be authorized to assist with the rehabilitation of wildlife under the authority of an advanced licensee's license provided that all of the following conditions apply:

1. An updated list of volunteers assisting the advanced licensee is retained by the advanced licensee, and shall be provided to a department agent upon request.

2. Volunteers operating at a location other than the advanced licensee's facility shall retain a copy of the advanced licensee's license which shall be provided to a department agent upon request.

3. Advanced licensees accept responsibility for the actions and activities of volunteers and shall be responsible for any violations by volunteers in violation of this chapter or ch. 169, Stats.

4. Advanced licensees that utilize volunteers that are not assisting with wildlife rehabilitation activities under the direct supervision of the advanced licensee shall be responsible for the volunteers' facilities meeting the standards defined in s. NR 19.77.

(e) *Exemptions*. 1. To create an initial advanced license group, the department may allow a person applying for an advanced license to substitute at least 4 years of wildlife rehabilitation experience and qualifications for the requirement of having been a basic licensee for a minimum of 2 years.

2. To create a sponsor group, the initial advanced license group may be exempted from the sponsorship approval requirement.

Note: Wildlife rehabilitation sponsorship and veterinary agreements will be available upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921 or by calling (608) 266-8204.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.74 Application. (1) A person desiring to rehabilitate wildlife in Wisconsin shall submit all of the following information required by the department on an application form supplied by the department:

(a) A signed consulting veterinarian agreement from a veterinarian who is willing to consult and assist applicant with care and treatment of wildlife being rehabilitated.

(b) A signed sponsorship agreement from an advanced licensee who has agreed to sponsor the basic applicant.

(c) For an advanced license applicant, a signed evaluation form from the advanced sponsor and consulting veterinarian which indicates compliance with s. NR 19.73 (3).

(d) Certification that the applicant has read and understands this subchapter and that the applicant agrees to comply with all provisions of this subchapter.

(2) The department may issue the appropriate rehabilitation license to an individual possessing a valid rehabilitators license or permit from another state or province, provided that the minimum requirements of the basic or advanced rehabilitators licenses described in this subchapter are met.

Note: Wildlife rehabilitation application, evaluation form, sponsorship agreement, and veterinary agreements will be available upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921 or by calling (608) 266-8204.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.75 Examination. (1) A person desiring a basic license to rehabilitate wildlife in Wisconsin shall take a written examination, provided and administered by the department, and score 80% or greater.

(2) The examination shall be prepared by the wildlife rehabilitation advisory committee and administered by a representative of the department.

(3) An applicant failing to correctly answer at least 80% of the questions on the examination described in this section may not be issued a license but may repeat the exam 30 days after the examination was completed.

(4) The department shall provide an examination study guide and other information regarding wildlife rehabilitation to each applicant upon request.

Note: The wildlife rehabilitation study guide will be available upon request at DNR Service Centers, by writing the Bureau of Wildlife Management, PO Box 7921, 101 S. Webster St., Madison, WI 53707-7921 or by calling (608) 266-8204.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.76 Facility inspection. (1) By accepting a license under this section a licensee consents to the facility inspection requirements established in s. 169.37, Stats., by the department and its agents.

(2) An applicant for a license under this section shall allow inspection of the applicant's facilities.

(3) Following an inspection, the department may do any of the following:

(a) Remove any wildlife if it is in the best interest of the animals until the facility complies with the standards established in s. NR 19.77.

(b) Deny the licensee or applicant the privilege to rehabilitate certain species until licensee or applicant can prove that the rehabilitation facilities are in compliance with this subchapter.

(c) Suspend a rehabilitation license for 30 days to allow a licensee's facilities to be brought into compliance.

(d) Allow a licensee under this subchapter a specified period of time to comply with s. NR 19.77 without revocation or suspension of license privileges designated in this subchapter.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.77 Facility standards. (1) GENERAL OPERATING STANDARDS. Prior to engaging in wildlife rehabilitation activities, protocols for disease prevention and transmission, euthanasia, pharmaceutical use, pest control, carcass and biological waste disposal and adequate veterinary care shall be established by the licensee and reviewed and signed by licensee's consulting veterinarian. Wildlife being rehabilitated shall be subject to all of the following conditions:

(a) If suspected of having an infectious disease, be quarantined in areas designated for that purpose.

(b) Be kept separated from human living quarters and activities.

(c) Have no contact with captive wildlife licensed under ch. 169, Stats., with the exception of other wildlife held under a rehabilitation license.

(d) Have no contact with the general public unless specifically authorized by the department for educational purposes.

(e) Be kept in enclosures at all times, and have contact with the licensee or designated volunteers only to the extent necessary to provide adequate care and treatment.

(f) Not be tamed, used as pets, held with domestic animals or habituated to humans.

(g) Be of compatible species when housed together, and not pose a threat to health or well-being of other wildlife in the same enclosure.

(h) Be raised with other wild animals of the same species held under the authority of a rehabilitation license whenever appropriate and possible, to ensure proper species orientation.

(2) ENCLOSURE SIZE AND CONSTRUCTION. (a) Enclosures shall be structurally sound, of sufficient strength for species involved, and maintained in good repair to prevent escape or injury to wildlife being rehabilitated.

(b) Enclosures shall be constructed to allow sufficient space for individual posture and social movements, unless medical treatment necessitates restricted mobility.

(c) All outdoor wildlife enclosures shall have protective devices at entrances and exits to prevent escapes.

(d) Enclosures shall be secured when unattended.

(e) No exposed sharp objects, ponds with steeply sloped banks, toxic paints or sealants, poisonous vegetation or other hazardous items may be used in the construction of enclosures.

(f) Enclosures shall have visual barriers to restrict wildlife's view of humans and other species being rehabilitated to reduce inappropriate imprinting, socialization, habituation or stress.

(3) ENVIRONMENTAL CONDITIONS. (a) Ambient temperatures shall be sufficient for species involved.

(b) Adequate ventilation by means of windows, doors, vents, fans or air conditioning shall be provided to protect wildlife health and to minimize drafts, odors and condensation.

(c) Adequate lighting shall be provided by artificial or natural means and cycled for appropriate photoperiod for species involved.

(d) Adequate shade, weatherproof shelters, nest boxes, perches and dens shall be provided to protect wildlife from inclement weather and direct sun.

(e) Wildlife being rehabilitated shall be gradually acclimated before being exposed to extreme outdoor conditions.

(4) FOOD. (a) Adequate feeding schedules shall be maintained for species involved unless medical treatment necessitates restricted food intake.

(b) All food shall be palatable, free of contamination, and of sufficient quantity and nutritive value.

(c) Wildlife's diets shall be supplemented with vitamins and minerals when necessary for species involved.

(d) Food receptacles shall be appropriately sized, easily accessible, kept sanitary and safe.

(5) WATER. (a) Fresh uncontaminated water for drinking shall be provided at all times unless medical treatment necessitates restricted water intake.

(b) Water, separate from drinking water, shall be provided for species requiring bathing, swimming or misting unless medical treatment necessitates restricted water exposure.

(c) Water receptacles shall be appropriately sized, easily accessible, kept sanitary and safe.

(6) SANITATION. (a) Removal and disposal of wildlife food wastes, feces and urine, bedding, carcasses, trash, garbage, and debris from the enclosure and premises shall be performed frequently to maintain sanitary conditions and protect wildlife and human health.

(b) Cages, rooms, hard surfaced pens, kennels, runs, equipment, and food and water receptacles shall be sanitized between each wildlife use to prevent disease transmission.

(c) Excess water shall be drained from enclosures and may not drain into neighboring enclosures.

(d) Wildlife in enclosures shall be protected from contact with cleaning activities and chemicals.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.78 Care and treatment of wildlife. (1) Any orphaned, sick or injured wildlife, except endangered or threatened species, that the licensee determines is not capable of being rehabilitated or having a reasonable chance of survival in the wild shall be treated under one of the following options:

(a) Euthanized.

(b) Turned over to the department.

(c) Disposed of as directed by the department.

(d) Retained for the purpose of long-term care at the direction of the department.

(2) A license shall notify the department within 48 hours of receipt of federal or state endangered or threatened species.

(3) State endangered or threatened species may be euthanized and disposed of only under direction of the department.

(4) Peregrine falcons, bald or golden eagles, and any other federally endangered or threatened migratory birds, may only be euthanized and disposed of under direction of the migratory bird permit office, United States fish and wildlife service, and the department.

(5) Federally endangered or threatened mammals shall only be euthanized and disposed of under direction of the endangered species permit office of the United States fish and wildlife service and the department.

(6) No licensee may keep any orphaned, sick or injured migratory bird for the purpose of rehabilitation, including birds not ready for release prior to the onset of cold weather, longer than 180 days unless an extension is granted by the migratory bird permit office of the United States fish and wildlife service, and the department for each individual case.

(7) No licensee may keep any orphaned, sick or injured wildlife for the purpose of rehabilitation, including wildlife not ready for release prior to the onset of cold weather, longer than 180 days unless an extension is granted by the department for each individual case.

(8) When the licensee determines that the injured or sick wildlife have sufficiently recovered, or orphaned wildlife has matured to an age where there is reasonable chance for survival in the wild,

wildlife shall be released at an appropriate location with landowner permission unless otherwise authorized by the department.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.79 Infectious disease reporting. A licensee or consulting veterinarian shall report animal diseases as required by s. ATCP 10.02 if diagnosed in wildlife being rehabilitated and to the department's wildlife health program.

Note: The wildlife health program may be contacted by sending an e-mail to wildlifehealth@dnr.state.wi.us or by calling (608) 266-8204.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.80 Record keeping and reporting. (1) A wildlife rehabilitation license may not be renewed until the licensee has submitted an annual report in accordance with s. 169.36 (10), Stats., and any additional required records that the department has specifically requested.

(2) An advanced licensee and a basic licensee shall provide a copy of the records required to be maintained for that license to the department quarterly as follows:

(a) Quarterly submission of records shall be provided to the department by April 30th, July 31st, October 31st and January 31st each year, and shall consist of a copy of all required records maintained during the 3 previous months.

(b) Records to be included in the quarterly report shall consist of complete records of all transactions or activity involving any wild animals of the following families:

1. Canidae (coyotes, foxes, wolves).
2. Ursidae (bears).
3. Mustelidae (badger, mink, otter, skunk).
4. Felidae (bobcat, lynx, cougars).

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04; corrections made to (2) under s. 13.93 (2m) (b) 1., Stats., Register December 2003 No. 576.

NR 19.81 Qualifications of sponsors. Advanced licensees may volunteer to sponsor, or provide consultation and advice to basic licensees. A person desiring to be an advanced sponsor shall do all of the following:

(1) Submit a request to the wildlife rehabilitation advisory committee established in s. NR 19.82 requesting designation as a sponsor.

(2) Have experience rehabilitating those wildlife species which the basic licensee is authorized to possess.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.82 Wildlife rehabilitation advisory committee. (1) The secretary shall appoint persons experienced with wildlife biology, rehabilitation, law enforcement, and veterinary medicine to a wildlife rehabilitation advisory committee.

(2) The wildlife rehabilitation advisory committee shall assist the department with development of wildlife rehabilitation examinations, facility inspections, and recommendations which may be used in department decision making as it pertains to wildlife rehabilitation activities.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.83 Additional conditions. (1) Any license issued after January 1, 2004, is subject to requirements of this subchapter.

(2) On January 1, 2004, all existing Wisconsin wildlife rehabilitation permittees will be granted a provisional license for 2 years. After 2 years from the effective date of the provisional license, these provisional licensees may apply for a license pursuant to this subchapter.

(3) An individual applying for a license pursuant to s. NR 19.73 (2) and (3) shall take the examination and meet the requirements established in s. NR 19.75.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.84 Modifications. The department may amend or add conditions to licenses issued under this subchapter at any time if there is a risk to public health and human welfare or there is a risk to the health and welfare of the environment.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

NR 19.85 Disclaimer. The number of licenses issued under this subchapter may be restricted by the department based on the need for wildlife rehabilitation. Possession and care of any wildlife under this subchapter does not create a property right to the wildlife for the licensee.

History: CR 03-029: cr. Register December 2003 No. 576, eff. 1-1-04.

Subchapter III — Permitting the Use of Natural Bodies of Water as Fish Farms

NR 19.90 Purpose and applicability. (1) PURPOSE. The purpose of this subchapter is to establish fees, criteria and procedures to be used for permitting the use of natural bodies of water as fish farms as required under s. 29.733 (2) (f), Stats.

(2) APPLICABILITY. The provisions of this subchapter are applicable to:

(a) Fish farms and state-owned hatcheries located in or proposed to be located in freeze-out ponds.

(b) Natural bodies of water that were licensed as a private fish hatchery or licensed as a part of a private fish hatchery in 1997.

(c) A freeze-out pond or more than one freeze-out pond that is proposed as a fish farm at the time of application and is located on the same contiguous parcel of property under the same ownership or leasehold.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 03-030: renum. from s. NR 16.70 Register October 2003 No. 574, eff. 11-1-03; correction made under s. 13.93 (2m) (b) 1., Stats., Register October 2003 No. 574.

NR 19.91 Definitions. In this subchapter:

(1) "Barrier equipped" means the placement of a structure or device which prevents the movement of fish or bait from a fish farm to a natural body of water.

(1m) "Department fish hatching and rearing facilities" means all fish hatching and rearing waterbodies owned by the department, or leased or controlled through a cooperative agreement between the property owner and the department and where the department owns all the fish.

(2) "Freeze-out pond" has the meaning specified in s. 29.001 (29), Stats.

(3) "Natural body of water" means any spring, stream, pond, lake or wetland that was historically present in a natural state but may have been physically altered over time except any waterbody that has been permitted by the department under ch. 30 or 31, Stats., or ch. NR 299 water quality certification and not declared public under s. 30.19 (5), Stats.

(4) "Preexisting fish rearing facility" has the meaning specified in s. 29.001 (64), Stats.

(5) "Transfer of permit" means the conveyance of a permit from one party to another as a result of change in ownership or leasehold interest of a fish farm.

(6) "Wetland" has the meaning specified under s. 23.32, Stats.

Note: For purposes of this subchapter, a natural body of water does not include an artificial wetland, as defined under s. NR 103.02 (1m) or any swale, bermed area or excavation that is not located in a wetland, pond, lake, stream or spring that was historically present in a natural state, if the artificial wetland, swale, bermed area or excavation retains water as the result of human modification of the landscape or is constructed of man-made materials.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: cr. (1m), am. (3) Register June 2002 No. 558, eff. 7-1-02; CR 03-030: renum. from s. NR 16.71 Register October 2003 No. 574, eff. 11-1-03; correction made under s. 13.93 (2m) (b) 1., Stats., Register October 2003 No. 574.

NR 19.92 Natural body of water permit application fees. Permit application fees for the use of natural bodies of water for fish farms for a period of 10 years shall be as follows:

(1) Permit applicants for natural bodies of water reauthorized for use as fish farms under s. 29.733 (2) (b) and (c), Stats., shall pay a non-refundable renewal fee of \$50.00.

(2) Permit applicants for the initial use of freeze-out ponds as fish farms shall pay a \$500.00 non-refundable permit application fee.

(3) Recipients of permit transfers shall pay a non-refundable permit transfer fee of \$100.00. The expiration date of the original permit shall remain in effect for the transferred permit.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 03-030: renum. from s. NR 16.72 Register October 2003 No. 574, eff. 11-1-03; correction made under s. 13.93 (2m) (b) 1., Stats., Register October 2003 No. 574.

NR 19.93 Applicant permit procedures for use of natural bodies of water for fish farms. (1) For permits reauthorized under s. 29.733 (2) (b), Stats., the applicant shall complete and submit an application form provided by the department and the appropriate permit fee by January 1, 2003.

(2) For renewal of permits under s. 29.733 (2) (c), Stats., the applicant shall submit a new application to the department not more than 16 months before the expiration date of the permit granted under this chapter but not less than 2 months from the expiration date of the permit.

(3) Applications for permits under this subchapter shall include documents verifying all of the following:

(a) The land that is riparian to the body of water is owned, leased or controlled by the owners of the fish farm.

(b) None of the owners of the fish farm or of the riparian lands provides access to the body of water to the public by means of an easement or other right-of way or by means of a business open to the public, except that the owners of the fish farm may allow fishing by the public for a fee.

(c) Documentation that the natural body of water may be a freeze-out pond or that the natural body of water is a preexisting fish rearing facility that is barrier equipped.

(d) Copies of any other permits or authorization required by ch. 30 or 31, Stats., the Army corps of engineers and any other federal, state or local laws and zoning ordinances.

(e) All applicants shall identify the water source and quantity used for the fish farm and whether there is any discharge to a water of the state.

(f) Any other information requested by the department to determine whether a permit would or would not be granted by the department.

Note: Permit application forms are available from the Bureau of Fisheries Management and Habitat Protection, 101 South Webster St., P.O. Box 7921, Madison, WI 53707.

(4) The department shall issue a notice of intent to use a natural body of water as a fish hatching or rearing facility that was not being used as of January 1, 1998 by the department. The department shall comply with all provisions of s. NR 19.94 before it may use a natural body of water as a fish hatching or rearing facility.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: am. (1) Register June 2002 No. 558, eff. 7-1-02; CR 03-030: renum. from s. NR 16.73 Register October 2003 No. 574, eff. 11-1-03; corrections made under s. 13.93 (2m) (b) 1. and 7., Stats., Register October 2003 No. 574.

NR 19.94 Department determinations. (1) The department shall issue a permit for use of a natural body of water as a fish farm or as a part of a fish farm if all requirements of this subchapter have been met and if the department determines that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be adversely impacted. Among the factors considered, the following are indicative of public rights and interests including but not limited to:

(a) Plant and wild animal habitat or plant and wild animal populations.

(b) Threatened or endangered species or their habitat.

(c) Water quality related functional values or uses of wetlands identified in s. NR 103.03.

(d) Surface water quality standards identified in chs. NR 102, 104, 105, 106 and 107 and minimum water quantity requirements identified in s. 31.02, Stats.

(e) The public's right to navigate and associated incidents to navigation including fishing, swimming, wading and canoeing.

(2) Fish farms may not introduce or propagate any non-native fish species if the department has determined that having the fish in that particular self-contained fish rearing facility or preexisting fish rearing facility will pose a risk of being detrimental to the waters of the state.

(3) Physical improvements or modifications to natural bodies of water used as fish farms shall comply with all federal, state and local laws and ordinances.

(4) Permits approved under this subchapter may be transferred to another party if the department determines that all conditions of this subchapter and s. 29.733, Stats., have been satisfied.

(5) The department shall renew under s. 29.733 (2) (c), Stats., a permit issued under s. 29.733 (2) (a) and (b), Stats., for use of a natural body of water as a fish farm or any part of a fish farm in a natural body of water unless the department determines there has been a substantial adverse change affecting one or more of the criteria specified in sub. (1) (a) to (e) resulting from the operation of the fish farm. The department shall consider the historical condition of the natural water body prior to the presence and operation of the fish farm as part of their permit renewal decision under s. 29.733 (2) (c), Stats.

Note: Under this paragraph, historical conditions refer to known uses of the natural body of water prior to the inception of the fish farm.

(6) The department shall deny a permit for use of a natural body of water as a fish farm or as part of a fish farm if the requirements of this subchapter have not been met.

(6m) A single permit shall be issued for multiple natural bodies of water located on the same contiguous parcel of property under the same ownership or leasehold.

(7) Upon receipt of a complete permit application, the department shall either schedule a hearing or provide notice stating that it will proceed on the application without a hearing if no substantive written objections to issuance of the permit is received within 30 days after publication or notice. The notice shall be provided to news media and other persons according to the procedures in s. NR 27.07 (1) (b) and (c). The department may provide notice to other persons as it deems appropriate. The department will assume the cost of publishing the notice.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: r. and recr. (5), cr. (6m) Register June 2002 No. 558, eff. 7-1-02; CR 03-030: renum. from s. NR 16.74 Register October 2003 No. 574, eff. 11-1-03; corrections made under s. 13.93 (2m) (b) 1. and 7., Stats., Register October 2003 No. 574.

NR 19.95 Enforcement. The department may suspend or revoke a permit issued under this subchapter subject to the provisions of s. 29.733 (2) (e), Stats. A fish farmer operating a fish farm in a natural body of water as defined in s. NR 19.91 (3) without a valid permit under this subchapter may be penalized under s. 29.971, Stats.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: am. Register June 2002 No. 558, eff. 7-1-02; CR 03-030: renum. from s. NR 16.75 Register October 2003 No. 574, eff. 11-1-03; corrections made under s. 13.93 (2m) (b) 1. and 7., Stats., Register October 2003 No. 574.