

Clearinghouse Rule 24-055

The statement of scope for this rule, SS 065-23 was approved by the Governor on September 7, 2023, published in Register No. 813A2 on September 11, 2023, and approved by the Natural Resources Board on October 25, 2023. This rule was approved by the Governor on insert date.

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

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 12.10 (1) (b) 6. a., 12.15 (6), 12.17, 12.31 (4e), 12.36 (9), 12.37 (4) (a) 1., 12.41 (3) (note), (4) (d) 1., 2., and (e), (5) (a) 3., 4., (b) (c), (d), (e), and (h); to **renumber and amend** NR 12.001 (1), 12.41 (4) (d) (intro.); to **amend** NR 12.001 (4), (5) and (9), 12.05 (1) and (3), 12.06 (2), 12.10 (1) (a) 3. and 4., (1) (b) 1.b., 2., 4., 5., 6., and 7., (c), (2) (b) 1., (3) (b) and (c), 12.15 (1), (2), (9), (10), (11) (c) and (d), (12), 12.16 (1), (2) (b) 2. b., (4), (6), (8) (intro.) and (a), 12.30, 12.305, 12.31(1), (3m), and (4m), 12.33 (intro.), 12.34 (3), (4) 12.35 (4), 12.36 (3) (a), 12.37 (4) (a) 3, 5., 6., 12.38 (1), (2) (intro.), and (a), (5) (a), 12.39 (title) (1)l (3) (a) and (b) 4., 12.41 (title) (1), (3), (4) (intro.), (f), (5) (f), and (g) and (6) (f) ; to **repeal and recreate** NR 12.41 (6) (e); and to **create** NR 12.001 (1a), 12.10 (1) (b) 1. e., 12.36 (2g) and (2r), relating to wildlife damage and abatement.

WM-09-23

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted, Statutory Authority and Explanation of Agency Authority: Section 29.885, Stats., grants the department the authority to remove or authorize the removal of any wild animal or structure of a wild animal that is causing damage or causing a nuisance. Section 29.889 (2) (b), Stats., requires the department to promulgate rules for eligibility and funding requirements for the wildlife damage abatement program and the wildlife damage claim program in order to maximize the cost-effectiveness of these programs. This section also grants the department rulemaking authority to establish all of the following:

- Authorized wildlife damage abatement measures and methods for implementing and paying for these abatement measures;
- Forms and procedures for payment and processing of statement of claims and applications for abatement assistance;
- Procedures and standards for determining the amount of wildlife damage;
- A methodology for proration of wildlife damage claim payments; and
- Procedures for record keeping audits and inspections.

2. Related Statutes or Rules: This rule is related to active rules CR 23-047 and CR 23-025.

3. Plain Language Analysis:

SECTION 1 amends definitions, clarifies hunter age and safety requirements for participating in animal removal permits. It also gives the department discretion to issue CWD permits on properties smaller than 5 acres and adds to the list of wildlife species which need department approval to be live trapped and relocated.

SECTION 2 clarifies that a DNR permit is not needed to remove mink causing damage or nuisance.

SECTION 3 deletes repeated language and creates consistency with the language in the migratory bird treaty act.

SECTION 4 eliminates the live capture and relocation of Canada geese.

SECTION 5 clarifies that public hunting access is only required during an open hunting season for the species causing damage. It also deletes redundant language and updates references to federal rules, clarifies the application deadline for shooting deer causing damage, and updates the list that an enrollee may not consider reasonable cause for refusing hunter access.

SECTION 6 eliminates department assistance on animal removal permits.

SECTION 7 updates terminology and clarifies a valid harvest authorization is needed anywhere shooting permit activities are taking place. It also allows for the suspension of permits if the conditions are violated. It also amends the definition of “minimum hunter effort,” amends the effective date of deer shooting permits and clarifies deer carcass disposition.

SECTION 8 eliminates a section of code that previously only applied to the Horicon Canada goose zone. This zone no longer exists.

SECTION 9 eliminates language in order to reduce confusion over statutory implementation of the wildlife damage abatement and claims program (WDACP), adds a monetary threshold for WDACP enrollment, and updates code to reflect language passed in 2017 Wisconsin Act 59.

SECTION 10 repeals a definition of “lands suitable for deer and elk” which is out of date.

SECTION 11 broadens the definition of “livestock holding area.” It also deletes a reference to a specific volume of the WDACP technical manual in administrative code.

SECTION 12 provides counties better flexibility for when they submit reimbursement requests. This SECTION also establishes that enrollees may not require any services for hunting access under the WDACP.

SECTION 13 creates deadlines for obtaining signatures for the landowners of leased properties that are enrolled in the WDACP. It also refines rules related to lands that are required to allow open hunting access due to enrollment in the WDACP. This includes requiring enrollees to make reasonable attempts to respond to requests from hunters. This SECTION also allows the denial of further abatement and claims assistance if a verified violation of the hunter access requirements occurs.

SECTION 14 repeals a section of code that is already found in state statute and referred to in code. This SECTION also deletes a requirement that the enrolled land has been in cultivation for 5 years.

SECTION 15 makes a variety of housekeeping changes to record retention, fencing and appeals.

SECTIONS 16 – 27 implement federal changes to the agricultural depredation order of Canada geese causing agricultural damages in the spring.

4. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

These rules are consistent with any federal regulations that guide wildlife damage management. Federal agencies also partner with the state in implementing wildlife damage and abatement programs.

5. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:

No preliminary public hearing was required.

6. Comparison with Similar Rules in Adjacent States:

The US department of agriculture's wildlife services and US fish and wildlife service partner with the state in implementing wildlife damage and abatement programs in Minnesota and Illinois and these rules are generally similar with nuisance wildlife management in those states. USDA Wildlife Services does not partner with Michigan but their rules on wildlife conflict management are similar to that of Wisconsin.

7. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

This rule expands the list of species for which department approval is needed to live trap and relocate a wild animal. This provides better protections for species which may be sensitive to relocation. This rule also eliminates the ability for individuals to live capture and relocate Canada geese. This change was made due to growing populations of resident Canada geese and concerns over Highly Pathogenic Avian Influenza (HPAI).

2017 Wisconsin Act 59 expanded the crop types eligible for abatement assistance under the WDACP to include cover crops grown at licensed bird hunting preserves.

The US fish and wildlife service, through an agricultural depredation order, gave the department the authority to permit the removal of Canada geese causing spring agricultural damage. Previously the department only had the authority to remove Canada geese during the fall in the Horicon goose management zone. This zone no longer exists and the need to remove geese in that area no longer applies. This rulemaking also updates code to address the fact that Canada goose shooting permits meant to address damage occurring in the spring of the year in accordance with federal rules.

This rule clarifies that the department may suspend or revoke permits if the conditions are violated. This rule also clarifies situations when the county or their agent can determine that an enrollee is uncooperative when administering the WDACP program. This provides better legal accountability for individuals who are receiving assistance under the WDACP.

Under previous administrative code, the department used to calculate suitable deer and elk range when calculating deer density goals. This calculation was used when determining hunter densities for producers enrolled under the managed hunting access program. The department no longer calculates suitable deer and elk range and instead uses county population goals of increasing decreasing or maintaining the deer population.

This rule deletes a requirement that enrolled land must be in cultivation for the previous five years. It is often difficult to know if a property met this requirement and deleting it provides better assistance for

producers and current agricultural practices.

8. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report: These rules, and the legislation which grants the department rule-making authority, do not have fiscal effects on the private sector or small businesses. No costs to the private sector or small businesses are associated with compliance to these rules.

9. Effect on Small Business (initial regulatory flexibility analysis): These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design standards are contained in the rule.

10. Agency Contact Person: Brad Koele, Wildlife Damage and Nuisance Specialist, Bradley.Koele@wisconsin.gov, 608-576-3914

11. Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the department contact person listed above or to DNRAAdministrativeRulesComments@wisconsin.gov until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's website, at <https://dnr.wisconsin.gov/calendar/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

RULE TEXT

SECTION 1. NR 12.001 (1a) is created to read:

12.001 (1a) "Active Nest" means nests with eggs or chicks present.

SECTION 2. NR 12.001 (1) is renumbered to NR 12.001 (1k) and amended to read:

12.001 (1k) "Contiguous land" means lands under the same ownership which are connected or adjacent to lands on which wildlife are causing damage including lands separated by a roadway, easement, license or waterway. Lands that touch at the corners are considered contiguous.

SECTION 3. NR 12.001 (4), (5) and (9), 12.05 (1) and (3), 12.06 (2), and 12.10 (1) (a) 3. and 4., and (b) 1. b. are amended to read:

(4) "Lessee" means any person possessing a written lease ~~for use of land for the production of commercial seedlings, crops, orchard trees, Christmas trees, nursery stock, honey, and livestock~~ or similar agreement for one of the following:

(a) Use of land owned by another for the production of commercial seedlings, crops, orchard trees, Christmas trees, nursery stock, honey or livestock;

(b) The placement or keeping of apiaries or livestock on land owned by another; or

(c) Use of land owned by another as a bird hunting preserve licensed under ch. 169.

(5) "Management unit" and "hunting zone" mean those management units established for deer in s. NR 10.28, elk in s. NR 10.37 and those management zones established in ss. NR 10.29, 10.295, 10.30 and 10.31 for turkey, wolves, bear and Canada geese.

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

12.05 (1) FINDINGS WHEN ALLOWED. ~~The natural resources board finds that unlimited~~ When authorized by and according to the conditions set forth in 50 CFR 21.150, the shooting or trapping of cowbirds, crows, grackles, house sparrows, monk parrots, parakeets, European starlings, and red-winged blackbirds and any birds found in 50 CFR 21.150 is necessary when causing depredation-allowed.

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

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

12.10 (1) (a) 3. Live-capture and relocate any wild animal to department controlled lands without the property manager's approval.

4. Live-capture and relocate white-tailed deer, elk, black bear ~~or~~, wolves, turkey, badger, cougar, bobcat, fisher otter, any wild animal classified as endangered or threatened under s. NR 27.03 or any harmful wild animal under s. NR 16.11.

b. Any bird causing depredation under s. NR 12.05 or 50 CRF 21.150; or

SECTION 4. NR 12.10 (1) (b) 1. e. is created to read:

(b) 1. e. Mink causing a damage or nuisance.

SECTION 5. NR 12.10 (1) (b) 2., 4., 5., and 6 are amended to read:

2. Live-trap and relocate any wild animal, except ~~white-tailed deer, elk, black bear or any wild animal classified as endangered or threatened under s. NR 27.03, or any animal classified as a harmful wild animal under s. NR 16.11~~ those listed under par. (a) 4., to open unenclosed lands not controlled by the department with the permission of the owner. Pursuit of animals by dogs released under this subdivision ~~by dogs~~ may not occur in an area where a wild animal has been released for a period of 2 hours after release of the animal, except dogs may be released to pursue raccoons at any time after the raccoon has reached cover by climbing a tree or pole to a height of at least 10 ~~fee~~ feet.

4. Harass or disturb protected wild birds; not listed as endangered or threatened in s. NR 27.03; in such a way as to relieve a damage or nuisance situation in urban areas, golf courses, ~~and~~ or airports provided the bird is not physically harmed, killed or injured, and adult birds sitting on active nests are not disturbed to the point that it causes eggs to not hatch or chicks to die or become injured.

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

6. Conduct any of the following activities in order to control Canada geese at an airport or within a 3 mile radius of the airport with landowner permission, if the activities are conducted by airport employees or their designees in compliance with the restrictions, requirements and conditions as described by the U.S. fish and wildlife service in ~~50 CFR 21.49~~ 50 CRF 21.159 and provided that all birds are disposed of as directed by the department:

SECTION 6. NR 12.10 (1) (b) 6. a. is repealed.

SECTION 7. NR 12.10 (1) (b) 7., (c), (2) (b) 1., (3) (b) and (c), 12.15 (1) and (2) are amended to read:

7. Destroy birds defined under s. 29.001 (33) and (39), Stats., and permitted for removal by the U.S. fish and wildlife service under a federal migratory bird depredation permit, provided the permit has been reviewed and approved by the department or its agent and removal activities are in compliance with

the restrictions, requirements and conditions as described by the U.S. fish and wildlife service in ~~50 CFR 21.49~~ 50 CFR Part 21 and this section.

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

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

(3) (b) Age and safety training. All participants and permittees, unless exempt by sub. (1) (b), shall meet the requirements of ss. 29.304, ~~and 29.593, and 29.597,~~ Stats., pertaining to hunter and trapper safety and age.

(c) Except as authorized in s. NR 12.06 (3) (c), all participants and persons assisting participants shall possess written approval from the permittee and the appropriate, valid hunting or trapping license as required by s. NR 12.15 (11) when carrying on removal activities. Written approval shall include: name, address and phone number of landowner; name, address and phone number of the person removing wild animals; property location and removal activities, authorized period of removal, species of animals authorized for removal, signature of the landowner or lessee, and date.

12.15 (1) Public use during open seasons. All lands described on the application and any contiguous lands under the same ownership suitable for hunting or trapping shall be open to public hunting or trapping of the species causing the damage for a period of one year from the effective date of the permit. Public access is only required during the open hunting or trapping season for the species causing damage. These lands may be posted to indicate that hunting permission is required from the

permittee. The department may require a permittee to keep a daily log of hunter's names and telephone numbers on forms provided by the department as a condition of the permit.

(2) Use refusal. Permittees may refuse access to hunters or trappers for reasonable cause. Reasonable cause may not be based on age, race, religion, color, disability, sex, physical condition, development disability, creed, sexual orientation, marital status, gender, ancestry, military service, or national origin. The presence of at least 2 hunters or active trapping of at least one trapper per each 40 acres suitable for hunting or trapping, respectively, shall constitute a reasonable cause for refusal under s. NR 12.31 (7).

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

SECTION 8. NR 12.15 (6) is repealed.

SECTION 9. NR 12.15 (9), (10), (11) (c) and (d), (12), 12.16 (1), (2) (b) 2. b., (4), (6), (8) (intro.) and (a) are amended to read:

(9) Permit-~~kill~~-removal limit. The department may specify the sex and age of the animals to be removed and limit the number of carcass tags or harvest authorizations issued under this section after consultation with the applicant and, if the damage is occurring in a county participating under s. 29.889, Stats., the appropriate county wildlife damage program personnel.

(10) Authorized area. The permit applies to all lands subject to public use under sub. (1) and may extend 1/4-mile onto adjoining lands of consenting landowners. Any person engaged in removal pursuant to a shooting permit must possess a valid harvest authorization while so engaged.

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

participants shall possess a valid elk license or a valid license that authorizes hunting with a firearm, bow, or crossbow and a valid shooting permit when engaged in elk damage shooting permit activities.

(12) VIOLATIONS. No person may violate the terms and conditions of any permit issued under this chapter. The department may suspend or revoke any shooting permit if the terms and conditions of the shooting permit are violated.

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

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

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

(4) EFFECTIVE DATES. Authorization to ~~kill~~ remove deer commences the date of permit receipt by the permittee and continues through ~~the open season for the appropriate zone described in s. NR 10.01 (3) (e), (em), and (ep)~~ December 31 of the year the permit was issued unless otherwise directed by the department.

(6) CARCASS CARE AND DISPOSITION. The department shall offer the permittee and each participant the opportunity to retain at least one deer ~~killed~~ removed under the deer shooting permit. All deer not retained under this subsection shall be disposed of as directed by the department. Permittees must dispose of all parts not retained in a manner that is in compliance with s. 287.81 (2), Stats., but such

disposal may only occur after in-person or electronic registration has been completed and the deer, has been removed from the field.

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

(a) Permittees, all participants and persons assisting participants, shall comply with the ~~blaze orange~~ highly visible clothing regulations of s. 29.301 (2), Stats., unless exempted by the department. Exemptions will be granted where local ordinances prohibit the discharge of ~~firearms~~ a firearm, ~~and if using a bow and arrow or crossbow is the only method allowed under the permit, hunting or when the removal activities are being conducted by a trained sharpshooter during the closed deer gun season are the only methods available to remove deer.~~

SECTION 10. NR 12.17 is repealed.

SECTION 11. NR 12.30, 12.305, 12.31 (1), and (3m), are amended to read:

12.30 Purpose. This subchapter is adopted to implement ~~and administer the beaver damage control provisions under s. 29.885, Stats., deer damage provisions under s. 29.887, Stats., and the wildlife damage abatement and claim program established under s. 29.889, Stats.~~ In its administration of the wildlife damage abatement and claim program the department shall assure that the funds appropriated by the legislature are used in the most cost-effective manner. Wildlife damage abatement measures when determined by the department and the administering county to be cost-effective shall be funded and receive priority in payment over damage claims.

12.305 Enrollment Eligibility. An enrollee in any wildlife damage program under this subchapter must be a legal adult, 18 years of age or older at the time of enrollment and have a minimum \$1,000 in sales or commodities to be eligible.

12.31 (1) "Contiguous land" means lands under the ownership, lease or control of an applicant ~~deer, elk, bear, turkey or goose~~ for any species listed in s. 29.889, Stats., for which damage payments

which are connected to the lands subject to a claim application or separated only by a roadway, easement, license or waterway.

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

SECTION 12. NR 12.31 (4e) is repealed.

SECTION 13. NR 12.31 (4m) and 12.33 (intro.), 12.34 (3) and (4), 12.35 (4), and 12.36 (1) is amended to read:

(4m) "Livestock holding areas" means ~~barns, pole sheds and other buildings for the protection and sheltering of livestock.~~ any structures, buildings and areas used to graze, keep, shelter or protect livestock in connection with animal husbandry practices.

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

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

(4) A county may not be reimbursed for administrative or abatement costs in excess of the estimate contained in the plan without approval of the department. A budget amendment may be completed and approved by the department for additional costs.

12.35 (4) The county shall, as a condition of providing abatement assistance, require full cooperation and assistance of the enrollee in operating, maintaining and applying all abatement measures in accordance with any design specifications and deadlines set by the county. An enrollee who engages in abusive or threatening language shall also be considered uncooperative. Uncooperative enrollees shall be ineligible for program abatement assistance for the remainder of the calendar year in which they were uncooperative and the following calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance, the county or its agent shall notify the enrollee in writing that the enrollee's program participation is terminated.

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

SECTION 14. NR 12.36 (2g) and (2r) are created to read:

(2g) Landowner signatures for leased properties must be obtained within 14-days of WDACP enrollment.

(2r) Landowner signatures for leased properties on permits issued under s. NR 12.37 (4) (a) 5. must be obtained prior to February 15 of the year of enrollment.

SECTION 15. NR 12.36 (3) (a), (b) 1. c., 3., 4., 6. and 7., (4), (5), and (7) are amended to read:

(a) *Open public hunting for the species causing damage.* The enrollee may not restrict hunting access, place limitations on which hunters or how many hunters may access the property enrolled by the enrollee except for reasonable cause as defined in s. NR 12.31 (7). The enrollee may not require

registration of hunters, but the hunter shall establish an acceptable arrangement with the enrollee for notifying the enrollee of the hunter's intent to hunt prior to hunting. The enrollee may choose how often notification is required and the manner by which notification shall be given. The enrollee shall indicate the manner of notification by which the enrollee may reasonably be reached.

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

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

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

reasonable effort to respond to requests for hunting access. Failure to respond to access requests are subject to the penalties in subd. 7.

6. 'Refusal.' Enrollees may refuse hunting access for reasonable cause as defined in s. NR 12.31 (7), if the hunters density limitations in subd. 5. are met, or if hunter fails to complete the hunting log under subd. 4.

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

~~(4) The county or the county's agent shall maintain the current year's list of all enrollees and make the list available upon request for public inspection and enter information into data management systems provided or developed by the department.~~

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

~~(7) Motorized vehicles may only be used anywhere but the designated drive way and parking location on the enrollee's land unless or parked in areas authorized by the enrollee. Enrollees must offer safe parking accommodations to all hunters.~~

SECTION 16. NR 12.36 (9) and 12.37 (4) (a) 1. are repealed.

SECTION 17. NR 12.37 (4) (a) 3., 5., 6., 12.38 (1), (2) (intro.) and (a), and (5) (a), 12.39 (title), (1), (3) (a), and (b) 4., 12.41 title, (1), and (3) are amended to read:

3. Unless otherwise provided by the county, the claimant shall have notified the county or its agent of his or her intent to harvest crops subject to damage but not less than 10 calendar days prior to the harvest.

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

6. The county shall, as a condition of providing claims assistance, require full cooperation and assistance of the enrollee ~~in operating, maintaining and applying appraisal equipment, as deemed needed by the county or its agent. An enrollee who engages in abusive or threatening language shall also be considered uncooperative.~~ A county or its agent may deem an enrollee uncooperative if any of the following applies: 1) the enrollee fails to implement and maintain required abatement measures; 2) the enrollee fails to comply with reporting requirements; 3) the enrollee fails to properly operate and maintain abatement equipment; 4) the enrollee uses abusive or threatening language towards the county or its agent; 5) the enrollee fails to make a reasonable effort to respond to requests for hunting access 6) or the enrollee fails to comply with any other WDACP requirements. Uncooperative enrollees shall be ineligible for program claims assistance for the remainder of the calendar year in which they were uncooperative and the following calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance, the county or its agent shall notify the enrollee in writing that the enrollee's program participation is terminated.

NR 12.38 Woven-wire ~~and electric~~ barrier fence construction.

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

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

(a) Deer or elk damage has occurred ~~or~~ is occurring, or is likely to occur on the lands of the applicant and is likely to occur in the future; and

(5) (a) The county and its agent shall follow permanent barrier fence project development, contracting, bidding, funding, billing, and contract term inspection procedures detailed in the WDACP technical manual or as otherwise directed by the department.

NR 12.39 County and Agent recordkeeping.

(1) In this section, "records" means books, documents, papers, accounting records, audits, and other evidence and accounting procedures and practices. This includes records in electronic and paper form.

(3) (a) The county shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to properly reflect electronic or paper form:

(b) 4. Records which relate to appeals, disputes, litigation on the settlement of claims arising out of the performance of the project for which funds were awarded, or costs and expenses of the project to which exception has been taken by the department or any of its duly authorized representatives, shall be retained for a period of 3 years after any appeals, litigation, claims, or exceptions have been ~~finally~~ resolved.

NR 12.41 Permits to hunt Canada geese causing spring agricultural damage.

(1) ISSUANCE AUTHORITY. Contingent upon the establishment of a federal harvest quota and goose season framework valid for Wisconsin and in accordance with this section, the department may issue Canada goose damage ~~hunting~~ shooting permits valid between May 1 and August 31 to agricultural crop land owners or lessees experiencing crop damage by Canada geese. Permittees may issue Canada

goose damage hunter permits to other persons and authorize them to assist by hunting Canada geese causing damage.

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

SECTION 18. NR 12.41 (3) (note) is repealed.

SECTION 19. NR 12.41 (4) (intro.) is amended to read:

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

SECTION 20. NR 12.41 (4) (d) (intro.) is renumbered (d) and amended to read:

(d) *Alternative abatement attempted.* The applicant shall comply with all alternative damage abatement techniques recommended by ~~either:~~the county or the county's agent.

SECTION 21. NR 12.41 (4) (d) 1., 2., and (e) are repealed.

SECTION 22. NR 12.41 (4) (f), is amended to read:

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

SECTION 23. NR 12.41 (5) (a) 3., 4., and (b), (c), (d) and (e) are repealed.

SECTION 24. NR 12.41 (5) (f) and (g) are amended to read:

(f) *Reporting.* The landowner or lessee permittee shall maintain a record of all hunters, including themselves, ~~who participated and were issued carcass tags.~~ Within 3 days following permit expiration,

Upon request from the county, its agent, or the department, the landowner or lessee permittee shall return their permit and all hunter permit records, all unused carcass tags, and report the number of Canada geese harvested under permit to the department office indicated on the permit. The permittee shall report all Canada geese harvested under the permits to the department by October 31 of the year the permit was issued.

~~(g) Permit length. Permits shall remain in effect until all carcass tags issued under this section have been used, but not longer than 7 days, unless the department grants an extension under par. (h). Permits shall only be valid from May 1 – August 31 of each year.~~

SECTION 25. NR 12.41 (5) (h) is repealed.

SECTION 26. NR 12.41 (6) (e) is repealed and recreated to read:

(e) Goose disposition. Canada geese shall be disposed of in compliance with 50 CFR 21.165 (d) (5).

SECTION 27. NR 12.41 (6) (f) is amended to read:

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

SECTION 28 EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 29. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

BY _____

For Steven Little, Deputy Secretary