

**Title 08 DEPARTMENT OF NATURAL RESOURCES**

**Subtitle 03 WILDLIFE**

**Chapter 15 Wildlife Damage Control Permits**

**Authority: Natural Resources Article, §§1-104, 10-205, and 10-908; State Government Article, §10-206; Annotated Code of Maryland**

**.01 Scope and Purpose.**

A. Scope. This chapter establishes an administrative process, standards, and requirements for a person to:

- (1) Obtain a wildlife damage control permit;
- (2) Conduct wildlife damage control; and
- (3) Provide wildlife damage control services.

B. There are four classes of wildlife damage control permits:

- (1) Landowner;
- (2) Commercial operator—business;
- (3) Commercial operator—assistant; and
- (4) Public agency operator.

C. Purpose. The primary obligation of a wildlife damage control operator when performing wildlife damage control services is to:

- (1) Protect the health, safety, and welfare of the public; and
- (2) Conserve Maryland's diverse wildlife populations.

D. Except as provided in §F of this regulation, the regulations in this chapter are in addition to any requirements imposed by federal or State law or regulation.

E. The authority of a permit issued pursuant to this chapter does not allow the control of any species listed as endangered, threatened, or in need of conservation in COMAR 08.03.08.

F. The following provisions do not apply to a person operating under the authority of a wildlife damage control permit issued in accordance with this chapter:

- (1) Natural Resources Article, Title 10, Subtitles 3, 4, and 5, Annotated Code of Maryland; and
- (2) COMAR 08.03.03, 08.03.06, and 08.03.10.

## **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Body gripping trap" means a mechanically powered rotating-jaw killing trap.
- (2) "Commercial wildlife damage control operator" means a person who charges a fee or receives compensation for providing wildlife damage control services.
- (3) "Control" means to capture, trap, kill, shoot, euthanize, or attempt to capture, trap, kill, shoot, or euthanize.
- (4) "Direct supervision" means a supervisor and employee working at the same job site at the same time.
- (5) "Governmental agency" means a unit of State, county, or municipal government, or a contractor of the unit established to provide wildlife damage control services.
- (6) "Jaw spread" means the maximum distance between the inside of both jaws of a trap, when measured across the trap jaws on a line perpendicular to a line drawn through the jaw pivot points when the trap is in a set position.
- (7) "Landowner" means a person:
  - (a) Holding real property under title or lease; or
  - (b) Authorized to act on behalf of a landowner for wildlife damage control.
- (8) "Public agency wildlife damage control operator" means a governmental agency that provides wildlife damage control services.
- (9) "Rabies vector species" means bats, foxes, raccoons, and skunks.
- (10) "Restricted use pesticide" means any pesticide so classified by Agriculture Article, Title 5, Annotated Code Maryland, the federal government, or the Maryland Secretary of Agriculture.
- (11) "USDA" means the United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services.
- (12) "Wildlife" means any native species of mammal, bird, amphibian, or reptile, which spends a majority of its life cycle on land or any part, egg, offspring, or dead body of any of them.
- (13) "Wildlife damage control operator" means both commercial wildlife damage control operators and public agency wildlife damage control operators.
- (14) "Wildlife damage control services" means the art and science of providing advice or services to reduce, eliminate, or prevent damage caused by wildlife to humans or property.

### **.03 Landowner Wildlife Damage Control Permit.**

A. Except as provided in §B of this regulation, a landowner who wishes to control wildlife on the landowner's property may do so only after obtaining a landowner wildlife damage control permit from USDA.

B. A landowner wildlife damage control permit is not required for a landowner or the landowner's agent to control:

- (1) Game mammals or birds during legal hunting seasons with legal devices;
- (2) Deer under the authority of a deer management permit as described in COMAR 08.03.04.02;
- (3) Canada geese under the authority of COMAR 08.03.07.10;
- (4) Blackbirds and crows under the authority of COMAR 08.03.05.05;
- (5) Any of the following unprotected species:
  - (a) Nutria;
  - (b) Woodchuck;
  - (c) Feral pigeon;
  - (d) European starling; or
  - (e) House sparrow; or
- (6) Any of the following species or species groups when causing damage or destroying the personal or real property of the landowner:
  - (a) Mouse;
  - (b) Mole;
  - (c) Rat; or
  - (d) Vole.

C. To obtain a landowner wildlife damage control permit, a person shall apply by telephone to USDA in Annapolis, Maryland, at 410-349-8055 or 1-877-463-6497.

D. Permit Issuance.

- (1) USDA shall evaluate the problem and determine if a control permit is appropriate to help resolve the problem.
- (2) Based on its evaluation, USDA may issue a permit to the landowner to control the wildlife.

E. Terms and Conditions. The permit shall specify:

- (1) The species of wildlife to be controlled;
- (2) The acceptable procedures for controlling the wildlife;
- (3) The disposition of the wildlife; and
- (4) The effective dates of the permit.

F. Foothold traps are legal if specifically allowed on the permit.

G. Duration.

- (1) Landowner permits expire after 2 months.
- (2) If the wildlife problem continues after the permit has expired, USDA may extend the permit for an additional period of 2 months.

#### **.04 Wildlife Damage Control Permits.**

A. Requirements; Exceptions.

- (1) Except as provided in §A(2) of this regulation, a person providing either commercial or public agency wildlife damage control services shall obtain a wildlife damage control permit from the Service.
- (2) A wildlife damage control permit is not required to:
  - (a) Control deer under the authority of a deer cooperator permit as provided in COMAR 08.03.09.11;
  - (b) Control mice, moles, rats, or voles, if the species is not listed in COMAR 08.03.08;
  - (c) Transport sick, injured, or orphaned wildlife to a:
    - (i) Licensed wildlife rehabilitator for rehabilitation; or
    - (ii) Facility authorized to euthanize animals;
  - (d) Remove dead animals from areas within Maryland if the person is under contract with a governmental agency to provide removal services;
  - (e) Respond to rabid animal complaints or other public health emergencies as directed by the State or local public health department; or
  - (f) Control European starlings, feral pigeons, and house sparrows if the person is certified by the Maryland Department of Agriculture, as defined in COMAR 15.05.01.08A(7)(c).

B. The wildlife damage control permit allows the permittee to provide wildlife damage control services subject to the provisions of this chapter for the species or species groups authorized on the permit.

C. There are two classes of commercial wildlife damage control operator permits:

(1) Business; and

(2) Assistant.

D. Employees or Assistants.

(1) General. Except as provided in §D(2) and (3) of this regulation, an employee or assistant working under the direct supervision of a wildlife damage control operator does not have to be individually authorized to provide wildlife damage control services.

(2) Commercial.

(a) An employee or assistant of a commercial wildlife damage control operator working without the direct supervision of the commercial wildlife damage control operator shall pass the written examination described in Regulation .05 of this chapter and obtain the assistant commercial wildlife damage control operator permit.

(b) In emergency situations as determined and preapproved by the Department, employees or assistants of a commercial wildlife damage control operator who are not permitted as assistant commercial wildlife damage control operators may work without the direct supervision of the commercial wildlife damage control operator.

(3) Public Agency. An employee or assistant of a public agency wildlife damage control operator working without the direct supervision of the public agency wildlife damage control operator shall pass the written examination described in Regulation .05 of this chapter.

(4) The permittee is responsible for the quality and content of all work performed by those working under the permit.

### **.05 Wildlife Damage Control Permits — Written Examination.**

A. An applicant for a wildlife damage control permit shall pass a written examination before obtaining the permit.

B. The minimum passing score for the written examination is 80 percent.

C. The written examination shall contain questions related to:

(1) Wildlife damage control procedures;

(2) Current statutes and regulations pertaining to Maryland wildlife;

(3) Wildlife biology, such as reproductive cycles, feeding patterns, and den sites of the more common problem wildlife species in Maryland;

(4) Human health and safety issues;

(5) Wildlife control methods, both lethal and nonlethal;

(6) Acceptable methods of killing; and

(7) Other questions necessary to determine an individual's ability to conduct wildlife damage control services.

D. An individual who fails the examination may retake it not earlier than 45 days and not later than 90 days after taking the examination. The test may be retaken not more than 3 times in 1 calendar year.

E. The Service will schedule examination dates at least every 2 months.

F. The applicant shall pass the examination before the issuance of the initial permit. Additional testing is not required for subsequent permits.

### **.06 Wildlife Damage Control Permits — Application Form.**

A. An applicant shall obtain application forms from the Maryland Wildlife and Heritage Service, 580 Taylor Ave., E-1, Annapolis, Maryland 21401, or by calling 410-260-8540. The applicant shall mail or deliver the completed application to: Permits Coordinator, Maryland Wildlife and Heritage Service, 580 Taylor Ave., E-1, Annapolis, Maryland 21401. The Service will mail permit renewals to permit holders at least 2 months before the expiration of the permit.

B. To apply for or renew a wildlife damage control permit, a person shall submit to the Service a completed application form provided by the Service that includes:

(1) Applicant's name;

(2) Corporate name (if applicant is incorporated);

(3) Governmental entity (if applicable), or letter of authorization from the governmental entity if the applicant is under contract to provide wildlife damage control services (if applicable);

(4) Address;

(5) Email address (if applicable);

(6) Website (if applicable);

(7) Phone number;

(8) Date of birth; and

(9) Social Security or federal tax identification number.

### **.07 Wildlife Damage Control Permits — Application Fee.**

A. The application fee for a commercial wildlife damage control operator permit is \$50. The Service shall return half the application fee if it denies a permit application.

B. An application fee is not required for a public agency wildlife damage control operator permit if the applicant is a governmental agency or verified contractor and provides wildlife damage control services at no cost to the complainant.

## **.08 Wildlife Damage Control Permits — Species List.**

The applicant shall provide, from the following list, the species that the applicant seeks authority to control:

A. The following mammals:

(1) Bats;

(2) The following furbearing mammals:

(a) Beaver;

(b) Bobcat;

(c) Coyote;

(d) Fisher;

(e) Fox;

(f) Mink;

(g) Muskrat;

(h) Nutria;

(i) Opossum;

(j) River otter;

(k) Raccoon;

(l) Skunk; and

(m) Weasel;

(3) Rabbits; and

(4) The following rodents:

(a) Chipmunk;

(b) Gray squirrel;

(c) Eastern fox squirrel;

(d) Red squirrel;

(e) Southern flying squirrel; and

(f) Woodchuck;

B. Reptiles and amphibians; and

C. The following birds:

(1) Unprotected birds:

(a) European starling;

(b) Feral pigeon; and

(c) House sparrow; and

(2) Migratory birds.

### **.09 Wildlife Damage Control Permits — Area of Operation.**

The applicant shall provide a list of counties in which it will perform wildlife damage control services.

### **.10 Wildlife Damage Control Permits — Release of Information.**

The applicant may waive the provisions of COMAR 08.01.06.06G to allow application information to be made available to the public.

### **.11 Wildlife Damage Control Permits — Minimum Age.**

An individual who applies for a wildlife damage control permit shall be 18 years old or older.

### **.12 Wildlife Damage Control Permits — Permit Term.**

A wildlife damage control permit expires on December 31 of each year.

### **.13 Wildlife Damage Control Permits — Change of Address.**

A permittee shall immediately inform the Service at the address in Regulation .06 of this chapter of a change in business ownership, name, address, or phone number.

### **.14 Wildlife Damage Control Permits — Permit Transfer.**

The holder of a wildlife damage control permit may not transfer the permit to another person.

### **.15 Commercial Wildlife Damage Control Permits — Employees.**

The applicant shall include a list of employees who will conduct commercial wildlife damage control services as assistants under Regulation .16 of this chapter.



## **.16 Commercial Wildlife Damage Control Permits — Assistant Permit Application.**

A. To apply for or to renew an assistant commercial wildlife damage control operator permit, an individual shall submit to the Service a completed application form provided by the Service that includes:

- (1) Applicant's name;
- (2) Address;
- (3) Email address (if applicable);
- (4) Phone number;
- (5) Date of birth;
- (6) Social Security or federal tax identification number; and
- (7) The name of the business commercial wildlife damage control operator for which the individual will be working.

B. The application fee for an assistant commercial wildlife damage control operator permit is \$25. The Service shall return half the application fee if it denies a permit application.

## **.17 Existing Wildlife Control Cooperator Permit Holders.**

A. A wildlife control cooperator permit issued to a person providing wildlife damage control services before the effective date of this regulation remains valid until the stated expiration date.

B. A person that has a wildlife control cooperator permit and provides wildlife damage control services as of the effective date of this chapter shall meet the test requirements by January 1, 2009, to be permitted as a wildlife damage control operator.

## **.18 Business Practices.**

A. A wildlife damage control operator may not engage in any form of false or misleading advertising or promotional activities, including, but not limited to, the falsification or misrepresentation of:

- (1) The work of a wildlife damage control operator or of an individual employed by the wildlife damage control operator;
- (2) The academic or professional qualifications or affiliations of the wildlife damage control operator; or
- (3) The experience or licensing status of the wildlife damage control operator.

B. In rendering professional services, a wildlife damage control operator may not counsel or assist anyone, including, but not limited to, a wildlife damage control operator's client, in conduct a wildlife damage control operator knows, or is reasonably expected to know, is illegal or improper.

C. A wildlife damage control operator may not use property adjacent to a client's property as a work area or to gain access to the client's property without the adjacent property owner's permission.

D. A wildlife damage control operator shall enter into a written agreement with the client that clearly conveys the:

- (1) Objective and scope of services, including potential disposition of the wildlife;
- (2) Anticipated dates of the wildlife damage control operator's work on the project;
- (3) Amount and method of remuneration for the services; and
- (4) Requirement that the client must notify, verbally or in writing, any person who is likely to be affected by or witness the activities of the wildlife damage control operator, if the wildlife damage control:
  - (a) Takes place outside of a dwelling or structure; and
  - (b) Involves the use of:
    - (i) Body-gripping traps;
    - (ii) Drowning sets;
    - (iii) Foot-hold traps; or
    - (iv) Snares.

E. A wildlife damage control operator may not exploit clients served professionally by:

- (1) Accepting a wildlife damage control project if a benefit cannot reasonably be expected to accrue to the client;
- (2) Continuing wildlife damage control services when a benefit no longer accrues to the client;
- (3) Charging for services not rendered; or
- (4) Misrepresenting services rendered.

### **.19 Operations and Procedures.**

A. A wildlife damage control operator shall have the permit in the permittee's possession while conducting wildlife damage control operations. The permittee shall provide the permit to a client or law enforcement officer upon request.

B. A wildlife damage control operator may conduct wildlife damage control at any time.

C. Allowable methods for trapping mammals include:

- (1) Body-gripping traps which are:
  - (a) Larger than 8 inches by 8 inches or 8-inch diameter when the traps are submerged partially or totally in water; or
  - (b) Equal to or less than 8 inches by 8 inches or 8 inches in diameter:

- (i) On, in, or under a building;
- (ii) In tidal wetlands, flooded nontidal wetlands, and in those portions of inland freshwater marshes, shrub swamps, wooded swamps, and bogs where water is covering the surface of the soil or the soil is waterlogged to the surface; or
- (iii) In all other locations when partially or totally submerged in water;
- (2) Box-type live capture traps;
- (3) Drowning sets;
- (4) Foot-hold traps as follows:
  - (a) On land with a jaw spread no greater than 5-3/4 inches; or
  - (b) Completely submerged underwater with a maximum jaw spread of 7-3/4 inches;
- (5) Snares; and
- (6) Other capture devices as approved by the Service.

D. A wildlife damage control operator may not use toothed or serrated jaw traps.

E. A wildlife damage control operator shall:

- (1) Check traps once every calendar day;
- (2) Protect all cage type live traps from weather elements; and
- (3) Remove dependent young when present in a structure during the course of wildlife removal.

## **.20 Operations and Procedure — Bats.**

A. A wildlife damage control operator shall remove bats only by nonlethal methods, except when a State or local public health department requires lethal removal.

B. A wildlife damage control operator may capture and release individual bats that enter a dwelling or office outside near the building.

C. Bat colonies containing more than 10 adults, whether or not young are present, require prior approval from the Service to be excluded from buildings from March 1 to August 31.

D. Bat colonies containing 10 or fewer adults do not require prior approval from the Service for exclusion at any time of the year.

E. Exclusion of a bat colony and sealing of active entrances into the building shall take place before hibernation.

F. A wildlife damage control operator may install and leave in place exclusion devices for hibernating bats until the colony emerges in the spring.

G. A wildlife damage control operator may seal bat entrances after the bat colony is excluded from the building.

### **.21 Operations and Procedure — Chimney Swifts.**

A federal permit is required to:

A. Clean, repair, or cap a chimney that contains active chimney swift nests that include either eggs or young; or

B. Conduct any activity that will result in the destruction of chimney swift adults, eggs, or young.

### **.22 Operations and Procedure — Reptiles and Amphibians.**

A wildlife damage control operator may not kill reptiles and amphibians.

### **.23 Operations and Procedure — Fisher and River Otter.**

A wildlife damage control operator shall tag all fisher and river otter captured from November 15 to March 15 with tags provided by the Service.

### **.24 Disposition of Trapped Wildlife.**

A. Any live wildlife taken into possession under the authority of this permit, except as provided in §§B—G of this regulation, shall be:

(1) Released on site;

(2) Transported and released on a wildlife management area or other areas with written permission from the landowner or managing authority, within the same or an adjacent county; or

(3) Killed.

B. Coyote, bobcat, muskrat, mink, and otter shall be:

(1) Released on site; or

(2) Killed.

C. Raccoon, skunk, and fox shall be:

(1) Released on site;

(2) Killed; or

(3) Transported to a person licensed to rehabilitate rabies vector species if they are orphaned, healthy, and dependent young.

D. Nutria and mute swans shall be killed.

E. Reptiles and amphibians shall be:

- (1) Released on site; or
- (2) Transported and released on a wildlife management area or on other areas with written permission from the landowner or managing authority, within 2 miles of the location of capture.

F. Sick or injured wildlife shall be:

- (1) Transported to a licensed wildlife rehabilitator authorized to handle that wildlife; or
- (2) Killed.

G. Any captured nontarget species shall be released on site.

H. Unless specifically authorized by the Service, a wildlife damage control operator may not possess in captivity for longer than 24 hours any wildlife captured under authority of this permit.

I. Transportation.

- (1) Captured wildlife shall be transported in covered, secure containers to minimize stress to the animal and potential hazards to the general public.
- (2) While transporting wildlife in a cage trap, the wildlife damage control operator shall:
  - (a) Minimize stress to the animal and its exposure to the elements by covering the trap or vehicle with appropriate material; and
  - (b) Ensure that the covering is of such material that the animal has an adequate supply of air to prevent overheating.

J. The permission of the landowner or client is required to release wildlife on site as allowed in §§A—C and E of this regulation.

### **.25 Disposition of Trapped Wildlife — Killing.**

A. Killing, as allowed in Regulation .25 of this chapter, shall be done:

- (1) On-site; or
- (2) After transport, by:
  - (a) The permittee;
  - (b) The local humane society;
  - (c) The local animal control entity; or
  - (d) A licensed veterinarian.

B. Allowed methods of killing birds include:

- (1) Barbiturates;
- (2) Carbon monoxide or dioxide:
  - (a) From compressed cylinders;
  - (b) In a metered chamber; and
  - (c) With the wildlife damage control operator observing the wildlife and confirming death;
- (3) Cervical dislocation;
- (4) Decapitation;
- (5) Gunshot; and
- (6) Inhalant anesthetics.

C. Allowed methods of killing mammals include:

- (1) Barbiturates;
- (2) Blunt force trauma;
- (3) Carbon dioxide or monoxide:
  - (a) From compressed cylinders;
  - (b) In a metered chamber; and
  - (c) With the wildlife damage control operator observing the wildlife and confirming death;
- (4) Cervical dislocation;
- (5) Gunshot;
- (6) Inhalant anesthetics; and
- (7) Penetrating captive bolt.

**.26 Disposition of Trapped Wildlife — Sale, Trade, Barter, or Transfer.**

A. Except as provided in §B of this regulation, the sale, trade, barter, or transfer to another person of any live or dead wildlife acquired under the authority of this chapter is prohibited.

B. A wildlife damage control operator may sell, trade, barter, or transfer the pelt of any fur-bearing mammal acquired between November 1 and March 15.

## **.27 Record Keeping and Reporting.**

A. A wildlife damage control operator shall maintain records at the operator's normal place of business, including the following information for each wildlife complaint to which the operator responds:

- (1) The date of the complaint;
- (2) The name and address of the complainant;
- (3) The number and species of wildlife involved;
- (4) The type of damage caused by the wildlife; and
- (5) The method of disposition.

B. A copy of all records shall be kept for 3 years and be available for inspection by the Service.

C. An annual report shall be filed with the permit renewal application or by December 31 of each year covering the preceding October to September period. The report shall be on a form provided by the Service or in a format providing the same information, and include the following:

- (1) Permittee name;
- (2) Permit number;
- (3) Period covered;
- (4) Number of complaints; and
- (5) Number of wildlife handled and their disposition by:
  - (a) Species or species group; and
  - (b) County.

D. A permittee authorized to provide wildlife damage control services for bats shall submit a separate annual report on bat colony exclusion. The report shall include for each activity the:

- (1) Date;
- (2) Street address, including city and zip code;
- (3) Species;
- (4) Estimate of colony size; and
- (5) Work performed.

E. Failure to file the annual reports will prevent renewal of the permit.

F. The wildlife damage control operator shall mail the report to: Permits Coordinator, Wildlife and Heritage Service, 580 Taylor Ave., E-1, Annapolis, Maryland 21401.

## **.28 Penalties.**

A. The Service may revoke, restrict, or suspend a permit issued under this chapter for a violation of:

- (1) This chapter;
- (2) The terms of the permit;
- (3) A State or federal wildlife law or regulation; or
- (4) Animal cruelty laws.

B. Providing deceptive or false information on an application for a wildlife damage control permit constitutes a violation of this chapter.

C. A violation of any provision or restriction on the permit also constitutes a violation of this chapter.

D. Violation of this chapter is a misdemeanor punishable under Natural Resources Article, §§10-205 and 10-1101—10-1107, Annotated Code of Maryland.

E. If the Service denies an application for a wildlife damage control permit, the Service shall notify the applicant of the basis of the denial. An applicant who has received a notice that the Service has denied or refused an individual's application may file, within 21 days after the notice is mailed, a letter to the Director of the Service requesting a contested case hearing. Upon receipt of the letter, the Service shall schedule a contested case hearing before the Office of Administrative Hearings in accordance with the procedures of the Administrative Procedures Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04.

F. The Department shall provide the opportunity for a contested case hearing conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04 when suspending or revoking a wildlife damage control permit.