



SECTION: Protection of property.

SUBSECTION: Authorizations/use of agents.

SUBJECT: Issuance of deer removal/Harassment authorizations for agricultural damage.

POLICY/PROCEDURE: WilPp.3.2.3

ISSUE DATE: Revised August 30, 2004

DEFINITIONS

In this policy/procedure,

- “Act” means the Fish and Wildlife Conservation Act (FWCA).
- “wildlife” as defined in the *Act* means an animal that belongs to a species wild by nature, and includes *game wildlife* and *specially protected wildlife*.
- “antlerless deer” is defined as a deer that has no antlers, or has antlers that are less than 7.5 cm (3 inches) in length.

RATIONALE

The *Fish and Wildlife Conservation Act (FWCA)* allows for the harassment or killing of wildlife if a person believes on reasonable grounds that wildlife is damaging or is about to damage the person’s property (Sec. 31(1) FWCA). The *Act* and regulation specify a number of restrictions in place to control this activity. The *FWCA* allows for the harassment and killing of white-tailed deer with specific authorization of the Minister (Sec. 31(3)). This recognizes their provincial value, and encourages landowners to consider alternate control mechanisms.

High deer population densities and a predominance of many high value agricultural crops in Southern Ontario have resulted in the recognition that there are some circumstances where deer control will be required and justified to avoid excessive economic losses from damage. In addition, farmers need effective tools to mitigate and deal with deer damage to agricultural crops.

Deer damage to agricultural crops is increasing in parts of Ontario, however damage has been noted in some areas since the mid-1980s. The purpose of the authorization is to provide managers with a tool to allow for the harassment and removal of deer that are causing significant damage, when other reasonable methods to prevent damage are ineffective.

This policy and accompanying procedure explains the requirements for qualifying for a Deer Removal/Harassment Authorization (DRA) and the procedure for issuance.

PROGRAM DIRECTION

When wildlife management practices and farm management techniques have been ineffective at resolving ongoing agricultural damage problems by deer in a timely manner, MNR may issue authorizations for the farmer and/or his/her agent(s) to harass and/or remove deer (Agricultural Deer Harassment/Removal Authorization) from his/her property. The use of authorizations is closely controlled and must complement local deer management objectives. Authorizations will be issued when necessary, in accordance with specific criteria in this procedure. Authorizations should be used in conjunction with other deer control practices.

Deer harassment/removal authorizations may be issued where deer are damaging existing crops or under certain circumstances, may be issued just prior to damage occurring. For the purposes of this policy, harassment includes activities involving the use of firearms or pyrotechniques, e.g., flares, cracker and popper shells. Where damage to crops is occurring and the farmer meets the qualifying criteria, harassment/removal authorizations will be issued as quickly as possible to minimize further damage. In locations where there is a documented history of recent deer damage and where deer damage is deemed to be imminent, deer removal authorizations may be issued prior to the onset of damage.

Both the reactive and proactive approaches are consistent with the intent of the FWCA which permits landowners to harass or kill wildlife that is damaging or is about to damage the person's property. In addition, this approach will help to prevent deer from establishing a pattern that causes damage over an extended period of time.

Deer removal authorizations may be denied if the removal of deer causing agricultural damage could compromise the sustainability goals for the population.

In all situations, the removal of deer should be timed as close as possible to the actual or predicted damage to increase the probability that the deer removed are the animals responsible for the damage. The number of deer that can be removed must be specified. Removal of 1 to 10 deer may be permitted by the authorization. An authorization for additional deer may be given after reviewing the effectiveness of the initial authorization and a determination if damage is still occurring.

The type of firearm must be specified. Firearms will generally be restricted to rifles or shotguns in accordance with local bylaws and as per the regulations for the local deer season except in certain circumstances (i.e. areas with no discharge bylaws) where bows or crossbows may be allowed. No dogs are allowed.

The control period for removal of deer will be for a specified duration and should be for the minimum period of time necessary to resolve the problem. The period of time will be as close as possible to the time when damage is occurring. The specified period for antlered deer (those deer with antlers more than 7.5 cm in length) may occur at any time of the year. The control period for antlerless deer will fall between August 15th to May 15, inclusive. An antlerless deer is defined as a deer that has no antlers, or has antlers that are less than 7.5 cm (3 inches) in length. In rare circumstances removal permits may be issued outside of the control period for antlerless deer. This should only be considered when all other reasonable

efforts have been exhausted and the farmer has made a significant effort to mitigate damage by deer. This exception would allow the use of removal permits to help control damage in cases where severe damage to high value crops that could be severely impacted over a short time period, is occurring. Special conditions may apply to these permits.

Deer removal authorizations include the ability to harass deer. Deer harassment authorizations may be issued to farmers where minor damage is occurring, prior to planting or during times of the year when the use of removal authorizations is limited (e.g. May 15th to August 15th).

The deer removal/harassment authorization authorizes the farmer and/or his/her agent(s) to carry out deer removal and/or harassment activities.

In cases where an application for an authorization to harass/remove deer is denied, the applicant has the right to request a reconsideration of the decision by the district manager and subsequently to the regional director.

Deer removal authorizations will not be used as a general population reduction tool but will be used to solve/reduce site-specific agricultural damage. The MNR will consider the severity of deer damage when setting goals for deer harvests in WMUs and will take all available action to prevent damage from occurring through regulated deer harvests. These actions include increasing antlerless tag allocations and additional seals, introducing new hunting seasons and extending existing seasons as well as providing special seasons in designated areas with significant agricultural deer damage.

The MNR in cooperation with OMAF and agricultural organizations will provide advice to farmers on best management practices that will prevent or limit deer damage to crops.

The authorization is not intended to provide for recreational out-of season hunting nor for personal gain. Any promotion or marketing to that effect will result in the cancellation of the authorization. The holder of the authorization cannot charge a fee, or accept payment from agents who are removing deer under the authorization.

This policy and accompanying procedure will be reviewed regularly allowing for an adaptive management approach as we learn more about the effectiveness of various management actions. In particular, Appendix A will be subject to review and will be revised with input from agricultural organizations and as new information becomes available, in order to establish sound thresholds for issuing deer harassment/removal authorizations. The information presented in Appendix A related to tolerance loss levels is intended to be used as a guide only to assist in making decisions to issue deer removal/harassment authorizations.

Applicant criteria

To qualify an applicant must:

- a) meet the definition of a farmer as defined by the OMAF Farm Business Registration Program and submit a valid Farm Business Registration number at the time of application
and
- b) be the owner of the land where the deer removal is to occur; for the purposes of this policy "owner" will include a tenant who is farming the land.

Agent criteria

To qualify, an agent (undertaking removal activities on the owner's behalf) must:

- a) possess a valid Hunting version of the Outdoors Card or proof of hunting qualifications from another jurisdiction (e.g. hunter training course certificate, expired hunting licence) **and**
- b) not have been convicted of any serious, or multiple, offences under the Fish and Wildlife Conservation Act, such as those infractions involving safety related offences, commercialization, night hunting or deer related offences within the previous five years.

Qualifying criteria

All of the following qualifying criteria must be met:

- a) Authorizations to harass or remove deer may be issued:
 - **Proactively** (before damage occurs) if the following criteria are met:
 - There is a high probability of imminent damage to an existing crop. This assessment should consider:
 - a recent history of documented deer damage where damage exceeded tolerable loss levels (see Appendix A). In most cases this would be determined because a deer removal authorization was issued the previous year
 - local deer densities and habitat use patterns in and adjacent to the crop
 - crop types that are particularly vulnerable to deer damage
 - crop types where deer are likely to cause a great deal of damage in a very short time (e.g. vegetable operations where deer have been known to damage an entire crop such as lettuce in a few days)
 - presence of high value crops. Typically these include crops with one or more of following characteristics:
 - perennial crops
 - have high replacement and production costs per hectare
 - deer damage may result in permanent or long term damage to the crop impacting future yields as well as the current year's yield

Examples of high value crops include: horticultural/nursery operations, market gardens, orchards, and vineyards. Additional advice on what constitutes a high value crop can be obtained by MNR staff on a case by case basis by contacting OMAF.

In the majority of these cases, a history of damage has been documented, however, in exceptional circumstances, an authorization may be issued proactively for areas with no history of damage on the farm. For example, a proactive authorization could be issued for a new market garden operation adjacent to an orchard with a history of severe damage.

- **Reactively** (after damage occurs) if the following criteria are met:
 - Damage is evident and where the potential for damage to exceed tolerable loss levels exists or where damage exceeding tolerable loss levels has already occurred (see Appendix A). This would be determined by a site inspection. This approach would be used to respond to deer damage in all types of agricultural operations.
- **Harassment only authorizations**, may be issued to qualified farmers with minor deer damage, at times when crops are not present (i.e. before planting) or during the period when removal authorizations for antlerless deer are generally not valid (May 15 – August 15). The MNR and OMAF will provide advice and information to the farmer regarding best practices for harassing deer.

The following criteria for harassment only authorizations must be met:

- applicant criteria are fulfilled
 - farmer submits a completed application form including a description of the deer damage
- b) The sustainability of the deer population shall not be put at risk as a result of issuing the authorization.
 - c) The farmer should permit licensed deer hunters on the property during the open season wherever possible. Hunting may be prohibited at some locations due to no-discharge bylaws, lack of an open season, and safety considerations. Deer removal authorizations will not be refused due to low hunter densities or participation rates.
 - d) Alternative methods to control deer should be considered and tried where feasible and financially justifiable prior to issuance of a deer removal permit. This should be documented and kept on the deer removal authorization file. The MNR and OMAF will provide advice and information to the farmer regarding best practices for preventing deer damage.
 - e) Farmers who apply for authorizations must allow site inspections as required to verify and document damage and deer densities on the farm (see Procedure). Site Inspections will be used to determine: the presence and relative abundance of deer, whether damage is occurring or is likely to occur, and whether damage has exceeded tolerance loss levels, or site visits indicate the potential to exceed tolerance loss levels prior to a harvest opportunity.

Authorization conditions

Pages one and two of the authorization must be fully completed with respect to:

- names and addresses of landowner(s) and agents,
- location [Twp. Lot, Conc, (or parts thereof)],
- number of deer to be removed,
- equipment authorized (type of firearms and ammunition),
- start and end dates of the authorization.

The following conditions must appear on Schedule A attached to the authorization:

- a) The authorized farmer shall allow MNR staff accompanied by an agricultural specialist or independent crop evaluator to enter and inspect properties identified on the authorization.
- b) The authorized farmer shall not charge a fee for agents or accept payment from agents who are removing deer under the authorization.
- c) The authorization is **not valid** during the regular gun season for the wildlife management unit(s) in which the properties identified on the authorization are located.
- d) No dogs are allowed to be used.
- e) Activities under the authorization are restricted to half hour before sunrise to half hour after sunset.
- f) An authorized farmer or agent shall carry a copy of the authorization on their person when performing deer harassment/removal activities.
- g) An authorized farmer or agent shall be in possession of a seal provided with the authorization or be hunting in a party with an authorized person who possesses a seal.
- h) An authorized farmer or agent shall not transfer the seal to a person who is not authorized under the authorization.
- i) Any deer killed shall be sealed immediately at the site of the kill with a seal provided with the authorization and in the manner indicated on the seal. The seal is only valid for the area described on the authorization. The head, bearing the seal, shall remain attached to the animal carcass while it is being transported until butchered or otherwise disposed of. All seals provided with this authorization that are not used shall be submitted to MNR within 15 days of the expiry date of the authorization.
- j) Any deer killed shall be reported within 24 hours to the MNR issuing office. The report may be verbal, voice message, email or in writing. The report shall identify the sex of the animal(s), its disposal, (kept by farmer/agent, or donated to another person), and if donated, the name, address and phone number of the recipient.
- k) The authorized farmer shall record pertinent information including the number and sex of deer taken, the disposal of the animals and the recipients of any meat donated, on a Deer Removal Authorization Report Form as each deer seal is used. This report form shall be submitted within 15 days of the expiry date of the authorization. **A report is required even if no deer are taken.**
- l) Meat of deer killed under the authorization shall not be donated to food banks, soup kitchens, or to institutions such as Senior Citizens homes, hospitals, group homes or any similar institution.
- m) Deer taken under the authorization shall not be sold.
- n) Deer that appear sick, diseased or unhealthy shall be reported to the MNR.

- o) An antlerless deer is defined as a deer that has no antlers, or has antlers that are less than 7.5 cm (3 inches) in length
- p) An authorized farmer or agent shall undertake harassment and removal activities in a safe, legal and responsible manner.

In addition to the above conditions, the following statements may appear on the authorization:

- i) It is recommended that hunter orange clothing as specified in the Hunting Regulation should be worn during all deer removal authorization activities.
- ii) It is also recommended that neighboring property owners, where practical, be notified by the farmer that the deer removal activity will be occurring on certain properties in the area.
- iii) It is recommended that agents designed to undertake harassment/removal activities have current liability insurance.
- iv) Carcasses may be kept by the farmer or agent, or donated to others. Sections of the Fish and Wildlife Conservation Act that prohibits the wastage and spoiling of deer flesh do not apply to removal authorizations. However it is recommended that all attempts be made to utilize any deer for human consumption. Recipients of donated meat of wild game should be given written notice by the donor that the meat they are accepting has not been government inspected.

Environmental Assessment Act Considerations

The purpose of the *Environmental Assessment Act (EA Act)* is “...the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation, and wise management in Ontario of the environment”. In the case of deer harassment/removal authorizations for agricultural damage, the Ministry of Natural Resources complies with the EA Act by following the requirements of MNR’s Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects.

Deer harassment and/or removal is defined as the site specific use of physical control methods to control a nuisance species when MNR considers that they pose an ecological, physical, social, cultural, or economic threat to the environment [Class Environmental Assessment for Resource Stewardship and Facility Development Projects (Class EA, Section 2.2.11)]. This activity is identified in the Class EA, Section 3.1.1 as a Category “A” activity having the potential for low negative environmental effects and/or public or agency concern. Projects in category A can proceed to implementation without application of screening criteria outlined in Section 3.2 of the Class EA. However, if a category “A” project presents some potential for concern, then the responsible manager will subject it to screening to the appropriate category.

Deer harassment/removal authorizations could potentially raise concerns related to noise, shooting of wildlife, disposal of the meat etc. and therefore it is appropriate for this activity to undergo screening. Each district will conduct a group screening (i.e. screen all of the DRAs

issued for the district or for a portion of the district) for this activity on an annual basis if they intend to issue authorizations to harass/remove deer causing agricultural damage. A record of the screening process including the project description, the completed screening table, and supporting rationale will be retained on file as part of the public record.

PROCEDURE

1. Authority to approve issuance of a deer harassment/removal authorization is delegated to the Area Supervisor (Form FW2011).
2. The Area Supervisor forwards information on the qualification criteria, authorization conditions and an application form to the farmer requesting information on the authorization.
3. The farmer will be requested to submit a completed application form indicating that the criteria have been met. In cases where authorizations are required in consecutive years, the farmer must submit an updated application form each year.
4. A site inspection by MNR and an agricultural specialist may be required prior to issuing an authorization. The site inspection would confirm that the following qualifying criteria are met:
 - the presence of high deer numbers in or directly adjacent to the crop;
 - deer damage is occurring or a high probability of imminent damage exists;
 - damage has exceeded tolerance loss levels or site visits indicate the potential to exceed tolerance loss levels prior to a harvest opportunity. Economic losses will be evaluated and documented by an independent third party. Results of site visits will be documented in a brief report and kept on file and a copy will be provided to the farmer. This information may be used to document a history of problems at this location.

Site inspections should be considered in the following situations:

- farmers applying for the first time
 - renewal of deer removal authorizations
5. Based on the site inspection/information from the farmer, harassment/removal authorizations may be issued as follows:
 - **Proactively** (before damage occurs) if: There is a high probability of imminent damage to an existing crop. This assessment should consider:
 - a recent history of documented deer damage where damage exceeded tolerable loss levels (see Appendix A). In most cases this would be determined because a deer removal authorization was issued the previous year. The economic value of deer damage may be documented in site visit reports, crop insurance reports, or other sources and will be useful in establishing a history for that location.
 - local deer densities and habitat use patterns in and adjacent to the crop
 - crop types that are particularly vulnerable to deer damage
 - crop types where deer are likely to cause a great deal of damage in a very short time (e.g. vegetable operations where deer have been known to damage an entire crop such as lettuce in a few days)
 - presence of high value crops. Typically these include crops with one or more of following characteristics:

- perennial crops
- have high replacement and production costs per hectare
- deer damage may result in permanent or long term damage to the crop impacting future yields as well as the current year's yield

Examples of high value crops include: horticultural/nursery operations, market gardens, orchards, and vineyards. Additional advice on what constitutes a high value crop can be obtained by MNR staff on a case by case basis by contacting OMAF.

In the majority of these cases, a history of damage has been documented, however, in exceptional circumstances, an authorization may be issued proactively for areas with no history of damage on the farm. For example, a proactive authorization could be issued for a new market garden operation adjacent to an orchard with a history of severe damage.

- **Reactively** (after damage occurs) if: Damage is evident and where the potential for damage to exceed tolerable loss levels exists or where damage exceeding tolerable loss levels has already occurred (Appendix A). This would be determined by a site inspection. This approach would be used to respond to all kinds of agricultural damage.
- **Harassment only** if:
 - applicant criteria are fulfilled
 - farmer submits a completed application form including a description of the deer damage

6. All removal authorizations also include the ability to harass deer.

7. All authorizations will include a start and end date for both removal and harassment activities.

8. All properties where authorizations are issued may be inspected after the authorization is issued, during the period of most severe damage. This additional inspection would document the severity and extent of the damage, would monitor trends in damage over time, document the effectiveness of the authorization and document alternative methods of controlling deer damage. An agricultural specialist or an independent crop evaluator may accompany MNR staff. Information from site inspections will be used to determine if amendments to the authorization are necessary (e.g. decisions regarding adding more seals or adjusting dates of activities). Amendments to the authorization should be based on the criteria outlined in #5 above.

9. Where an authorization is to be issued, the area supervisor will:

- a) Confirm that the applicant and agent qualifying criteria have been met and that the information provided is complete and accurate and
- b) Consult with the district enforcement supervisor and the Compliance Activity and Violation Reporting System (CAVRS) for information relating to the applicant and agent.

10. Issue an authorization indicating the maximum number of deer, which may be taken, and

the property(s) to which it applies. Removal of 1 to 10 deer may be permitted by an authorization.

In cases where the maximum number of deer have been taken under the authorization, additional deer may be authorized after reviewing the effectiveness of the initial number authorized and determining if damage is still occurring. A site visit may be required when adding seals to the authorization.

The location (lot, concession and township or part there of) and ownership of all approved properties must be specified on the authorization. The authorized farmer may remove deer on his own land (including rented land). The authorized agent may act for persons on the lands of those persons. The name and address of all agents must be on the authorization.

11. Supply the applicant with the authorization, a Deer Removal Report Form (Form FW4007) and the number of deer seals as authorized on the authorization.
12. Where an authorization is refused:
 - a) The area supervisor will notify the farmer in writing;
 - b) The farmer may re-apply if the situation changes or damage increases;
 - c) MNR shall notify the farmer of his/her right to request a reconsideration of the decision;
 - d) the request for a reconsideration shall be dealt with in an open, timely and transparent manner;
 - e) The farmer may make a request (verbal, written or in person) within 5 days to the district manager to reconsider the decision. The district manager will consider input from the farmer, independent experts and MNR staff and will notify the farmer of his/her decision within 5 days.
 - f) In the event that the decision remains the same, the farmer may request a reconsideration of the district manager's decision by the regional director. This request must be made in writing within 15 days of the date of the district manager's decision. The regional director will consider the written submission and notify the applicant of his/her decision within 15 days. This decision is final.
13. The Area Supervisor will maintain on file copies of all authorizations and deer removal reports. An annual summary of Deer Removal Activity will be provided to Wildlife Section on April 30th of each year.

REFERENCES

Legal references

- Fish and Wildlife Conservation Act
 - Subsection 31(1) - Protection of Property
 - Subsection 31(2) - Authority to use agents
 - Clause 31(3) b-exemption for white-tailed deer/authorization by Minister required
 - Subsection 31(6) Provisions that do not apply
 - Subsection 31(7) - Night hunting restriction for deer
- Environmental Assessment Act
- Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects
- Meat Inspection Act

Related references

- Policy and procedures
 - WilPo.3.1.1 - Protection of property overview.
 - WilPp.3.2.4 - Issuance of deer removal authorization for airports.
 - WilPp.3.2.1 - Authorization of individual agents.
- Farm Business Registration Program and Farm Tax Rebate Program (OMAF)

APPENDIX A

This information is intended to be used as a guide only to assist in making decisions regarding the issuance of deer removal/harassment authorizations

Extracted with permission from:

Rollins, K. 2004. **Wildlife Damage Compensation for Ontario Producers: Principles and Prospects – Summary**. Draft report prepared for the Ontario Soil and Crop Improvement Association.

Benefits and Costs of On-farm Wildlife in Ontario

Agricultural producers are well positioned to receive substantial direct and indirect wildlife benefits. A survey conducted in 1999 of Ontario producers indicates that producers acknowledge these benefits, and the majority has undertaken activities to enhance wildlife habitat on their lands. Seventy seven percent of Ontario farmers stated they felt on-farm wildlife was important as a necessary part of the balance of nature. Ontario farmers invested almost \$8 million on enhancing habitat in 1998 alone (OSCIA 2000). Statistical analysis of survey data indicate that Ontario producers are willing to tolerate a substantial amount of financial loss in return for the benefits that they receive from on-farm wildlife populations (Rollins et al 2004).

Economic analysis of the Ontario data show farmers' tolerance thresholds for a number of different wildlife species vary from several hundred to several thousand dollars per species per crop annually (Rollins et al, 2004).¹ A tolerance threshold is measured by calculating the amount of monetary losses below which most affected individuals rate damage as acceptable or tolerable (Rollins, et al 2004, Seimer and Decker 1991, Connelly et al 1987, Carpenter et al 2000, Craven et al, 1992). Assuming that wildlife damage tolerance thresholds correspond with wildlife damage levels where farmers feel that on-farm wildlife populations create as many costs as benefits to the landowner, then these thresholds provide a proxy for a dollar measure of wildlife benefits to producers who experience damage. Table 1 illustrates damage tolerance thresholds measured for Ontario farmers from 1999 survey data for four field crops and four wildlife species. These results indicate higher tolerance thresholds for species that are generally considered more highly valued by society, than for species with lower value.

Table 1: Median Damage Tolerance Thresholds by Crop and Species

	Blackbirds	Deer	Raccoons	Geese
Corn	\$586	\$1,851	\$482	\$1,478
Forage/Silage	\$420	\$1,641	\$427	\$1,310
Soybean	\$879	\$2,777	\$723	\$2,217
Wheat	\$642	\$2,030	\$528	\$1,621

Source: Rollins et al, 2004

¹ Examples of Ontario producers' benefits and costs of on-farm wildlife have been extracted from a technical paper by Rollins et al (2004) available directly from the author and from OSCIA.

The damage thresholds in Table 1 indicate, on average, what farmers who had experienced damage said that they felt were tolerable losses by species and crop in 1999. These farmers were randomly selected and therefore represent a sample of the population of Ontario field crop farmers. They represent farms of varying sizes and types. Not all experienced damage in 1999. And those with damage did not experience damage from all types of wildlife. In fact the distribution of damages was highly skewed among producers, a trend that is also found in other wildlife damage studies. Of the 347 field crop producers in the survey sample, 106, or just over a third, reported experiencing crop damage from wildlife in 1999; 241 did not.