

250-RICR-40-20-6

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 40 - AGRICULTURE AND RESOURCE MARKETING

SUBCHAPTER 20 - MARKETING

PART 6 - Rules and Regulations Relating to Deer Damage

6.1 Purpose

The purpose of these Rules and Regulations is to establish requirements for the taking of deer under special damage permits.

6.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Chapter 42-17.1, Department of Environmental Management, and R.I. Gen. Laws Chapters 20-1.4; 20-1.12; 20-1.13; 20-15.3; and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures.

6.3 Applicability

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of State law, goals, and policies.

6.4 Severability

If any provisions of these Rules and Regulations, or application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

6.5 Definitions

A. For the purposes of these Rules and Regulations, the following terms shall have the following meanings:

1. "Jack lighting" means the use (by an individual or in conjunction with others) of an artificial light at any time to illuminate, jack light, locate, attempt to locate, or show up wild birds or mammals or any other vertebrates when that person or persons have in their actual possession, in the passenger compartment of their vehicle, or in the storage area of a trunk or van, unless locked in a case, a crossbow, long bow (straight limb,

reflex, recurve, and compound bow) rifle, gun, or pistol, except in accordance with these Rules and Regulations.

2. "Designee" means any Department of Environmental Management (DEM) employee.
3. "Subpermittee" means any person who is an employee of the permittee and is eligible to hunt the property as designated by the DAG in the permit issued to the permittee.

6.6 Rules and Regulations on Deer Damage

- A. Application - To obtain a deer damage permit in accordance with R.I. Gen. Laws § 20-15-3, the landowner shall make a request in writing for a deer damage permit application to: Deer Damage Permit, R.I. Division of Agriculture (DAG), 235 Promenade Street, Providence, RI 02908. When necessary requests for applications may be taken over the telephone.
- B. Applicant will provide:
 1. Name, address, telephone number, date of birth, and hunting license number;
 2. Location of property, plat and lot number maps;
 3. A list of employees who may take deer per specific property including their hunting license numbers, addresses, and dates of birth.
 4. Safety zone permission signatures, countersigned as required, see § 6.6(E) and § 6.6(F) of this Part.
- C. The deer damage must be verified by a DAG employee or other authorized DEM employee. If deer damage is verified and all applicable regulations are met, a permit will be issued upon receipt of a \$50.00 permit fee per landowner as set forth in R.I. Gen. Laws § 20-1-21. No refunds will be made.
- D. The applicant shall demonstrate to the satisfaction of the DAG or other authorized DEM employee that no other practical alternatives or deterrents other than shooting the deer are available, as set forth in R.I. Gen. Laws § 20-15-3.
- E. The property must qualify for safe hunting under R.I. Gen. Laws § 20-13-7. Written permission to hunt within 500 feet, 200 feet in the case of archers of occupied buildings other than those owned by the applicant must be obtained and provided with application prior to issuance of a permit. If required by a town or city governing authority all permits shall be countersigned by the local chief of police or designee before permits are valid for use.

- F. The permittee must comply with all municipal laws and ordinances as they relate to hunting and firearms.
- G. Any town from which a deer damage permit is requested shall be open to a regulated deer hunting season, and such hunting season shall be sufficient in length and type to serve as a deterrent to property damage caused by deer.
- H. Landowners will be issued a permit to take a specified number of deer as determined by the DAG. Permittee or subpermittee shall be responsible for notifying the Department, or its official designee, within twenty-four (24) hours of the killing of any deer. All landowners qualifying for a permit will be issued a certain quantity of deer tags as determined by the DAG. It shall be the responsibility of the landowner to make sure deer taken on his/her property are properly tagged. On the mainland reports will be called into the Division of Law Enforcement (222-3070), permittees shall give their name, address, and permit numbers. On Block Island deer must be tagged at the designated check station. As soon as available, an Environmental Police Officer or an official designee, shall inspect and tag the deer with a metal seal.
- I. The DAG reserves the right to limit the number of employees that may be issued subpermits under the landowner's deer damage permit. No more than five (5) persons may hunt in unison as specified in R.I. Gen. Laws § 20-13-11.
- J. Harvest records, tags and/or unused permits and subpermits shall be returned to the DAG within fourteen (14) days after the expiration date of the permit; failure to return these records or permits within the specified time period may result in no future permits being issued to that permittee.
- K. Permits will be issued for up to 365 days. The number of days for which the permit shall be issued will be based upon a DAG recommendation. The DAG retains the right to alter, at any time: the number of hunters/permit holders; the number of and specific days on which hunting may occur; and the number of deer that may be taken by any permittee or subpermittee in any town or on any landowner's property. If any permittee is denied a permit by the DAG that person may request a hearing within thirty (30) days of the notice of denial. All requests for a hearing shall be made to the Department of Environmental Management, Division of Administrative Adjudication.
- L. Permits may be reissued for all vegetation with the re-inspection of the property by the DAG. If any permittee is denied a permit by the DAG that person may request a hearing within thirty (30) days of the notice of denial. All requests for a hearing shall be made to the Department of Environmental Management, Division of Administrative Adjudication.
- M. All permittees, while hunting, must possess a valid Deer Damage Permit for that specific property and a valid R.I. Hunting License.

- N. Damage permits will not be issued during legal deer seasons except as otherwise determined necessary by the DAG.
- O. All applicants will be checked against a current hunting violation conviction list by the Division of Law Enforcement. Permits will not be issued to any person who has been convicted for any hunting violation under R.I. Gen. Laws Title 20, within three years preceding the date of the application. Permits may be revoked by the DAG at any time for violation of any hunting provision under R.I. Gen. Laws Title 20. No permit shall be issued to anyone whose right to hunt in the State of Rhode Island have been revoked. If any permittee is denied a permit by the DAG that person may request a hearing within thirty (30) days of the notice of denial. All requests for a hearing shall be made to the Department of Environmental Management, Division of Administrative Adjudication.
- P. All deer hunting regulations promulgated under R.I. Gen. Laws Title 20 shall apply.
- Q. All permittees and subpermittees may be subject to administrative penalties of up to \$1,000.00 for violation of any of these regulations pursuant to R.I. Gen. Laws Chapter 42-17-6. Any permittee or subpermittee subject to administrative penalties pursuant to R.I. Gen. Laws Chapter 42-17-6 may request a hearing on the merits of the administrative penalties within twenty (20) days of said notice. All requests for a hearing shall be made to the Department of Environmental Management, Division of Administrative Adjudication.
- R. Jack lighting Permit Procedures
1. In the event that deer damage is particularly severe on listed farms larger than five (5) acres, with annual gross income exceeding \$2,500, with the exception of start-up operations at the discretion of the Director or designee, and when all other reasonable means of controlling crop damage, including current daylight damage permits and hunting during the regulated season have been ineffective, a DEM designee may recommend the issuance of a jacklight permit with approval by the Chief of the Division of Agriculture or his/her designee with the concurrence of the Chief of the Division of Law Enforcement. Exemptions for smaller parcels may be granted if safety considerations permit.
 2. Any request for jacklight permit must initiate through the DAG. Applicants must complete a Jack lighting Deer Damage Permit Application, to include level of effort to alleviate the problem. Upon issuance the Division of Law Enforcement and the Division of Fish and Wildlife will be forwarded a copy of the permit.
 3. All applicants will be checked against a current hunting violation conviction list by the Division of Law Enforcement. Permits will not be issued to any person who has been convicted for any hunting violation under R.I. Gen.

Laws Title 20, within three years preceding the date of the application. Permits may be revoked by the DAG at any time for violation of any hunting provision under R.I. Gen. Laws Title 20. If any applicant is denied a permit by the DAG that person may request a hearing within thirty (30) days of the notice of denial. All requests for a hearing shall be made to the Department of Environmental Management, Division of Administrative Adjudication.

4. The number of jack lighting permits issued at any one time to a single applicant shall be based on mitigating safety factors, however in no case shall the number of permits exceed two (2). Permits are valid for fourteen (14) days. Extensions for additional 14-day periods may be granted during the permitting year upon review of existing application by the DAG.
5. Jack lighting permits may be issued after the closing date of the shotgun deer season until April 15, and from September 1 to the start of the muzzle loading deer season. Exemptions may be granted for severe damage to annual or early-harvest crops upon approval. Kill records and/or unused permits and subpermits shall be returned to the DAG within fourteen (14) days from the expiration of the permit; failure to return these records or permit within the specified time period will result in no future permits being issued to that permittee or subpermittee.
6. The permittee is required to notify the Division of Law Enforcement and the local Police Department immediately prior to use of the permit, indicating their name, permit number, location, and time during which shooting is to take place. This requirement will be printed on the permit and becomes a condition for validating and authorizing its use. Permittee must additionally maintain a record of the jack lighting activity, to include time, and made available for inspection by Environmental Police Officers. Firearms shall be limited to shotgun only, pursuant to the R.I. Hunting Regulations for the Season, 250-RICR-60-00-9. Method shall be limited to illumination by artificial light, for the purpose of safety.
7. Permittee or subpermittee shall notify the Division of Law Enforcement (1-800-498-1336) within four (4) hours of the killing of any deer. The number of deer that may be taken per night shall be set by the DAG. Permittees shall give their name, address, and permit number, and as soon as available, an Environmental Police Officer or designee shall inspect and tag the deer with a metal seal.
8. Liability for any and all damage or injury incurred while exercising the use of jack lighting permit is the responsibility of the permit holder.
9. As a condition of the permit, the owner of the farm must permit hunting during the regulated season, allowing sufficient numbers of hunters to abate the deer damage problem, consistent with the size of the property

and any safe constraints. Proof of hunting activity is the responsibility of the landowner.

10. All permittees and subpermittees may be subject to administrative penalties of up to \$1,000.00 for violation of any of these regulations pursuant to R.I. Gen. Laws Chapter 42-17.6. Any permittee or subpermittee subject to administrative penalties pursuant to R.I. Gen. Laws § 42-17-6, may request a hearing on the merits of the administrative penalties within twenty (20) days of said notice. All requests for a hearing shall be made to the Department of Environmental Management, Division of Administrative Adjudication.

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