

250-RICR-60-00-3

## TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

### CHAPTER 60 – FISH AND WILDLIFE

#### SUBCHAPTER 00 – N/A

#### PART 3 – Rules and Regulations Governing Nuisance Wildlife Control Specialists~~s~~

##### 3.1 Purpose

The purpose of these regulations is to establish the standards under which “~~a~~Nuisance ~~w~~Wildlife ~~e~~Control ~~s~~Specialists” may be permitted to conduct the capture, handling, disposition, exclusion and other activities as related to wildlife protected by the Department under R.I. Gen. Laws Chapter 20-1.

##### 3.2 Authority

These Rules and Regulations are promulgated pursuant to authority vested in the Director of the Department of Environmental Management under R.I. Gen. Laws § 20-1-18 and R.I. Gen. Laws Chapter 42-17.1 and in accordance with the requirements of the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

##### 3.3 Administrative Findings

The proper handling and disposition of nuisance wildlife requires special knowledge, skills, and facilities not possessed by the general public. Specially trained individuals, collectively called ~~a~~Nuisance ~~w~~Wildlife ~~e~~Control ~~s~~Specialists, provide services to the general public for the capture, handling, disposition, and exclusion of nuisance wildlife from properties and homes.

##### 3.4 Application

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

##### 3.5 Definitions

A. Wherever used in these Rules and Regulations the following terms shall be construed as follows:

1. “Animal” or “Animals” means every living creature except a human being.

2. "Bite" or "Bitten" means that the skin has been penetrated by an animal's tooth or teeth.
3. "Department" or "DEM" means the Rhode Island Department of Environmental Management.
4. "Director" means the Director of the Rhode Island Department of Environmental Management, or his/her duly authorized agent or agents.
5. "Division" means the Division of Fish & Wildlife of the Rhode Island Department of Environmental Management.
6. "Endangered species" means any animal so declared by the United States secretaries of the interior or commerce under the provisions of the Federal Endangered Species Act, 16 U.S.C. § 1532 (2018), or animal so declared by the Director of the Rhode Island Department of Environmental Management pursuant to R.I. Gen. Laws § 20-37-2(3).
7. "Environmental police officer" means the Chief of the DEM Division of Law Enforcement, the deputy chiefs and all officers of the Division of Law Enforcement.
8. "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous loss of consciousness followed immediately by death or by a method that involves anesthesia produced by an agent which causes painless and rapid loss of consciousness and death during that period of unconsciousness. All methods of euthanasia must comply with Rhode Island General Laws.
9. "Fish and Wildlife" or "F&W" means the Department of Environmental Management's Division of Fish and Wildlife.
10. "Furbearer" means all mammals as defined under R.I. Gen. Laws § 20-16-1.
11. "Nuisance ~~w~~Wildlife ~~e~~Control ~~s~~Specialist" "NWCS" or "Permittee" means any person issued a permit pursuant to the provisions of R.I. Gen. Laws §§ 20-1-18 and 20-1-22, for the control of nuisance wildlife.
12. "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, municipality, or other government entity or other legal entity.
13. "Rabies vector species" or "RVS" means those wildlife species that have been identified as the most common carriers of rabies virus currently including raccoons, skunks, bats, woodchucks, and foxes.

14. "Site of capture" means the parcel of land on which the problem animal was captured and which is owned or leased by the person who captured the problem animal or who engaged a Nuisance ~~w~~Wildlife ~~e~~Control ~~s~~Specialist to affect such capture.
15. "Translocation" means the transport and release of animals from one location to another.
16. "Wildlife control services" means to harass, repel, evict, exclude, capture, posses, transport, liberate, destroy; or attempt to harass, repel, evict, exclude, capture, posses, transport, liberate or destroy a problem wild animal. This is to include the disturbance, removal, or destruction or attempted disturbance, removal, or destruction of nests, dens, lodges, or burrows.
17. "Wildlife rehabilitation" means the practice of providing care for injured, orphaned or sick wildlife including their capture, housing, feeding, emergency treatment for the primary purpose of release into the wild.

### 3.6 Nuisance Wildlife Control Specialist Permits

- A. The Division of Fish and Wildlife shall issue Nuisance Wildlife Control Specialist Permits to persons meeting the criteria set forth in these regulations to provide nuisance wildlife control services to the general public.
  1. No person, unless otherwise authorized by state or federal law, or as otherwise provided for under §§ 3.10 and 3.11 of this Part of these regulations, shall engage in the business of providing wildlife control services, with or without an associated fee, on the property of another, without first obtaining a Nuisance ~~w~~Wildlife ~~e~~Control ~~s~~Specialist permit from the Department of Environmental Management.
  2. A person may qualify to obtain a Nuisance ~~w~~Wildlife ~~e~~Control ~~s~~Specialist permit from the DEM upon meeting all of the following requirements:
    - a. They have submitted a complete application on forms provided by the DEM.
    - b. They provide proof of being 18 years of age or older.
    - c. They have successfully completed a written examination administered by the DEM. A person must attain a passing grade of 80 percent.
    - d. They possess a current Rhode Island trapping license.
    - e. They have not been convicted of a nuisance wildlife-related violation or do not have a disposition filed before a state, federal or

municipal court or administrative tribunal of competent jurisdiction anywhere in the United States or Canada within three (3) years before submitting an application or, had their NWCS licensed revoked in Rhode Island under the provisions of these regulations within three (3) years before submitting an application.

- f. They have paid the permit fee, R.I. Gen. Laws § 20-1-21.
3. All initial permit applications shall contain the following information:
  - a. The applicant's date of birth;
  - b. The applicant's name, address, and daytime telephone number;
  - c. If the application is a corporation, partnership, business, commercial entity, club, organization, or association, whether public or private, the name, address, and telephone number of the president, director, or principal officer;
  - d. The applicant's current Rhode Island trapping license number;
  - e. The applicant's signature.
4. Renewal applications shall include information as listed in §§ 3.6(A)(3)(a) through (e) of this Part.
5. A fee shall be charged for the ~~Rhode Island~~ Nuisance Wildlife Control Specialist Handbook to cover the cost of printing, shipping and handling.
6. Applications for NWCS permit may be denied when:
  - a. The applicant has been convicted of a nuisance wildlife-related violation or currently has a disposition filed before a state, federal or municipal court or administrative tribunal of competent jurisdiction anywhere in the United States or Canada within three (3) years preceding the application date;
  - b. The applicant fails to provide all required information on the application or to provide truthful information;
  - c. The applicant fails to pay the required permit fee.
7. Nuisance Wildlife Control Specialist applications under this section must be signed by the permittee. As a condition of signing the application, the permittee agrees:
  - a. To comply with all relevant provisions of the law including but not limited to R.I. Gen. Laws Titles 4 and 20, and all applicable

conditions and restrictions of the permit; To hold the state harmless for any damage, injury, or disease caused by any wildlife captured, transported, euthanized, or held under the permit, to include treatment for and prevention of such and to assume all liability associated with this permit.

b. Permittees assume all liability associated with this permit.

8. ~~The expiration date for the w~~Nuisance Wildlife ~~e~~Control ~~operators~~Specialist-permits shall be ~~valid April 1 through~~ midnight of ~~December~~March 31~~st in the calendar of the following~~ year. Permits must be renewed annually and are only valid after receipt of completed renewal application and permit fee. Permits that are not renewed after a period of six months shall be considered inactive. Applicants who have allowed their permit to become inactive must reapply for a new permit in accordance with § 3.6(A)(2) of this Part.
9. A person who fails the written examination may retake the examination one additional time after ~~sixtyfourteen~~ (60~~14~~) days but not again for ~~sixty~~ (60) ~~months~~days if failing ~~to pass~~ the test the second time.
10. Municipal animal control officers, when acting as an agent for the municipality, on land owned or leased by the municipality, shall be exempted from the permit and examination requirements of these regulations. Municipal animal control officers, when acting as an agent for the municipality in response to situations involving potentially rabid animals within their communities, are exempted from NWCS permit requirements.
11. Those persons who possess a current certification pursuant to the Department's Rules and Regulations ~~R~~relating to Pesticides (Part 40-15-2 of this Title) for a Category 7a or 7d pesticide applicators license shall be exempt from the NWCS permit requirements for the purposes of performing wildlife control services for mice (*mus spp*, *Peromyscus spp*), Norway rats (*Rattus Norvegicus*), English sparrows (*Passer domesticus*), ~~rock~~ pigeons (*Columba livia*), and ~~European~~ starlings (*Sturnus vulgaris*). The control of any other species of wild mammal, bird, or reptile requires a NWCS permit.
12. The ~~Nuisance w~~Wildlife ~~e~~Control ~~s~~Specialist permit shall authorize the permittee to control ~~the~~ following species or groups of species only: striped skunk (*Mephitis mephitis*), Virginia opossum (*Didelphis virginiana*), raccoon (*Procyon lotor*), red fox (*Vulpes vulpes*), gray fox (*Urocyon cinereoargenteus*), coyote (*Canis latrans*), bats (*Eptesicus fuscus*, *Lasiurus noctivagans*, *Lasiurus spp*, *Myotis spp*, *Perimyotis subflavus*), moles (*Parascalops breweri*, *Condylura*, *Scalopus aquaticus*), muskrat (*Ondatra zibethicus*), gray squirrel (*Sciurus carolinensis*), red

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squirrel (*Tamiasciurus hudsonicus*), flying squirrels (*Glaucomys volans*), chipmunk (*Tamias striatus*), woodchuck (*Marmota monax*), ~~rats, mice,~~ voles (*Microtus spp*), cottontail rabbits (*Sylvilagus spp*), weasels (*Mustela spp*), mink (*Mustela vison*), pigeons (*Columba livia*), European starlings (*Sturnus vulgaris*), English sparrows (*Passer domesticus*), monk parakeet (*Myiopsitta monachus*), snapping turtle (*Chelydra serpentina*), and snakes (*Pantherophis alleghaniensis*, *Thamnophis sirtalis*, *Heterodon platirhinos*, *Carphophis amoenus*, *Coluber constrictor*, *Nerodia sipedon*, *Storeria occipitomaculata*, *Diadophis punctatus*, *Storeria dekayi*, *Lampropeltis triangulum*, *Thamnophis sauritis*, *Opheodrys vernalis*). The Director or his or her designee may authorize a permittee to control or authorize the disposition of other species not listed above at such times and under such conditions as he or she deems appropriate or necessary.

13. The Director may, under his or her regulatory authority, suspend the control of certain species or certain activities when he or she deems it is necessary to ensure human health or the health of wildlife or domestic animals.
14. Translocation of any nuisance mammal captured alive is prohibited. Mammals captured alive must be euthanized in a manner that complies with R.I. Gen. Laws or released on the site of capture. The transportation of captured animals to an off-site location for the purpose of euthanization, disposal, or rehabilitation is permitted. Animals may not be held in captivity for purposes of release or euthanization and -disposal for more than 24 hours. During such time, animals must be provided adequate protection from excessive heat, cold, or undue stress. Under the authority of the Rhode Island Department of Health or the DEM, for public health concerns, animals may be held in captivity for a longer period of time.
15. Any captured mammal showing symptoms of disease must not be released and must be euthanized in a manner that complies with Rhode Island law. Any incident involving contact or potential exposure between the captured mammal and a human must be reported immediately to the Rhode Island Department of Health (DOH). The animal, or carcass must be made available to the DOH per their requirements. Any incident involving contact or potential exposure between the captured mammal and a domestic animal must be immediately reported to the animal control officer (ACO) in the town in which the incident occurred and the DOH. The animal or carcass must be made available to the ACO or the DOH per their requirements.
16. Apparently healthy mammals that show no sign of behavioral, neurological, or locomotive impairments, those mammals without visible wounds, or juvenile raccoons, skunks, woodchucks, or foxes which are not known or suspected to have contact with a human or domestic animal

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may be transported to a R.I. licensed wildlife rehabilitator. Wildlife rehabilitators are not obligated or required to accept animals from NWCS.

17. No live animals taken under the provisions of a ~~Nuisance w~~Wildlife ~~e~~Control ~~s~~Specialists permit shall be kept, tamed, used for propagation purposes, sold, offered for sale, traded, or bartered.
18. Permittees may employ other permittees to assist in nuisance wildlife control services. Employees conducting nuisance wildlife services as defined in § 3.5 of this Part must have a current R.I. NWCS permit.
19. Permittees must file an annual report with the Division of Fish and Wildlife at the end of each calendar year. The report must be submitted at time of renewal for the preceding calendar year and shall be on forms provided by the Department. The report shall require the permittee to record all information requested on the form including: the species of wildlife handled, the number of individual animals, the disposition of animals, and other information as required. Reports must be made available for inspection by a Division of Law Enforcement Environmental Police Officer (EPO) or Division of Fish and Wildlife official at any reasonable time.
20. Revocation Criteria
  - a. Applications and/or permits for NWCS may be denied, revoked or suspended when:
    - (1) The applicant or permittee has been convicted of a nuisance wildlife-related violation in Rhode Island or other state within three (3) years preceding the application date;
    - (2) The applicant or permittee failed to provide all required information on the application or to provide truthful information;
    - (3) The applicant or permittee failed to pay the required permit fee;
    - (4) The permittee has failed to submit the annual report or;
    - (5) The failure of the permittee to comply with the conditions of the permit or of any violation of the provisions of the R.I. Gen. Laws Title 20 or other appropriate sections of the R.I. Gen. Laws and these regulations.
21. Methods of Take
  - a. Permittees may only take or attempt to take nuisance animals by the following means:

(1) For Mammals:

- (AA) Any trap type as authorized for use under the most current Hunting and Trapping Regulations adopted pursuant to R.I. Gen. Laws §§ 20-1-2; 20-1-4; 20-1-8; 20-1-12; and 20-1-13; and R.I. Gen. Laws Chapters 42-17.1; 20-15; and 20-18, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act, or as otherwise permitted by Rhode Island General Law.
- (BB) Common mouse or rat traps and glue boards for small mammals.
- (CC) Other allowable methods include: shooting with a firearm when in accordance with all state and local laws, hand nets, hand capture, and noose poles. Also fumigant cartridges for the control of woodchucks, and approved rodenticides to control rats and mice when in accordance with provisions of a current Rhode Island commercial Category 7d (Vertebrate) pesticide applicators license (Part 40-15-2 of this Title).

(2) For Birds:

- (AA) Pigeon, starling, and sparrow-type cage traps.
- (BB) The use of nontoxic and toxic repellents that are registered for use in Rhode Island may be used to control pigeons, starling, English sparrow, or other bird species for which a federal depredation permit has been issued, in accordance with provisions of a current Rhode Island commercial Category 7d (Vertebrate) pesticide applicator license (Part 40-15-2 of this Title).
- (CC) Other allowable methods include: shooting with a firearm when in accordance with all applicable federal, state, and local laws, hand nets, and hand capture.

(3) For Snapping Turtles:

- (AA) Wire or twine hoop or funnel traps when set in such a manner that captured turtles or other animals may reach the surface to breath, or by snagging, hand nets, or hand capture. Turtle traps must have a metal



tag attached, which, at a minimum, bears the trapper's name and address.

22. Permittees must possess a valid Rhode Island firearms hunting license, or DEM Pistol/Revolver Certification Card (Blue Card) if using firearms while performing wildlife control services. The use of firearms is subject to all state and local restrictions.
23. Nothing in these regulations permits the use of regulated medical supplies including but not limited to syringes and drugs without specific conformance with the Department of Health Hypodermic Needles, Syringes, and Other Such Instruments Rules and Regulations (216-RICR-20-15-6).
24. Obtaining a permit pursuant to these regulations does not preclude the permittees conformance with such other federal, state or local requirements for licensure certification or permits that may be required.
25. Issuance of a permit does not exempt the permittee from compliance with the provisions of any other local, state, or federal statutes, regulations or ordinances.
26. The capture, handling, or harassment of any federally listed endangered species is prohibited.

### **3.7 Violations**

Any violation pursuant to the provisions of the R.I. Gen. Laws § 20-1-16 and the Rules and Regulations herein, either by a permittee or a sub-permittee working under said permittee may be cause for imposing penalties in accordance with the provisions of the above-mentioned statute, as well as revocation of existing permit(s) of both the sub-permittee and responsible permittee.

### **3.8 Superseded Rules and Regulations**

On the effective date of these Rules and Regulations, all previous Rules and Regulations and any policies regarding the administration and enforcement of ~~Nuisance w/Wildlife cControl operators~~ **Specialists** shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

### **3.9 Severability**

If any provision 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.

### **3.10 Appeal & Hearing Procedures**

#### **A. Opportunity for Hearing**

1. Denials - Any person who feels aggrieved by a decision of the permitting agency relating to his/her application for a permit, permit renewal, or other approval may appeal to the Administrative Adjudication Division, for review of the subject decision.
2. Violations - Any person who feels aggrieved by a notice of violation concerning any of the provisions of these rules, may request a hearing before the Administrative Adjudication Division, subject to the provisions of R.I. Gen. Laws § 42-17.1-2(u).
3. Hearings and Administrative Procedure - Pursuant to the authority granted to the Department in R.I. Gen. Laws § 42-17.7-9.
  - a. Any person who seeks an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these Rules and Regulations must file said request in writing with the Clerk of Administrative Adjudication Division, 235 Promenade Street, 3rd Floor, Providence, Rhode Island 02908 within twenty (20) days of receipt of the contested agency enforcement action.
  - b. Any person who seeks an adjudicatory hearing relative to the denial of a permit or sub-permit arising under these Rules and Regulations must file said request in writing with the Clerk of Administrative Adjudication Division, 235 Promenade Street, 3rd Floor, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.