



Wildlife Damage Management



Laws & Regulations

The wide range of natural habitats in Wisconsin support a great diversity of wildlife. However, sometimes wildlife causes conflicts with humans in terms of property damage and issues with human health and safety. Federal, state, and sometimes local laws and regulations help guide wildlife damage management to ensure public safety and the continued well-being of Wisconsin's wildlife. This fact sheet summarizes the primary laws and regulations that apply to wildlife damage management, identifies the government agencies responsible, defines specific classes of wildlife, and provides links to additional information on federal and state wildlife laws.

Laws governing wildlife damage management can be complex. We encourage you to check the regulations and/or contact the agencies listed on the back of this publication for assistance prior to conducting wildlife damage management projects.



Red-winged blackbird (female). Photos at top (clockwise from upper left): red fox, Canada geese, muskrat and black bear.

GOVERNMENT BODIES

The two government agencies with primary responsibility for enforcing laws and regulations relating to wildlife damage management in Wisconsin are the Wisconsin Department of Natural Resources (WDNR; a state agency) and the United States Department of the Interior, Fish and Wildlife Service (FWS; a federal agency).

The mission of the WDNR is to protect and enhance the natural resources of Wisconsin and to provide a healthy, sustainable environment within the state for current and future generations. In relation to damage management, the WDNR issues nuisance

animal removal permits, manages the Wildlife Damage Abatement and Claims Program, and offers technical assistance on wildlife damage management. For most wildlife species the WDNR does not provide animal trapping or removal services to landowners. As a state agency, its regulatory authority ends at the state border.

The mission of the FWS is to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The agency issues depredation permits for federally managed

(continued on page 2)

GOVERNMENT BODIES (continued)

species (for example, migratory birds). It is also responsible for management of federally protected, threatened and endangered species.

The United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (WS; a federal agency) is a non-regulatory program that assists private individuals, organizations and agencies with wildlife damage management. The mission of WS is to provide federal leadership in managing

problems caused by wildlife. Wildlife Services partners with the WDNR and other agencies to manage various wildlife conflicts. For example, Wildlife Services assists the WDNR in implementing the Wildlife Damage Abatement and Claims Program.

Wildlife Services also substantiates the need for depredation permits for select species, and works to protect humans, agriculture, and natural resources from wildlife damage.

DEFINITIONS

In order to make effective rules, the agencies in charge of enforcing wildlife damage management laws and regulations must define several terms. Below are some important ones. (Please note that some species will meet the definition for multiple categories.) However, the legal status of wildlife species can change. For a species' current status, always check with the WDNR and/or FWS.

Migratory Birds – Birds listed as protected under the Migratory Bird Treaty Act (MBTA – see page 3).

Game Species – Any species for which a hunting or other type of licensed harvest season (for example, trapping) has been established. Examples in this category are: white-tailed deer, mallard ducks, and wild turkeys.

Unprotected Species – Unprotected species are species including European starlings, house sparrows, coturnix quail, chucker partridge, mice, chipmunks, gophers, and all other wild animals which are not classified as migratory birds, game animals, threatened or endangered. It also includes game animals such as porcupines, skunk, and weasels for which there is no closed season, bag, size, or possession limit specifically mentioned in the Wisconsin hunting trapping regulations.

Protected Species – Protected species include all threatened and endangered species, cougar, Canada lynx, badger, moose, gray wolf, wolverine, flying squirrel, woodchucks, rattlesnakes, bullsnakes, black rat snakes, the racer snakes, prairie chickens, Canada spruce grouse (spruce hen), swans, cranes, bitterns, plovers, cormorants, kingfishers, herons, sandpipers, grebes, eagles, hawks, falcons, owls, hen pheasants, and any other wild bird which is not defined as unprotected and for which no open season has been established. In general, protected species cannot be removed, possessed, or transported without WDNR written authorization.

Furbearer Species – Furbearers are species which are hunted or trapped primarily for their fur. Examples include otter, beaver, mink, muskrat, fisher, skunk, raccoon, fox, weasel, opossum, coyote, and bobcat.

Endangered Species – This term is used by the state and federal government. At the federal level, this term applies to species that are protected by the Endangered Species Act because they are in danger of extinction throughout all or a significant portion of their range. In Wisconsin, an endangered species is defined as a species whose continued existence in the state is in jeopardy. Species that are state-listed as endangered may not be considered endangered by the federal government, but usually a federally endangered species is also considered to be state endangered. Queen snakes are an example of a state endangered species. Kirtland's warblers are a species that is state and federally listed as endangered.

Threatened Species – Animals can be state or federally listed as threatened. At the federal level this applies to any species protected by the Endangered Species Act and likely to become endangered in the near future throughout all or a significant portion of its range. For Wisconsin, the same definition applies within the context of the state. An example of a state threatened species is the great egret. Canada lynx are federally listed as threatened and state listed as a protected species.

STATE LAWS & REGULATIONS

State rules and regulations regarding wildlife causing damage or a nuisance can be found in Wisconsin State Statute and Wisconsin Administrative Code. State statutes are created and changed by the state legislature through the passage of legislative bills. Wisconsin administrative codes are created by individual state agencies. In the case of nuisance and wildlife damage

regulations, the WDNR, with approval by the Natural Resources Board and review by the State Legislature, creates administrative code(s). The majority of rules and regulations regarding nuisance wildlife can be found in Chapter 29 of Wisconsin State Statute and Chapter 12 of Wisconsin Administrative Code.

In general, the WDNR's written authorization is needed for a landowner or property manager to lethally remove or destroy any animal classified as a furbearing animal, game animal or bird, protected animal, or an animal or bird listed as endangered or threatened. The WDNR's written authorization is required to live trap and relocate white-tailed deer, elk, black bear, or any wild animal or bird classified as threatened or endangered. Written authorization is also required to relocate any wild animal to WDNR controlled lands.

Authorization from the WDNR is not required to lethally remove or destroy unprotected species; cowbirds, crows, grackles, or red-winged blackbirds causing damage or nuisance; or muskrats damaging dikes, dams, shorelines, or roadways. State law also authorizes landowners or occupants of land to shoot or trap beaver, coyotes, fox, raccoons, woodchucks, rabbits, and squirrels on the lands they own or occupy, year-round without a hunting or trapping license. All other rules regarding method of take still apply.

In some cases homeowners are not experienced or comfortable removing the animal and need to hire an animal control business or have a friend or family member conduct animal removal activities on their behalf. In these situations the individual acting as an "agent" of the landowner or property manager must have a valid Wisconsin trapping license if they are trapping furbearing animals or a valid Wisconsin hunting license if they are

shooting or trapping non-furbearing animals such as squirrels or rabbits. In addition, agents need written, signed, and dated authorization from the landowner, including the name, address and phone number of the landowner, name, address and phone number of the person removing the wild animal, the species authorized for removal, property location, type of removal activity authorized, and the time period authorized for removal.

When removing an animal by trapping, the trapper must follow the state trapping regulations which determine the size of traps that may be used, location and type of sets that may be used, and the time of year when certain trapping methods are acceptable for use. The best source for this information is the annual Wisconsin Trapping Regulations pamphlet, available where hunting and fishing licenses are sold (and online at <http://dnr.wi.gov/org/land/wildlife/trap>).

For non-lethal damage abatement, WDNR authorization is not required as long as the species in question is not a protected, threatened, or endangered animal. For example, state regulations allow a landowner to remove beaver dams and harass or disturb wild birds provided that the bird is not nesting and the bird is not physically harmed by the harassment.

Anyone conducting animal control in urban areas should also check with the municipality to verify if there are ordinances preventing trapping or firearm discharge.

FEDERAL LAWS & REGULATIONS

The **Migratory Bird Treaty Act (MBTA)** authorizes the FWS to protect birds listed in treaties between the U.S. and Canada, Mexico, Japan and Russia. Although the act refers to migratory birds (birds that spend part of each year in more than one state or country), some birds protected by the act may be found in Wisconsin throughout the year (for example, resident Canada geese, red-tailed hawks, downy woodpeckers – see back page for a link to the list of protected bird species). The act prohibits capture, kill or possession of listed birds, their feathers, eggs, or any of their other parts without a permit from the FWS. The act does allow for the removal and destruction of nests if the nest does not contain eggs or chicks. In general, non-lethal methods like harassment may be used without a permit except when they would impact nesting birds with eggs or young.

The FWS has established depredation orders to facilitate management of conflicts with resident Canada Geese and

blackbirds. The depredation orders eliminate the fees and consultation requirements of permits but require registration with the WDNR and FWS before conducting management of resident Canada geese. Depredation orders require annual reporting of birds taken and nests/eggs oiled, addled, or destroyed.

The **Endangered Species Act (ESA)** was established to protect species (and their critical habitat) listed by the federal government as being threatened or endangered. The FWS is the primary agency responsible for implementing and enforcing the ESA. The ESA prohibits killing, harassing, pursuing, collecting, trapping, or wounding species covered by the act except under very limited circumstances.



Christopher Warneke

Resident Canada geese are one of the species protected under the MBTA.

(continued on back page)

Wildlife Damage Management

Laws & Regulations

This fact sheet is part of a series designed to help you successfully manage wildlife damage problems on your property. Other publications in this series focus on controlling damage from specific animals.

FEDERAL LAWS & REGULATIONS (continued from page 3)

The **Bald and Golden Eagle Protection Act** is a federal law which provides special protections for bald and golden eagles. The act prohibits pursuing, shooting, poisoning, wounding, killing, capturing, trapping, collecting, molesting or disturbing eagles, their nests or eggs without authorization from the FWS. Eagle nests are protected even when eagles are not using the nests.



Eagles are protected under the Bald and Golden Eagle Protection Act and MBTA.

The **Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)** establishes regulations for the registration and safe use of pesticides, including those used for wildlife damage management. Instructions on product labels are legally binding requirements established by the U.S. Environmental Protection Agency and state regulatory agencies. In Wisconsin, a pesticide must meet state and federal registration requirements before it can be used. The Wisconsin Department of Agriculture, Trade and Consumer Protection is authorized to enforce state and federal pesticide laws and provides training required for commercial pesticide application. Some products used for wildlife management, such as contraceptives, must also be authorized by the WDNR before they may be used.

MORE INFORMATION

List of Migratory Bird Treaty Act (MBTA) protected species:

<http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html>

FWS Canada Goose Nest & Egg Depredation Order: <https://epermits.fws.gov/eRCGR/DOC/eRcgrFaq.pdf>

FWS Blackbird Depredation Order (50 CFR 21.43): (visit wildlifedamage.uwex.edu for link to this web resource)

USDA APHIS Wildlife Services: http://www.aphis.usda.gov/wildlife_damage

State office – Sun Prairie, 866-4USDAWS (487-3297); District offices – Rhinelander (1-800-228-1368) and Waupun (1-800-433-0688). These offices maintain toll-free animal damage hotlines during normal business hours.

Wisconsin Department of Natural Resources: <http://dnr.wi.gov> UW-Extension: <http://www.uwex.edu/contact>

United States Fish and Wildlife Service: <http://www.fws.gov>

This publication is available in pdf format at: wildlifedamage.uwex.edu

Copyright © 2012 by the Board of Regents of the University of Wisconsin System doing business as the division of Cooperative Extension of the University of Wisconsin-Extension. All rights reserved. Send copyright inquiries to: Cooperative Extension Publishing, 432 N. Lake St., Rm. 227, Madison, WI 53706, pubs@uwex.edu.

Authors: *Chris Warneke*, UW-Madison; *Kim Wagner*, USDA APHIS Wildlife Services; *Brad Koele*, WDNR; *Jason Suckow*, USDA APHIS Wildlife Services; *David Drake*, UW-Madison

Cooperative Extension publications are subject to peer review.

University of Wisconsin-Extension, Cooperative Extension, in cooperation with the U.S. Department of Agriculture and Wisconsin counties, publishes this information to further the purpose of the May 8 and June 30, 1914, Acts of Congress. An EEO/AA employer, the University of Wisconsin-Extension, Cooperative Extension provides equal opportunities in employment and programming, including Title IX and ADA requirements. If you need this information in an alternative format, contact Equal Opportunity and Diversity Programs, University of Wisconsin-Extension, 432 N. Lake St., Rm. 501, Madison, WI 53706, diversity@uwex.edu, phone: (608) 262-0277, fax: (608) 262-8404, TTY: 711 Wisconsin Relay.

This publication is available from your county UW-Extension office (www.uwex.edu/ces/cty) or from Cooperative Extension Publishing. To order, call toll-free: 1-877-947-7827 (WIS-PUBS) or visit our website: learningstore.uwex.edu.

Wildlife Damage Management – Laws & Regulations G3997-001 I-02-2012

Graphic design by Jeffrey J. Strobel,
UW-Extension Environmental Resources Center.