

WS Directive

4.220 04/21/04

AVOIDANCE OF COMPETITION WITH PRIVATE BUSINESS

1. PURPOSE

To provide guidance for avoiding competition with private business in wildlife damage management (WDM).

2. BACKGROUND

Wildlife is a publicly-owned natural resource, and Federal and State Governments have responsibility for maintaining healthy, viable wildlife populations and for assisting citizens when wildlife comes into conflict with human interests.

Congress specifically authorized USDA to enter into cooperative agreements with Government agencies, industries, and affected citizens to manage conflicts with wild animals. By coordinating Government involvement in managing wildlife damage at the Federal level, WS officials can help ensure that management activities are environmentally sound and conducted in compliance with applicable Federal, State, and local laws and regulations, including the Endangered Species Act and the National Environmental Policy Act (NEPA).

WS activities are differentiated from WDM activities conducted by the private sector by the environmental protection provisions provided by NEPA. WS evaluates and considers the environmental consequences of its proposed actions.

WS has a long history of involvement with the private pest control industry. WS cooperates with the industry by providing technical training at State, regional, and national conferences, developing and registering products for use by the industry and the public, and assisting private businesses by applying WS-specific management methods when requested. During the course of these activities, WS operations have rarely come into conflict with private business interests.

3. AUTHORITY

The Act of March 2, 1931 (7 U.S.C. 426-426c), as amended, provides authority for WS to conduct WDM and to cooperate and enter into

agreements with States, individuals, local jurisdictions, public and private agencies, organizations, and institutions.

A Memorandum of Understanding (MOU) or cooperative agreement exists between WS and the appropriate State regulatory agencies in each State which provide additional authority and defines the respective roles and responsibilities of each agency for resolving human/wildlife conflicts.

WS Directive 3.101, Cooperative Programs, provides authority for State Directors to enter into cooperative service agreements in order to facilitate the accomplishment of the WS mission.

4. POLICY

WS personnel will provide WDM information and assistance to the public in accordance with the Act of 1931 and other relevant authorities and obligations. Information about WS operations and research may also be provided; however, specific information about funding and staffing for direct control services will only be provided upon request.

WS personnel may cooperate with a private business or individual engaged in WDM on a specific project by providing direct or technical assistance, supervision, or by applying WS-specific methods. However, lacking a cooperative relationship, WS will not provide direct assistance services at the same time and same location or tract of land where a private business or individual is similarly operating.

WS will not provide a bid in response to an advertised request for open bids submitted by an entity requesting direct assistance with a wildlife conflict.

To avoid the appearance of competition with private businesses and individuals engaged in WDM, WS will only provide direct assistance services after satisfying all of the following conditions:

- a. The work is within WS' authority and authorization for WS to provide the service is provided through an MOU or cooperative agreement with the agency or governing body with jurisdiction.
- b. WS discusses the legal and prudent management methods available with the requester including technical and direct assistance options and private sector assistance providers.
- c. The cooperator requests WS' assistance.

5. REFERENCES

WS Directive 3.101, Cooperative Programs (2/25/94)
Animal Damage Control Act of March 2, 1931 (46 Stat. 1468;
7 U.S.C. 426-426c), as amended
Animal Damage Control Program Final Environmental Impact
Statement, 1994
Endangered Species Act of 1973 (16 U.S.C. 1531-1543), as amended

National Environmental Policy Act (Public Law 91-190, 42 U.S.C.
4321 et seq.)
Rural Development, Agriculture, and Related Agencies
Appropriations Act of 1988 (Public Law 100-202)

Deputy Administrator