

Wildlife Services Directive

3.101
February 4, 2015

INTERFACING WITH BUSINESS AND ESTABLISHING COOPERATIVE PROGRAMS

1. PURPOSE

To clarify Wildlife Services' position and responsibilities regarding wildlife damage management (WDM) businesses, and to provide guidance for developing cooperative programs to manage wildlife damage.

2. REPLACEMENT HIGHLIGHTS

This directive replaces WS Directive 3.101 dated 05/25/05

3. BACKGROUND

Wildlife is a publicly-owned natural resource, and Federal and State Governments have responsibility for maintaining healthy, viable wildlife populations and for assisting Federal or State agencies, public or private institutions, organizations, or associations, and private citizens when wildlife comes into conflict with humans. Private WDM businesses or other entities also have the ability to respond to requests for assistance regarding wildlife damage or conflicts.

Wildlife Services (WS) is specifically authorized to enter into cooperative programs with Government agencies, public or private institutions, organizations, or associations, and private citizens to manage conflicts with wild animals. By coordinating Federal Government involvement in managing wildlife conflicts and/or damage, WS officials help ensure that wildlife management activities are environmentally sound and conducted in compliance with applicable Federal, State, and local laws and regulations, including two significant Federal environmental laws, the Endangered Species Act and the National Environmental Policy Act (NEPA).

Wildlife Services' successes in developing and providing its expertise in WDM methodologies and strategies have increasingly created methodologies, strategies, and opportunities for private industry to provide similar WDM services. WS activities are differentiated from commercial WDM activities among other things, adherence to the environmental protection requirements promulgated under NEPA. In accordance with NEPA, WS evaluates and considers the environmental consequences of its proposed actions. WS may implement methods approved exclusively for WS personnel who are

the only individuals, public or private, that are trained and certified in their use. WS cooperates with private businesses by (1) providing technical training at State, regional, and national conferences, (2) developing certain WDM methods and registering certain chemical or pesticide WDM products for use by the industry and the public, and (3) assisting businesses by applying WS-specific management methods when requested.

4. AUTHORITY

The Act of March 2, 1931, as amended, (7 U.S.C. 426-426b), and the Act of December 22, 1987 (7 U.S.C. 426c) authorizes the Secretary of Agriculture to conduct a WDM program to control injurious and/or nuisance animal and bird species with provisions for cooperating and entering into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions.

Memoranda of Understanding or cooperative agreements between WS and other Federal agencies and also with the appropriate State regulatory agencies in each State define and clarify the respective roles and responsibilities of each agency for resolving wildlife conflicts.

5. DEFINITION

For the purposes of this directive, the term “cooperative programs” applies to contractual agreements with other Federal or state agencies, county or local governments, or public or private organizations, institutions, or associations, or private individuals where reimbursement for services is provided to WS.

For the purpose of this directive, a “Third Party Agreement” is one where a requestor (Party 1) contracts with an entity (Party 2) who in turn establishes an agreement with WS (Party 3) to provide services (training or operational services) to the original requestor (Party 1).

6. POLICY

WS personnel will provide WDM information and assistance to the public in accordance with The Act of March 2, 1931, the Act of December 22, 1987, and other relevant authorities and obligations.

Directors and State Directors may enter into cooperative service agreements to facilitate the accomplishment of WS' mission. Agreements involving the exchange of funds will adhere to all applicable Federal laws and USDA and APHIS policies governing such involvement and must comply with guidelines provided in APHIS' Budget and Accounting Manual and Agreements Management Manual.

WS recognizes that requesters of WDM services have the right to enter into cooperative agreements with WS or with a private WDM business – whichever best meets the requester’s needs. Accordingly, WS will:

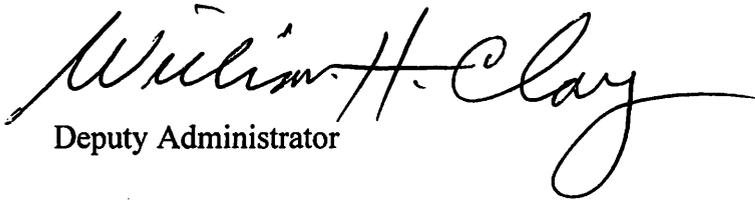
- a. inform service requesters that other service providers may be available and advise them of their right to choose.
- b. advise that any WS reference to private service providers does not constitute in any manner any official endorsement or approval whatsoever by WS of any product or service, or of the quality or reliability of such product or service, nor any recommendation for any product or service to the exclusion of others that may be suitable.
- c. consider requests for assistance for WDM services that are specifically directed to WS, normally through phone calls, emails, and in-person communication. However, WS will not consider “publicly advertised solicitations, notices, or bid advertisements seeking WDM services” that are open to private sector service providers. “Publicly advertised solicitations, notices, or bid advertisements seeking WDM services” are those that are widely disseminated through publication or posting in media outlets, electronic or otherwise, including, but not limited to, newspapers, magazines, and the internet.
- d. not provide direct assistance services at the same time and same location or tract of land where a private business or individual is independently conducting related activities with similar methods.
- e. not enter into third party agreements, except where WS has sole authority to apply certain WDM methodologies such as DRC-1339 or Alpha-Chlorolose applications.
- f. obtain approval from the regional director on a case by case basis to enter into third party agreements providing sole authority WDM services.

When WS enters third party agreements as a subcontractor with private entities, WS is no longer considered a direct agent of the federal government and instead would be considered an agent of the private sector. This type of relationship exposes WS to liability issues and is not in the best interest of the government.

This policy is not intended to preclude WS from responding to competitive grant opportunities for cooperative research funds provided that APHIS guidelines for research proposals are followed and approvals by the appropriate designated WS officials are obtained.

7. REFERENCES

- a. The Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b), as amended.
- b. Animal Damage Control Program Final Environmental Impact Statement, as revised, 1997.
- c. Endangered Species Act of 1973 (16 U.S.C. 1531-1543), as amended.
- d. National Environmental Policy Act (Public Law 91-190, 42 U.S.C. 4321 et seq.).
- e. The Act of December 22, 1987 (7 U.S.C 426c).
- f. APHIS Agreements Management Manual (August 4, 1997).
- g. APHIS Budget and Accounting Manual (February 7, 2003).


Deputy Administrator