

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 571—Chapter 114
“Nuisance Wildlife Control”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, 481A.48 and 456A.24

State or federal law(s) implemented by the rulemaking: Iowa Code sections 456A.24 and 481A.48

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 24, 2024
1 to 2 p.m.

6200 Park Avenue, Second Floor
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Winterset, Iowa 50273
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Purpose and Summary

Proposed Chapter 114 governs the nuisance wildlife control program. The rules contain specific requirements for application, testing, license requirements, special species considerations, annual reporting, and special permit guidance to nuisance wildlife control operators (NWCOS). NWCOS are experienced professionals who assist homeowners, businesses, and cities with removal of wildlife in conflict scenarios. Strong relationships between the Department and NWCOS have resulted in a positive customer service response to the public.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Private businesses operating as an NWCO and the general public will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
Private businesses and the general public will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
This chapter regulates over 140 NWCOS in rural and urban areas of the state. Each NWCO offers service to a significant number of Iowans.
 - Qualitative description of impact:

This chapter offers business opportunities for trappers who would like to expand their experience with removing wildlife as a service to others. It ensures that the process is handled effectively and ethically while also assisting Iowans with wildlife conflict. The chapter also offers a framework so that the State of Iowa can monitor what species and how many wildlife are involved to better respond and implement management at the statewide level.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Department's only costs are for staff time. The Department must spend time with new applicants to proctor the applicants' initial test and interview the candidates. Department staff also spend time coaching NWCOs through certain difficult situations, such as endangered species issues. The Department also completes annual renewals and houses records from NWCOs. Ultimately, the NWCO program actually decreases the amount of staff time the Department spends on wildlife conflict scenarios. Importantly, all involved staff have other assigned duties.

- Anticipated effect on state revenues:

Any direct revenue to the State from the associated fees of the NWCO application process (fur harvester license (\$26), habitat fee (\$15), initial testing fee (\$25), and annual permitting fee (\$20)) are offset by Department staff time involved with application and records. However, the economic benefit that almost 150 small business are generating with their services is significant.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The loss of this business opportunity for Iowans would leave some Iowans without an income source. Additionally, the workload to compensate for the unanswered wildlife conflict situations would require at least 150 additional employees.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department could not identify less costly or less intrusive methods for achieving the purpose of this chapter. Other states have similar NWCO programs that operate in similar ways.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:
No alternative methods were identified to effectively manage these situations.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed updates to the chapter will help consolidate and simplify reporting requirements for small businesses. Importantly, this chapter allows many NWCO small businesses to exist and flourish. Furthermore, changes proposed will increase performance standards by clarifying and streamlining the guidebook adopted by reference in this rulemaking.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 114 and adopt the following **new** chapter in lieu thereof:

CHAPTER 114
NUISANCE WILDLIFE CONTROL

571—114.1(456A) Nuisance wildlife control program. No provision of this chapter shall restrict a landowner from lawfully removing nuisance wildlife pursuant to Iowa Code section 481A.87.

571—114.2(456A) Definitions.

“*Annual activity report*” means an annual report submitted on a form provided by the department of natural resources.

“*Biologist*” means a natural resource biologist employed by the wildlife bureau of the department.

“*Guidebook*” means the nuisance wildlife control operator’s manual provided by the department, updated November 2024.

“*Helper*” means a person who possesses a fur harvester license, has paid the habitat fee, and is listed, by name, on the permit as authorized to perform nuisance wildlife control operator duties under the direction of the permittee.

“*Nuisance wildlife*” means wild, native animals or birds under the jurisdiction of the department that are causing damage to property, creating a nuisance, or presenting a health hazard.

“*Nuisance wildlife control operator*” or “*NWCO*” means a person who operates as a business and charges a fee to remove nuisance wildlife.

“*Permit*” means an annual permit issued by the department under the authority of Iowa Code section 455A.5(6) “e” for the purpose of capturing and removing nuisance wildlife.

“*Permittee*” means an NWCO who possesses a valid nuisance wildlife control operator’s permit issued by the department.

“*Special Canada goose control permit*” or “*SCGCP*” means a permit to engage in the Canada goose population control activities specified by the department.

“*Translocate*” means to transport and release an animal at a site other than the site at which it was captured.

571—114.3(456A) Nuisance wildlife control operator’s permit. An NWCO permit may be issued to an NWCO who complies with all requirements established within this chapter. This is an annual permit and may be renewed by January 10 of the following year and is not transferable. The department shall not renew a permit without first receiving a completed annual activity report for the previous year.

571—114.4(456A) Application requirements. All applicants must be at least 18 years of age and possess a valid driver’s license.

571—114.5(456A) Nuisance wildlife control operator’s guidebook. All applicants will receive an NWCO guidebook at the time they submit a completed permit application form. The permittee shall refer to the guidebook as an operating manual for nuisance wildlife control activity. All requirements and procedures listed in the guidebook must be followed. The NWCO guidebook is hereby adopted by reference and shall be a part of this chapter as if set forth herein.

571—114.6(456A) Nuisance wildlife control operator's test and interview. An applicant must successfully pass a written test with a minimum test score of 80 percent before an NWCO permit will be issued. If the applicant fails the written test, the applicant must wait 45 days before retaking the test. If the applicant fails the written test a second time, the applicant must wait 180 days before reapplying. A \$25 testing fee will be assessed when the applicant successfully completes the test. In addition, the applicant must successfully complete an oral, in-person interview with a representative of the department to determine the applicant's knowledge of wildlife and wildlife capture techniques, and to determine if the applicant has the ability to provide effective services to the public.

571—114.7(456A) Records and recordkeeping requirements. All permittees shall keep an up-to-date daily record of their nuisance wildlife control activities and keep it on file at the business location specified in the permit. Each record must contain the client's name, address, telephone number, date of service, service provider's name, species of animal, number of animals removed, control methods used, and disposition of the animals. Permittees holding an SCGCP must also document the locations of all Canada goose nests destroyed, the numbers of Canada goose eggs destroyed, and the numbers of Canada geese killed at each project site. The permittee shall provide these records for inspection by a department representative at any reasonable time.

571—114.8(456A) Annual activity report. The permittee shall submit an annual activity report on forms provided by the department no later than January 31 of the following year. The department shall not renew a permit until a complete and accurate annual activity report has been received for the preceding year.

571—114.9(456A) Permit renewal. An NWCO permit may be renewed by the department when all reporting requirements for the previous year have been met. An administrative fee of \$20 will be assessed at the time of permit renewal.

571—114.10(456A) Helper. A helper shall operate under the same conditions as the permittee. The permittee shall be responsible for all actions of the helpers listed on the permit. Compliance violations committed by a helper may be cause for the department to revoke the NWCO permit.

571—114.11(456A) Capture methods and trap tagging. The permittee and designated helpers shall observe all Iowa fur trapping and fur possession regulations as provided by Iowa law, the Iowa Administrative Code, and the NWCO guidebook. If traditional capture methods fail, the permittee may use chemicals, smoking devices, mechanical ferrets, wire, tools, instruments, or water to remove nuisance animals in accordance with the procedures contained in the guidebook. No person, except a person acting under an NWCO permit, shall capture or take, or attempt to capture or take, with any trap, snare, or net, any game bird.

571—114.12(456A) Endangered and threatened wildlife species. The permittee is not authorized to capture or possess any wildlife species listed as endangered or threatened. A permittee may only capture or possess a federally protected species to the extent that the permittee is authorized to engage in specific Canada goose population control activities by the terms of a valid SCGCP. This prohibition includes, but is not limited to, the capture or possession of bobcats, spotted skunks, hawks, owls, eagles, migratory birds, waterfowl, and songbirds. When a nuisance wildlife problem involves an endangered or threatened species, the local state conservation officer must be contacted, and the officer will determine how the situation should be handled.

571—114.13(456A) Special Canada goose control permits. A person applying for a special Canada goose control permit to use lethal methods to control Canada goose populations or to trap and translocate Canada geese must be a currently certified NWCO and must abide by the following rules:

114.13(1) *Lethal control practices.* Permittees wishing to use lethal methods, such as nest destruction, egg oiling, egg addling, or killing geese, must comply with the following procedures:

a. Permittees must obtain written permission from the biologist responsible for the county in which the lethal control practice is proposed for every site where a lethal control practice is proposed before implementing any such practice. The biologist will determine if lethal control practices are necessary and will specify the number of nests, eggs, or adult geese that can be destroyed at each site.

b. The permittee must follow the procedures in the NWCO guidebook for implementing lethal control practices and disposing of dead birds, eggs, and nests. Failure to follow such procedures will result in immediate revocation of the permit.

c. Permittees must satisfactorily complete at least two lethal control projects under the direct supervision of a biologist before being granted an SCGCP for lethal control practices. Upon the permittee's satisfactory completion of two lethal control projects, the biologist can issue the NWCO an SCGCP to perform lethal control activities without direct supervision by department personnel. The NWCO must carry this permit whenever engaged in lethal Canada goose control activities and exhibit it upon request by department personnel. Any persons assisting with the lethal control practices must be listed on the SCGCP. The permittee is responsible for the conduct of all persons listed on the SCGCP who are helping conduct lethal control operations.

d. All Canada goose work must be reported as specified in the NWCO guidebook by December 31 of the year for which the SCGCP is valid. The department will not renew a permit until a complete and accurate annual activity report has been received for the preceding year.

114.13(2) *Trapping and translocation operations.* Permittees wishing to trap and translocate Canada geese must comply with the following procedures:

a. Permittees must obtain written permission from the biologist responsible for the county in which the trap and translocation operation is proposed for every site where such operation is proposed before implementing any such operation. The biologist will determine if a trap and translocation operation is necessary and will specify the number of geese that can be translocated from each site. The biologist will also specify release sites for the captured geese. Release sites must be approved by the biologist before any geese are captured.

b. The permittee must follow the procedures in the NWCO guidebook for implementing trap and translocation operations. Failure to follow such procedures will result in immediate revocation of the permit.

c. Before the permittee engages in a trap and translocation operation, the permittee's trapping and transport equipment must be inspected and approved by a biologist.

d. Permittees must satisfactorily complete at least four trap and translocation projects under the direct supervision of a biologist before being granted an SCGCP for trap and translocation operations. Upon satisfactory completion of four trap and translocation projects, the biologist can issue the NWCO an SCGCP to perform trap and translocation operations without direct supervision by department personnel. The NWCO must carry this permit whenever engaged in trap and translocation operations and exhibit it upon request by department personnel. Any persons assisting with the trap and translocation operations must be listed on the SCGCP. The permittee is responsible for the conduct of all persons listed on the SCGCP who are helping with trap and translocation operations.

e. Permittees must inform the biologist of the number of birds captured and translocated within 48 hours of the completion of each operation. Permittees must document the number of Canada geese trapped and released for each capture and release site and the number of geese that died during each trap and translocation operation. Any banded geese that are captured and translocated must be reported as specified in the NWCO guidebook within 48 hours of completion of the project.

f. Permittees must provide the department a written report of all trap and translocation operations by December 31 of the year for which the SCGCP is valid. Failure to provide this report by December 31 will result in the permittee's not being reauthorized to trap and translocate geese the following year.

114.13(3) *General provisions.*

a. The SCGCP is valid for one year and must be reauthorized by a biologist each year when the NWCO permit is renewed.

b. Any plumage, eggs, eggshells, nests, or dead birds encountered by the permittee when performing activities permitted under this rule may not be sold, offered for sale, bartered or shipped or possessed for the purposes of being sold, offered for sale, bartered or shipped.

c. Any properties on which lethal control or trap and transport operations are conducted must be open at all reasonable times, including during actual operations, to any biologist, conservation officer, U.S. Fish and Wildlife Service special agent, or U.S. Department of Agricultural Wildlife Services agent wishing to inspect the activity or the results of the activity.

d. Nothing in the permit should be construed to authorize the killing of any migratory bird or the destruction of the nests or eggs of any migratory bird other than resident Canada geese.

571—114.14(481A) Pigeons.

114.14(1) Pigeons causing a health or safety hazard may be taken by trapping, or any current Environmental Protection Agency (EPA)- and Iowa-registered pesticide repellent, or toxic perches. Strychnine-based products cannot be used. The person or organization engaging in such a program will provide for proper removal and disposal of all pigeons taken by such means.

114.14(2) If a specific problem involving the use of a toxic substance or a procedure designed to destroy problem pigeons proves not to be species-specific, the director, conservation officer or biologist will issue an immediate order to stop the particular method being employed or the substance being used.

571—114.15(456A) Disposition of captured nuisance wildlife. Nuisance wildlife, with the exception of endangered or threatened species, may be relocated or euthanized. The permittee shall comply with the euthanization and release methods described in the NWCO guidebook. Sick or injured wildlife must be handled as described in the NWCO guidebook. The carcass of a dead nuisance animal must be disposed of in a legal manner and within 24 hours of the animal's death.

571—114.16(456A) General conditions for permits. Records and facilities shall be available for inspection by officers of the department during reasonable hours. All records and reports must be kept current and shall reflect a true and accurate account of the permittee's activities. The department's law enforcement bureau shall be notified in writing within 30 days if the permittee ceases operation as a nuisance wildlife control operator. Permittees and helpers must obtain and possess valid fur harvester licenses and have paid the habitat fees, except that permittees and helpers solely conducting Canada goose control activities with an SCGCP do not need to have a valid fur harvester license nor to have paid the habitat fee. Permittees must renew their NWCO permits by January 31 of each year.

571—114.17(456A) Permit refusal. The department may suspend, revoke, refuse to issue, or refuse to renew a nuisance wildlife control operator's permit if the department finds that the permittee, a helper, or an employee of the permittee is not in compliance with this chapter. In addition, any violation of Iowa Code chapter 481A, 481B, 482, 483A, 484A, 484B, or 716 shall be cause for the department to suspend, revoke, refuse to issue, or refuse to renew a permit.

571—114.18(456A) Penalties. A person or organization that violates a provision of this chapter is guilty of a simple misdemeanor.

These rules are intended to implement Iowa Code sections 456A.24(8), 481A.38, 481A.39 and 481A.48.