

SECTION: Protection of property.

SUBSECTION: Authorizations/use of agents.

SUBJECT: Policy for Protecting Agricultural Property from Elk

POLICY: WilPo.3.2.6

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1.0 CONTEXT

Ontario's *Elk Management Plan* was released in June, 2010 following public and stakeholder consultation. The *Plan* includes a number of objectives and strategic actions to guide management decisions that support sustainable and healthy elk populations, including objectives and strategies aimed specifically at addressing human-elk conflicts.

Ontario's overarching policy approach to addressing human-wildlife conflict, as a public resource, is to provide landowners with the tools and information to prevent and mitigate conflict and associated damage. The *Strategy for Preventing and Managing Human-Wildlife Conflicts in Ontario* provides provincial policy direction to address human-wildlife conflict.

Consistent with this broad provincial approach, the *Elk Management Plan (2010)* acknowledges the need for tools to help address the impact of human-elk conflicts. In response to this need, the government amended Subsection 31 (3) of the *Fish and Wildlife Conservation Act (FWCA)* in 2010 to add American elk to the list of species that can be harassed, captured and killed in accordance with authorization from the Ministry of Natural Resources.

This policy provides direction for the issuance of authorizations to harass or kill elk¹ that are causing or are about to cause damage to agricultural property² (Note: see section 4.0 *Capture and Relocation* for more information regarding the capture of problem elk). The policy outlines the process and prerequisites for obtaining an authorization, including qualifying criteria for applicants, agents and general eligibility requirements. This policy also outlines the conditions of use for authorizations, including equipment, timing of use, reporting requirements, etc.

2.0 POLICY DIRECTION

The Ministry of Natural Resources (MNR) may issue an authorization to a farmer and/or their agent(s) to harass or kill elk on their property when wildlife management practices, farm management techniques and/or preventative measures have been ineffective at resolving ongoing agricultural damage by elk in a timely manner. The use of these authorizations shall not jeopardize population sustainability or the achievement of elk management objectives.

Authorizations will be issued when necessary and in accordance with specific criteria outlined in this policy. This policy will be reviewed periodically as knowledge about the effectiveness of prevention, harassment and lethal actions increase.

2.1 ELK HARASSMENT & KILLING

Harassment: Issuing authorizations for the purposes of harassing elk involves the physical harassment of elk on the affected property through non-lethal means. For the purposes of this policy, harassment includes activities involving the use of firearms, dogs, pyrotechnics (e.g., flares, bangers, cracker and popper shells) or other emerging non-lethal harassment techniques. The MNR in cooperation with the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) will provide advice to farmers on appropriate harassment techniques to help protect agricultural property from elk. Authorizations to harass elk may be issued where elk are causing or about to cause damage to agricultural property (i.e., existing crops, agricultural fencing, livestock, stored feed) (see 2.2.3 *Issuing Criteria* for more detail).

Killing: Issuing authorizations for the purposes of killing elk enables a farmer or their agent(s) to kill elk on the affected area of the property. Authorizations to kill elk may be issued where evidence indicates that elk are causing significant damage³ to agricultural property (i.e., existing crops, agricultural fencing,

¹ "elk" refers to American elk (*Cervus elaphus*) as specified in the *Fish and Wildlife Conservation Act*.

² "agricultural property" includes existing crops, agricultural fencing, livestock and stored feed.

³ Refer to 2.2.3 *Issuing Criteria* for more information on the determination of "significant damage".

livestock, stored feed) or may be issued if significant damage is imminent in some specific circumstances (see 2.2.3 *Issuing Criteria* for more detail).

2.2 QUALIFYING CRITERIA

In order to qualify for an authorization to harass or kill elk in protection of agricultural property, the application must meet the criteria outlined in this section.

2.2.1 Applicant Criteria

To qualify for an authorization an applicant must:

- a) meet the definition of a farmer as defined by the OMAFRA Farm Business Registration Program and submit a valid Farm Business Registration number at the time of application, or show proof of operating an agricultural business related to horticultural/nursery operations, market gardens, orchards, or a vineyard,
and
- b) be the owner of the land where authorization activities are to occur; for the purposes of this policy “owner” includes a tenant who is farming the land (in these cases the tenant is required to notify and obtain approval from the landowner).

2.2.2 Agent Criteria

The use of agent(s)⁴ is permitted. Authorizations allow the farmer and/or their agent(s) to carry out the harassment or killing of elk on the affected property. To qualify, an agent (i.e., the person undertaking the harassment or killing of elk on behalf of the owner) must:

- a) be an Ontario resident and possess a valid Ontario’s Outdoors Card (Hunting Version)
and
- b) not have been convicted of any serious, or multiple, offences under the *Fish and Wildlife Conservation Act*, such as those infractions involving

⁴ “agent(s)” refer to the authorized person undertaking the harassment or killing of elk on behalf of the owner. The number of agents is limited to six individuals for kill authorizations and must be immediate relatives (i.e. grandparent, parent, spouse, child, sibling or grandchild) of the authorized individual or local residents of the area (i.e. reside within 160 km of the authorized property) to help ensure agents are available and responsive. The authorization issuer may use local discretion when applying these criteria.

safety related offences, commercialization, night hunting or any cervid related offences.

2.2.3 Issuing Criteria

Prevention and mitigation approaches to address human-elk conflicts are consistent with the intent of the *Strategy for Preventing and Managing Human-Wildlife Conflicts in Ontario* and may help to prevent elk from establishing behavioural patterns that cause damage over an extended period of time.

The criteria for issuing authorizations to harass or kill elk in protection of agricultural property are based on a progressive approach where actions are generally implemented with increasing intensity over time. It is recommended that preventative techniques be used first and where damage continues to persist, authorization to harass/kill elk could be considered, where necessary. Applications for authorizations will be reviewed in a timely manner.

Harassment: Authorizations to harass elk may be issued where elk damage to agricultural property is occurring or is about to occur (e.g., may be issued prior to planting as a method to discourage elk). Harassment authorizations may be issued if the following issuing criteria are met:

- a) there is a documented history of damage on or adjacent to the property,
- b) there is a history of elk abundance and habitat use on or adjacent to the property.

Killing: Authorizations to kill elk may be issued where evidence indicates that elk are causing significant damage to agricultural property or may be issued if significant damage is imminent in some specific circumstances. The significance of damage will be determined by a site inspection (see 2.2.5 *Site Inspections*), which will assess damage based on the potential impact to the agricultural property. This assessment of damage and determination of significance will be based on some or all of the following criteria:

- documented history of damage on the property
- elk abundance and habitat use patterns on the property
- type of damage elk are causing on the property
 - elk that are harassing livestock or threatening livestock safety
 - damage to agricultural fencing
 - crop damage - types that are particularly vulnerable to elk damage
 - impacts to stored feed
- value of damage elk are causing on the property
 - cost to repair the damage relative to scale of the agricultural operation,

- impact to high value crops⁵, which typically include crops with one or more of the following characteristics:
 - perennial crops,
 - crops that have a high replacement and production cost per hectare,
 - elk damage may result in permanent or long-term impact to the crop affecting future yields.
- area of the property that is being damaged by elk relative to the scale of the agricultural operation (e.g., relative number of hectares impacted),
- risks to human health and safety (e.g., livestock on roadways due to fencing damage).

Authorization to kill elk may be considered where a farmer has previously demonstrated that preventative measures (see MNR's *Information Sheet for Preventing and Reducing Human-Elk Conflicts on Agricultural Property* for some preventative suggestions that have been found to be effective in other jurisdictions) and harassment activities have failed to adequately prevent or minimize damage from elk.

2.2.4 Alternative Methods

Alternative methods to prevent, mitigate and control elk damage should be considered wherever feasible and financially reasonable prior to authorizing the killing of elk (e.g., potential examples include but are not limited to fencing, other exclusion or aversion tactics). A record of the alternative methods employed should be documented and kept on file by the affected farmer.

Authorizations to kill elk should be used in conjunction with elk damage prevention and harassment actions, as it is recognized that success rates are likely to increase with a more comprehensive approach. The MNR in cooperation with OMAFRA and agricultural organizations will provide advice to farmers on actions that may prevent or reduce elk damage (see MNR's *Information Sheet for Preventing and Reducing Human-Elk Conflicts on Agricultural Property* for some preventative suggestions that have been found to be effective in other jurisdictions).

2.2.5 Site Inspections

Farmers who apply for authorizations to kill elk must allow site inspections as required to document and assess the significance of damage as per 2.2.3 *Issuing Criteria*. Site inspections will be conducted by MNR staff and/or an agricultural specialist (e.g. OMAFRA representative) or independent crop evaluator.

⁵ Additional advice on what constitutes a high value crop can be obtained from MNR and OMAFRA.

Information gathered from site inspections will be used to determine whether significant damage is occurring or is likely to occur.

2.2.6 Population Sustainability

Authorizations for the killing of elk may be denied if it is likely to compromise the sustainability of the elk population or the achievement of elk management objectives. Authorizations to kill elk are not intended to be used as a general population reduction tool but will be used to minimize site-specific agricultural damage and reinforce harassment activities, where appropriate. The MNR will consider the severity of elk damage when setting elk population objectives and all available options to prevent damage from occurring through management actions, where necessary and available (e.g., introducing new hunting seasons, adjusting seasons or quotas to increase harvest).

2.2.7 Application Denial

In cases where an application for an authorization to harass or kill elk is denied by the ministry, the applicant may request a reconsideration of the decision based on the provision of additional information.

2.3 CONDITIONS OF AUTHORIZATION

All authorizations to harass or kill elk must include:

- names and addresses of landowner(s) and agent(s),
- location⁶ [Township, Lot, Concession, (or parts thereof)],
- ownership of all approved properties (or parts thereof),
- number of elk to be killed (if applicable),
- equipment authorized (type of firearms),
- start and end dates of the authorization.

2.3.1 Number of Elk to be Killed

The number of elk that can be killed must be specified on the authorization. A maximum of three elk may be killed under an authorization and the sex of the animals to be killed can be stipulated. Authorization to kill elk may be amended to include additional elk after reviewing the effectiveness of the initial authorization and a determination if significant damage is still occurring. A site visit and continued demonstration of prevention and mitigation tactics may be required in such cases. In all situations, the killing of elk should be timed as close as

⁶ Authorizations for the killing of elk may be issued for specific parts of the landowners property (i.e., the affected area(s)). The authorized area must be specified on the authorization.

possible to the actual or expected damage to increase the probability that the elk killed are the animals responsible for the damage.

MNR may provide additional advice on the approach and methods for authorizations to kill elk based on local circumstances, in order to increase success rate of resolving the conflict. Some approaches may be more successful in eliciting a local conditioning response by elk visiting the property (e.g., targeting specific animals in the social structure of the herd, adjusting the time between the killing of elk).

2.3.2 Equipment

Harassment may include all applicable and effective equipment and methods provided activities are undertaken in a safe, legal and responsible manner. The use of firearms, dogs and pyrotechnics (e.g., flares, bangers, cracker and popper shells) is permitted for harassment authorizations. Any harassment equipment must be approved by the MNR, and must not compromise the long-term health and survival of the animal.

The type of firearm must be specified for authorizations to kill elk. Firearms are generally restricted to rifles or shotguns in accordance with local bylaws and according to any applicable *FWCA* regulations (e.g., bows or crossbows may be permitted in areas where local bylaws restrict the discharge of firearms). No dogs are allowed for authorizations to kill elk.

2.3.3 Timing for Authorized Activities

Harassment: The active period for the harassment of elk may be for any specified duration throughout the year and should be for the minimum duration necessary to resolve the problem.

Killing: The active period for authorizations to kill elk must be for a specified period of time and should be for the minimum duration necessary to resolve the problem. The period of time will be as close as possible to the time when damage is occurring. Antlered elk may be killed at any time of the year under authorization. Antlerless elk may only be killed between July 1st to March 31st under authorization. In rare circumstances authorizations to kill elk may be issued outside of the specified period for antlerless elk; however this should only be considered when all other reasonable efforts have been exhausted and the farmer has made all reasonable efforts to mitigate damage by elk. Special conditions may apply to these authorizations.

2.3.4 Prohibiting Personal Gain

Authorizations to kill elk are not intended to provide for any recreational or commercial opportunities or personal gain beyond the scope of this policy. Any

promotion or marketing to that effect will result in the cancellation of the authorization and immediate denial of future applications. The authorized landowner cannot charge a fee, or accept any form of payment (i.e. money, gift or otherwise) from agent(s) who are killing elk under the authorization.

2.3.5 Reporting Requirements

Any authorized activities and related actions should be documented by the local MNR office to support decision making. The authorized landowner is required to report all elk harassment and killing activities to the MNR Area Supervisor. Reporting requirements will be included in the conditions of authorization (e.g., *Elk Agricultural Authorization Report*). The head and antlers of all elk killed under an authorization must be submitted to the local MNR office for disease testing and will not be returned.

2.3.6 Conditions for Issuing Authorizations for Harassment - Schedule A

The following conditions must appear on "Schedule A" attached to authorizations for elk harassment:

- a) The authorized farmer shall allow MNR staff, who may be accompanied by an agricultural specialist (e.g. OMAFRA representative) or independent crop evaluator to enter and inspect properties identified on the authorization.
- b) An authorized farmer or agent(s) shall carry a copy of the authorization on their person when undertaking elk harassment activities. This authorization does not permit the capture or killing of elk.
- c) Elk that appear sick, diseased or unhealthy shall be reported to the MNR.
- d) An authorized farmer or agent(s) shall undertake elk harassment activities in a safe, humane, legal and responsible manner. The authorization holder and/or agent(s) shall obey all municipal, provincial and federal laws.
- e) Harassment activities may occur at night provided they are done in a safe, humane, legal and responsible manner, and without affecting neighbouring property owners (e.g., use of noise deterrents, etc.)
- f) The authorized farmer shall complete an *Elk Agricultural Authorization Report*. This report form shall be submitted within 15 days of the expiry date of the authorization.

In addition to the above conditions, the following recommendations may be included as part of issuance of an elk harassment authorization:

1. It is recommended that neighbouring property owners, where practical, be notified by the farmer that elk harassment activity will be occurring on certain properties in the area.

2.3.7 Conditions for Issuing Authorizations for Harassment and Killing Schedule A

The following conditions must appear on “Schedule A” attached to authorizations for the killing of elk:

- a) The authorized farmer shall allow MNR staff, who may be accompanied by an agricultural specialist (e.g. OMAFRA representative) or independent crop evaluator to enter and inspect properties identified on the authorization.
- b) The authorized farmer shall not charge a fee for agent(s) or accept payment from agents who are killing elk under the authorization.
- c) No dogs are allowed to be used for elk killing activities under this authorization.
- d) Elk killing activities under the authorization are restricted to half hour before sunrise to half hour after sunset. Note: Some exceptions to this condition may be provided under certain circumstances in order to be effective. Any exceptions must be approved by MNR and will be specified on the authorization.
- e) An authorized farmer or agent(s) shall carry a copy of the authorization on their person when conducting activities related to harassing/killing elk. This authorization also permits elk harassment activities, but does not permit elk capture activities.
- f) An authorized farmer or agent(s) shall be in possession of a seal⁷ provided with the authorization or be in a group with an authorized person who possesses a seal. The seal and/or authorization shall not be given to a person who is not authorized.
- g) Any elk killed shall be sealed immediately at the site of the kill with a seal provided with the authorization and in the manner indicated on the seal. The seal is only valid for the area described on the authorization. The head, bearing the seal, shall remain attached to the animal carcass while it is being transported. All seals provided with this authorization that are not used shall be submitted to MNR within 15 days of the expiry date of the authorization.
- h) Any elk killed shall be reported within 24 hours to the MNR issuing office. The report may be verbal, voice message, email or in writing. The report shall identify the sex of the animal(s) and its disposal.
- i) The head and antlers of all elk killed under this authorization must be submitted to the local MNR office for disease testing and will not be returned.
- j) The authorized farmer shall complete an *Elk Agricultural Authorization Report*. This report form shall be submitted within 15 days of the expiry date of the authorization. A report is required even if no elk are taken.
- k) Carcasses may be kept by the farmer or agent(s), or donated to individuals. Any recipients of donated wild game meat should be given written notice by the donor that the meat they are accepting has not been government inspected. If donated, the name, address and phone number of the recipient must be reported to the MNR

⁷ “seal(s)” will be issued with any authorization to kill elk, and must be attached to the elk as soon as the animal is killed. Seals must remain attached to the animal while it is transported.

issuing office. Meat of elk killed under the authorization shall not be donated to any food banks, soup kitchens, or to institutions such as Senior Citizens homes, hospitals, group homes or any similar institution because of health and safety concerns and federal legislative requirements.

- l) Elk taken under the authorization shall not be sold.
- m) Elk that appear sick, diseased or unhealthy shall be reported to the MNR
- n) An antlerless elk is defined as an elk that has no antlers, or has antlers that are less than 7.5 cm (3 inches) in length.
- o) An authorized farmer or agent(s) shall undertake harassment and killing activities in a safe, legal and responsible manner. The authorization holder and/or agent(s) shall obey all municipal, provincial and federal laws.

In addition to the above conditions, the following recommendations may be included as part of issuance of an authorization:

1. It is recommended that hunter orange clothing as specified in the Hunting Regulations should be worn during all elk killing activities.
2. It is recommended that neighbouring property owners, where practical, be notified by the farmer that the elk harassment and killing activity will be occurring on certain properties in the area.
3. It is recommended that agent(s) authorized to undertake elk killing activities have current liability insurance.

3.0 ENVIRONMENTAL ASSESSMENT ACT CONSIDERATIONS

The purpose of the *Environmental Assessment Act (EA Act)* is “...the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation, and wise management in Ontario of the environment”. In 2003, the Ministry of Natural Resources received approval under the *Environmental Assessment Act for A Class Environmental Assessment for Resource Stewardship and Facility Development Projects (RSFD Class EA)*. Prior to proceeding with a project to which this Class EA applies, MNR must comply with any applicable requirements in the Class EA.

An authorization for the harassment or killing of elk would be subject to the RSFD Class EA. For EA Act purposes, such authorizations would be a disposition of certain or all rights to a Crown resource. Accordingly, MNR would carry out the applicable requirements of the RSFD Class EA prior to deciding whether to proceed with the issuance of a proposed authorization to harass or kill elk.

4.0 CAPTURE & RELOCATION

While the *Fish and Wildlife Conservation Act* references the ability to issue authorizations for the purposes of capturing elk, given the inherent risks associated with capturing a large mammal and their subsequent relocation/release into the wild, additional and separate policy development is required.

Ontario is reviewing the feasibility of translocation (i.e. the capturing and transferring of animals within Ontario) as a management tool. These discussions will help inform where and when elk capture authorizations could be applied in the future.

The review will assess risks associated with disease transmission, examine lessons learned from past experience in Ontario and elsewhere as well as federal transport provisions and consider consulting on criteria and guidelines, if appropriate.

5.0 RELATED REFERENCES

Legal References

- Fish and Wildlife Conservation Act
 - Subsection 31(1) - Protection of Property
 - Subsection 31(2) - Authority to use agents
 - Clause 31(3) - exemption for American elk / authorization by Minister required
 - Subsection 31(6) - Provisions that do not apply
 - Subsection 31(7) - Night hunting restriction for deer
- Environmental Assessment Act
- Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects
- Meat Inspection Act

Policy References

- Policy and procedures
 - WilPo.3.1.1 - Protection of property overview.
 - WilPp.3.2.3 - Issuance of deer removal/harassment authorizations for agricultural damage.
 - WilPp.3.2.4 - Issuance of deer removal authorization for airports.
 - WilPp.3.2.1 - Authorization of individual agents.
 - Ontario's Elk Management Plan
 - Farm Business Registration Program and Farm Tax Rebate Program (OMAFRA)
 - Strategy for Preventing and Managing Human-Wildlife Conflicts in Ontario

- Strategy for Preventing and Managing Human-Deer Conflicts in Southern Ontario