STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING

RICK SNYDER
GOVERNOR

DR. WILLIAM E. MORITZ
DIRECTOR

SUBMITTED: December 14, 2015
RESUBMITTED: January 19, 2016

APPROVED
_____, 20____
MICHIGAN NATURAL RESOURCES COMMISSION

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(ASSISTANT TO THE COMMISSION)

MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

Subject: Use of Suppressors in the Taking of Game
Wildlife Conservation Order Amendment No. 1 of 2016

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, authorizes the Director and the Commission to issue orders to manage wild animals in this state.

Discussion and Background:

The Department has received requests to consider the use of a firearm suppressor, also defined as a silencer under state statute, for hunting.

Research has shown that exposure to loud noise such as that of a shot, or report, of a firearm can cause permanent hearing damage. At most public shooting ranges hearing protection is mandatory. Most recreational and target shooters wear some type of hearing protection when shooting. However, based on discussions with and observations of hunters in the field, there is a concern that many of those same shooters do not wear hearing protection while hunting. Many hunters do not think about wearing hearing protection in the blind or do not wear it because it could limit their ability to hear the sounds around them such as an approaching animal. Use of suppressors while hunting may mitigate the potential for hearing damage; however, WCO 2.1(6) currently prohibits the use of suppressors while hunting.

In order to purchase or possess a suppressor in the United States, an individual must submit an application to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), pay a $200 transfer tax for each suppressor, and undergo a Federal Bureau of Investigation background check. This entire process typically takes more than six months. Currently, the price of a commercially produced suppressor starts around $500. In 2011, the Michigan Attorney General wrote an opinion (7260) clarifying that through the legal federal process Michigan citizens may purchase and possess suppressors.

Due to the potential for hearing damage, the Department recommends allowing the use of suppressors capable of a decibel reduction of no more than 30 decibels as provided by the manufacturer's specifications.

When a bullet exits the barrel and is traveling greater than the speed of sound it creates a noise referred to as a "sonic boom". The speed of sound varies primarily based on temperature and air density. Based on data, the speed of sound at 20 degrees Celsius (68 degrees Fahrenheit) is approximately 1,125 feet per second.

Subsonic ammunition is designed not to travel greater than the speed of sound; subsequently, it does not produce an additional noise or "sonic boom". Due to the lower velocity, the peak impulse noise produced from subsonic ammunition is much lower than ammunition that can break the sound barrier making the sound of the report quieter. Combining subsonic ammunition, which is quieter, with a suppressor makes the report of a firearm significantly lower. Therefore, we recommend prohibiting the use subsonic ammunition (velocity less than 1,126 feet per second) in combination with suppressors. Velocities of ammunitions are commonly available on manufacturers' websites or on most boxes of ammunition.

Neighboring States
Suppressors are becoming more popular in the sport of hunting. Currently, more than 40 states (including Michigan) allow citizens who meet federal requirements to lawfully purchase and possess suppressors. Four of those states, including Michigan, do not currently allow suppressors in the taking of game.

The Department polled natural resources professionals in all 50 states regarding the legality of the possession of suppressors including use for hunting.

- 19 states responded
- 16 states allow citizens to possess suppressors through legal means
- 14 of the 16 allow suppressor use in the taking of game
- None of them reported any significant increase in trespassing, poaching, or safety zone violations
- Most of them reported not seeing many suppressors in the field because:
    - Their state regulations were too new
    - Suppressors are expensive
    - The federal application process is lengthy

Pros and Cons
Suppressors reduce the peak impulse noise from a shot of a firearm. In many cases it reduces the noise from an unsafe level to a safer, acceptable level, based on Occupational Safety and Health Administration (OSHA) standards. Suppressors may aid in protecting the hearing of hunters, shooters, instructors and others who are exposed to the report of a firearm. By reducing the noise and felt recoil, shooters may not flinch as much in anticipation of the loud noise and the recoil. This may increase a shooter's accuracy and may provide more shooting or hunting opportunities for those who may have health limitations related to the noise or recoil of an unsuppressed firearm. Reducing the noise of a shot may also reduce conflicts with bystanders, neighbors, and other concerned citizens who may not like the noise or use of firearms.

The concerns associated with the use of suppressors in hunting are that it could lead to increased illegal activity (trespassing, hunting outside of legal hours, safety zone violations). Although, based on data from other states, this illegal activity has not significantly increased where the use of suppressors are lawful while hunting. The reduced report may make it more difficult for citizens and officers to determine the distance and location of a shot. There are also officer safety concerns due to the reduced noise limiting officers' ability to locate the source of the shot as quickly and accurately.

Biological
All other rules and regulations pertaining to hunting would still apply. The use of suppressors in the taking of game is not expected to have any significant effect on game species populations.

Social
In 2014, the DNR's Hunter Education Program initiated research and testing of suppressors on firearms to determine whether suppressors truly reduce the noise of a shot from a firearm thereby reducing the possible damage from the sound of a shot. A team of experts in the fields of audiology, hearing conservation and workplace safety was assembled along with members from Law Enforcement Division to conduct the testing.

This group found that the suppressors do reduce the noise of the report of a firearm and in most cases reduce the peak impulse noise to below what OSHA has set for a maximum decibel (dB) for unprotected peak impulse noise of 140 dB. The research revealed that the suppressors used, which are commercially available through legal means, reduced the peak impulse noise of the shot on average between 12 and 28 decibels.

The National Institute for Occupational Safety and Health recommends the use of firearm suppressors for health reasons and to conserve hearing.

The following organizations support the use of suppressors in the taking of game:

- National Rifle Association
- Congressional Sportsmen's Foundation
- American Suppressor Association
- Michigan Trappers & Predator Callers Association

Economic
Allowing the use of suppressors may increase hunting license sales. Suppressors reduce the noise and recoil of the shot of a firearm. This may provide opportunities to hunters with certain disabilities and increase participation from young hunters as well as senior citizens who may benefit from less recoil.

Recommendation:

This order was submitted for information on January 14, 2016, at the Natural Resources Commission Meeting. This item appeared on the Department's December 2015 calendar and may be eligible for approval on February 11, 2016.

Russ Mason, Ph.D., Chief
Wildlife Division

Gary Hagler, Chief
Law Enforcement Division

Deb Begalle, Acting Chief
Forest Resources Division

Ronald A. Olson, Chief
Parks and Recreation Division

James Dexter, Chief
Fisheries Division

Bill O'Neill
Natural Resources Deputy

I have analyzed and discussed these recommendations with staff and concur as to matters over which the Director has authority.

William E. Moritz, Ph.D., Director

Date

WILDLIFE CONSERVATION ORDER

Amendment No. 1 of 2016

By authority conferred on the Natural Resources Commission and the Director of the Department of Natural Resources by sections 40107 and 40113a of 1994 PA 451, MCL 324.40107 and 324.40113a, it is ordered that effective February 12, 2016, the following section(s) of the Wildlife Conservation Order shall read as follows:

1.2 Definitions.

Sec. 1.2 (1) Definitions in part 3 of 1994 PA 451, as amended, MCL 324.301; part 401, wildlife conservation, 1994 PA 451, as amended, MCL 324.40101 to 324.40119; and part 435, hunting and fishing licenses, 1994 PA 451, as amended, MCL 324.43501 to 324.43561, and in this order shall have the same meanings in this order. Additional definitions for terms used in this order are as defined in this section.

(2) "Advanced illness" means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation, the time course of which may or may not be determinable through medical prognostication.

(3) "Antlered deer" means a deer having at least 1 antler that extends 3 inches or more above the skull. For the purposes of determining if an antler extends 3 or more inches above the skull, the measurement shall be taken on the longest antler beginning at the line where the antler and pedicel join, along the back of the antler, following the curve, if any, to the tip of the longest antler point. For the purposes of this section, "pedicel" means the bone of the skull to which the antler is attached.

(4) "Antlerless deer" means a deer without antlers or a deer with antlers where the longest antler extends less than 3 inches above the skull.

(5) "CWD management zone" means an area defined in chapter XII of this order subject to Michigan's surveillance and response plan for chronic wasting disease.

(6) "Core CWD area" means an area defined in chapter XII for the control and surveillance of chronic wasting disease.

(7) "Deer and elk feeding" shall have the same meaning as defined by section 40102 of 1994 PA 451, MCL 324.40102.

(8) "Feed" shall have the same meaning as defined by section 40102 of 1994 PA 451, MCL 324.40102.

(9) "Firearm" shall have the same meaning as defined by section 40102 of 1994 PA 451, MCL 324.40102.

(10) "Game" means any animal designated as game under the authority of section 40110 of 1994 PA 451, as amended, MCL 324.40110, and any of the following animals: badger, bear, beaver, bobcat, brant, coot, coyote, crow, deer, duck, elk, fisher, Florida gallinule, fox, geese, hare, Hungarian partridge, marten, mink, moose, muskrat, opossum, otter, pheasant, quail, rabbit, raccoon, ruffed grouse, sharptailed grouse, skunk, snipe, sora rail, squirrel, Virginia rail, weasel, wild turkey, wolf, woodchuck, and woodcock. "Game" does not include privately owned cervidae species located on a cervidae livestock facility registered under 2000 PA 190, MCL 287.951 to 287.969.

(11) "Migratory game bird" means a bird as defined by 50 C.F.R. §20.11 (1988).

(12) "Modified bow" means a bow, other than a crossbow, that has been physically altered so that the bow may be held, aimed, and shot with one arm.

(13) "New world camelids" means animals belonging to the genus llama and vicuna of the family camelidae of the order artiodactyla including, but not limited to, the llama, alpaca, vicuna, and guanaco.

(14) "Physical therapist" means the same as defined in article 15 of the public health code, 1978 PA 368, MCL 333.17801.

(15) "Physician" the same as defined in article 15 of the public health code, 1978 PA 368, MCL 333.17001.

(16) "Raptor" means any bird species of the orders strigiformes, accipitriformes, and falconiformes.

(17) "Residence" shall have the same meaning as defined by section 40103 of 1994 PA 451, MCL 324.40103.

(18) "Limited firearms deer zone" means that area south of a line beginning at a point on the Wisconsin-Michigan boundryline directly west of the west end of highway M-46; then east to M-46 and east along M-46 to its junction with freeway US-131; then south along freeway US-131 to M-57; then east along M-57 to its intersection with Montcalm road on the Kent-Montcalm county line; then south along that county line and the Ionia-Kent county line to its intersection with M-44; then east along M-44 to its intersection with M-66; then north along M-66 to its intersection with M-57; then east along M-57 to its intersection with M-52; then north along M-52 to its intersection with M-46; then east along M-46 to its intersection with M-47; then north along M-47 to its junction with US-10; then east along US-10 to its junction with I-75; then north along I-75 and US-23 to its junction with beaver road, Kawkawlin township, Bay county; then east along beaver road to Saginaw bay; then north 50o east to the international boundary with Canada.

(19) "Silencer" shall have the same meaning as defined by the Michigan penal code, 1931 PA 328.

(20) "Waterfowl hunting north zone" or "north zone" means all of the Upper Peninsula.

(21) "Waterfowl hunting middle zone" or "middle zone" means that area of the Lower Peninsula north of a line beginning at the Michigan-Wisconsin boundary line in Lake Michigan, due west of the mouth of Stoney creek in section 31, T14N R18W, Oceana county, then easterly and southerly along the south shore of Stoney creek to Scenic drive, easterly and southerly on Scenic drive to Stoney lake road in section 5, T13N R18W, Oceana county, easterly on Stoney lake and Garfield roads to highway M-20 (Hayes road) in section 33, T14N R17W, Oceana county, easterly on highway M-20 through Oceana, Newaygo, Mecosta, Isabella, and Midland counties to highway US-10 business route in the city of Midland, easterly on highway US-10 business route to highway US-10 at the Bay county line, easterly on highway US-10 to highway I-75/US-23, northerly on highway I-75/US-23 to the highway US-23 exit at Standish, easterly on highway US-23 to the center line of the Au Gres river, southerly along the center line of the Au Gres river to Saginaw bay of Lake Huron, and from that point on a line directly east 10 miles into Saginaw bay, and from that point on a line directly northeast to the international boundary with Canada in Lake Huron.

(22) "Waterfowl hunting south zone" or "south zone" means all of that area of the Lower Peninsula south of the line described in middle zone.

(23) "Zone 1" means all of the Upper Peninsula.

(24) "Zone 2" means all of that part of the Lower Peninsula north of a line beginning at the Michigan-Wisconsin boundary line due west of the Lake Michigan shoreline which is north of Muskegon lake and due west of the western terminus of memorial drive at Scenic drive in Muskegon county, then easterly to said western terminus of memorial drive at Scenic drive, easterly on memorial drive to Ruddiman drive, northeasterly on Ruddiman drive to lake avenue, northeasterly on lake avenue to highway M-120 (also known as Holton road) in North Muskegon, northeasterly and then northerly on highway M-120 to highway M-20, easterly on highway M-20 to highway business route US-10 in the city of Midland, easterly on combined highway M-20 and highway business route US-10 to highway US-10 at the Midland-Bay county line, easterly on highway US-10 to Garfield road in Bay county, northerly on Garfield road to Pinconning road, easterly on Pinconning road to seven mile road, northernly on seven mile road to the Bay-Arenac county line (where seven mile road changes name to Lincoln school road), northerly on Lincoln school road (also known as county road 25) in Arenac county to highway M-61, easterly on highway M-61 to highway US-23, northeasterly then easterly on highway US-23 to the center line of the Au Gres river, southernly along the center line of the Au Gres river to Saginaw bay of Lake Huron, easterly 90° east for 7 miles into Saginaw bay, then northernly 78° east (dividing Arenac county islands

from Huron county islands) to the international boundary line between the United States and the dominion of Canada.

(25) "Zone 3" means all that part of the Lower Peninsula south of the line described in zone 2.

2.1 Taking of animals; prohibited methods, devices, and weapons; exceptions.
Sec. 2.1 Unless otherwise specified in this order, a person shall not do any of the following:

(1) Make use of a pit, pitfall, deadfall, scaffold, raised platform, tree, cage, snare, trap, net, baited hook, or similar device, or a drug, poison, anti-coagulant, smoke, gas, explosive, weasel, ferret, fitchew, arbalest, spear, or mechanical device, for the purpose of taking an animal or driving an animal out of their hole or home. For the purpose of this order, a mechanical device shall not be construed to mean a firearm, crossbow, slingshot, or bow and arrow. When used in this order, "raised platform" means a horizontal surface constructed or manufactured by a person that increases the field of vision of a person using the horizontal surface beyond the field of vision that would normally be attained by that person standing on the ground.

(2) Use in taking an animal, or have in the person's possession in an area frequented by animals, a semiautomatic shotgun or rifle other than .22 caliber rimfire, capable of holding more than six shells at one time in the magazine and barrel combined, or use a cartridge containing a tracer bullet, or a cartridge containing an explosive bullet, or a firearm capable of firing more than one shot with a single pull or activation of the trigger.

(3) During the five days immediately preceding November 15, transport or possess in an area frequented by deer a rifle or shotgun with buckshot, slug load, ball load, or cut shell. A person may transport a rifle or shotgun to or from a hunting camp if the rifle or shotgun is unloaded and securely encased or carried in the trunk of a vehicle. This section shall not prohibit a resident who holds a fur harvester's license from carrying a rimfire firearm .22 caliber or smaller while hunting or checking a trap line during the open season for hunting or trapping fur-bearing animals.

(4) Use in hunting, or, subject to section 43510, 1994 PA 451, MCL 324.43510, possess afield in an area inhabited by wild birds and animals within the "limited firearms deer zone" from November 15 to November 30, or use to take a deer during any firearm deer season in the "limited firearms deer zone," a firearm other than:

(a) A shotgun with a smooth or rifled barrel.

(b) A .35 caliber or larger pistol capable of holding no more than nine shells at one time in the barrel and magazine combined and loaded with straight-walled cartridges.

(c) A muzzle-loading rifle or black-powder pistol loaded with black-powder or a commercially manufactured black-powder substitute.

(d) A .35 caliber or larger rifle loaded with straight-walled cartridges with a minimum case length of 1.16 inches and a maximum case length of 1.80 inches.

(e) A .35 caliber or larger air rifle or pistol charged only from an external high-compression power source such as an external hand pump, air tank, or air compressor.

(5) Injure, destroy, or rob the eggs of birds protected by the laws of this state or this order, or molest, harass, or annoy those birds upon their nests.

(6) Possess or use a silencer on a firearm while hunting in this state that is capable of a decibel reduction of greater than 30 decibels as provided by the manufacturer's specifications.

(7) Possess and or use ammunition that when fired its velocity does not reach 1,126 feet per second, as provided by the manufacturer's specifications, while hunting with a silencer.

(8) Make use of a sink box or battery as these devices are defined by the United States fish and wildlife service.

(9) Set afire or assist in setting afire a marshland or other lands for the purpose of driving out wild birds or wild animals, or take or attempt to take a wild bird or wild animal so driven out of a marshland or other land.

(10) Take any animal at any time other than during the hunting hours and open seasons established in this order, except as may otherwise be provided in chapter VI.

(11) Take in 1 day more than the daily limit, or possess at one time more than the possession limit, or possess on the first day of the open season more than the daily limit, or possess more than the season limit of any animal.

(12) Destroy, disturb, or molest at any time any bear, beaver, muskrat, raccoon, squirrel, mink, badger, or rabbit house, hole, burrow, nest, dam, or den which may be used by such animals.

(13) Make use of a dog in hunting deer, except as noted in section 2.1a of this order.

(14) Affix any device to a bow, which aids in the cocking or holding of a bow string in a drawn position. This subsection shall not prohibit the use of a hand-held device to release the bow string. This subsection shall not apply to a permanently or temporarily disabled person who holds a special permit provided for in section 40101 to 40119 of 1994 PA 451, MCL 324.40101 to 324.40119, or section 5.95 of this order.

(15) Use aircraft to aid in the taking of a wild bird or wild animal.

(16) Take game with a crossbow unless the hunter possesses a valid license to take game and uses only arrows, bolts, and quarrels for taking deer, bear, elk, wolf, and turkey with a broadhead hunting type of point not less than 7/8 of an inch wide with a minimum of 14 inches in length.

(17) Take deer with a crossbow or a modified bow in zone 1 from December 1 to March 31. This subsection shall not apply to a person who holds a special permit provided for in part 401, wildlife conservation, natural resources and environmental protection act, 1994 PA 451, as amended, MCL 324.40101 to 324.40119, or section 5.95 of this order.

Issued on this 11th day of February, 2016.

Approved as to matters over which the Natural Resources Commission has authority.

John Matonich, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

William E. Moritz, Ph.D.
Director