



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



KEITH CREAGH
DIRECTOR

SUBMITTED: March 23, 2015

MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

Subject: Small Game and Upland Game Birds Regulations
Wildlife Conservation Order Amendment No. 3 of 2015
FOR INFORMATION ONLY

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:

As part of the multi-year hunting regulatory cycle implemented in 2013, the schedule for reviewing and updating small game and upland game bird regulations was set for every five years. The last update to small game and upland game bird regulations was completed in 2010. Accordingly, the Department has reviewed small game and upland game bird regulations and identified several issues for proposed changes. The multi-year schedule is intended to provide consistency in regulations for better understanding by hunters and trappers, as well as to facilitate monitoring of the impacts of regulation changes.

Sharp-tailed Grouse Management Unit Boundary

Michigan has a long history of sharp-tailed grouse hunting; the first season took place in 1935. Over the years, restrictions were implemented in the Lower Peninsula and bag limits were decreased until the hunting season was suspended in 1998. The Department, along with many conservation partners, collected appropriate data and conducted habitat studies to reopen a season in 2010. Since that time, the number of actively participating hunters has remained steadily between 350 and 400, although over 2,500 stamps are typically issued each season. Hunter surveys consistently show about a 30% satisfaction rate regarding the land open to sharp-tailed grouse hunting.

In order to provide more recreational opportunity in habitat known to support sharp-tailed grouse, the Department recommends expanding the western boundary of the sharp-tailed grouse management unit (GMU).

Neighboring States and Provinces

Wisconsin has not issued sharp-tailed grouse hunting permits for the past two seasons. In 2012, the state had a 23-day season. The number of grouse on managed properties is below historic levels, and the population has been declining since 1998.

Minnesota will have a 42-day sharp-tailed grouse season this fall. Although sharp-tailed grouse populations have declined in some areas over the past 25 years due to habitat deterioration,

surveys of birds counted per dancing ground have shown an increase over more recent years. Minnesota only opens the northern portion of the state for sharp-tailed grouse hunting.

The sharp-tailed grouse season in most of Ontario is from mid-September to mid-December with dates extending even longer in some hunting units. Ontario does not conduct population surveys or annual harvest surveys, and the southwestern part of the province is not open to sharp-tailed grouse hunting.

Pros and Cons

Although about 300 square miles of the approximately 400-square-mile proposed expansion area is private land, farmers are encouraged to participate in the Hunting Access Program (HAP). Accordingly, the Department expects that additional recreational opportunity will be available for sharp-tailed grouse hunters.

Biological

The proposed expansion area moves the western boundary of the sharp-tailed grouse management zone to a road system on the western edge of the farmland in the area. A number of landowners in the existing hunting zone are participants in the HAP, and additional HAP lands are expected to be available in the expanded hunting zone. Working together with agency and private partners, the Department established an occupancy survey in the eastern Upper Peninsula in 2009 and reopened the sharp-tailed grouse hunting season in a limited area in fall 2010. A sample of 1 mi² sections has been surveyed 3-4 times each spring since 2009 in the area open and an adjacent area closed to hunting. Scientists used occupancy modeling to account for imperfect detection while evaluating annual changes in distribution in relation to hunting. Estimates of occupancy varied from a low of about 53% in 2009 to a high of 87% in 2010 and estimates displayed no trend after the hunting season was reopened. Statistical models and patterns of occupancy pre- and post-reopening of hunting and in open and closed areas suggest little impact of hunting on sharp-tailed grouse distribution. The results of occupancy analyses are consistent with relatively low harvest estimates based on mail surveys of hunters and these data indicate the sharp-tailed grouse population can sustain additional harvest.

Social

The Sharp-tailed Grouse Advisory Committee supports the proposed recommendation for expansion of the unit. The Committee includes representatives from the Department's Wildlife and Forest Resources Divisions, U.S. Fish and Wildlife Service (USFWS), Michigan Sharp-tailed Grouse Association (MSGA), Great Lakes Indian Fish & Wildlife Commission (GLIFWC) on behalf of Bay Mills Indian Community, Sault Ste. Marie Tribe of Chippewa Indians, Ruffed Grouse Society, and Michigan United Conservation Clubs. The Michigan Audubon Society was invited but was unable to send representation.

Economic

Based on a 2013 survey, hunters spent an average of \$203 ± \$27 per year hunting sharp-tailed grouse. Expenditures included the costs of ammunition, food, travel, and lodging. Collectively, hunters spent about \$70,700 (±\$9,500) hunting sharp-tailed grouse in 2013. It is likely that expanding areas open will result in additional participation, although the actual economic impact is not known.

Hunting from a Scaffold, Raised Platform, or Tree

The Department recommends allowing the use of a shotgun from a scaffold, raised platform, or tree while hunting small game except migratory game birds. This would include: hare, pheasant, quail, rabbit, ruffed grouse, sharp-tailed grouse, squirrel, and woodchuck.

Pros and Cons

Allowing the harvest of small game with a firearm from a scaffold, raised platform, or tree is expected to result in some additional recreational opportunity during the overlapping small game and deer seasons.

There may be added enforcement complexity with the expanded use of a scaffold, raised platform, or tree while hunting small game, except migratory game birds, due to several overlapping deer seasons and specific seasonal firearm, baiting, and hunter's orange requirements.

Neighboring States and Provinces

The Department polled natural resources professionals in Illinois, Iowa, Kansas, Kentucky, Manitoba, Minnesota, Missouri, Ontario, Pennsylvania, and South Dakota to determine whether any of these states or provinces allow individuals to use a shotgun from a scaffold, raised platform, or tree while hunting small game. The results were the following:

- Illinois, Kentucky, Minnesota, and South Dakota: An individual is allowed to use a shotgun.
- Iowa: There are no restrictions in Iowa for hunting small game from a raised platform.
- Kansas: There is no regulation prohibiting small game hunters from using a scaffold, raised platform, or tree as long as the hunter has permission to be on the property and is licensed, when required.
- Manitoba: There are no restrictions on the type of firearm an individual may use while hunting small game; a license is not required.
- Missouri, Ontario, and Pennsylvania: An individual may hunt small game from a scaffold, raised platform, or tree with any weapon that is permitted during that season.
- Wisconsin: There are no restrictions for hunting small game from a scaffold, raised platform, or tree as long as the platform is not a part of a motor vehicle.

Biological

For many small game species, the most successful hunting methods are from the ground, such as hunting with the aid of dogs while pursuing hares. For this reason, it is likely that the use of a scaffold, raised platform, or tree will be secondary to other hunting methods. Accordingly, the Department does not expect a biological impact to the species or a significant change to overall hunter success rates.

Migratory game birds are subject to USFWS hunting season frameworks. In addition, regulations for hunting migratory birds, such as waterfowl, from a blind are described elsewhere in the Wildlife Conservation Order. Accordingly, the Department does not recommend any changes to the current use of a scaffold, raised platform, or tree as it applies to small game animals that are also migratory birds.

Social

The Department has received requests from some hunters to allow for the use of a scaffold, raised platform, or tree when hunting small game with a firearm. These hunters have indicated an interest in taking small game with a firearm while hunting deer from tree stands in order to have additional recreational opportunity during the overlapping seasons.

The Michigan United Conservation Clubs supports allowing small game to be taken from a scaffold, raised platform, or tree with a firearm.

Economic

The Department does not expect a significant increase in small game hunters, and therefore, does not expect a significant economic impact.

Controlling Nuisance Woodchuck and Skunk

The Department recommends allowing a property owner or the owner's designee to take woodchuck and skunk all year on property owned by the individual if the woodchuck or skunk is doing or is about to do damage to the individual's property. The Department further recommends that the property owner or authorized designee be considered a damage and nuisance animal control permittee for the purpose of controlling the woodchuck or skunk. In addition, the Department proposes that a written permit not be required as long as the individual abides by otherwise lawful hunting methods.

Pros and Cons

Prior to 2014, legislation allowed for a property owner and his or her immediate family to take small game, such as a woodchuck, without a hunting license or permit as long as the small game animal was taken upon the enclosed farmland of the property owner and by lawful methods. However, a legislative change in early 2014 removed this exception. Accordingly, if a woodchuck causes damage to private property, the woodchuck cannot be controlled unless the

property owner or a designee has obtained a base license, a damage and nuisance animal control permit, or has hired a permitted nuisance animal control business.

The Department has received feedback from some landowners that this change created an onerous cost and administrative burden for some property owners. Currently, the Department allows a property owner or the owner's designee to take raccoons and coyotes all year on property owned by the individual if the raccoon or coyote is doing or is about to do damage to the individual's property. When controlling raccoons or coyotes, the Department considers the property owner or designee a damage and nuisance animal control permittee for the purpose of controlling the raccoon or coyote without requiring a written permit, base license, or furharvester's license. The Department has received some feedback from landowners and legislators that applying the same process to nuisance woodchuck would provide consistency in regulations and eliminate some burden for landowners. The Department has received similar requests regarding nuisance skunks. As there is no closed season for skunks, and they are capable of causing damage or nuisance, the Department recommends implementing the same process.

Neighboring States

The Department polled natural resources professionals in Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Ohio, and Wisconsin to determine whether any of these states or provinces allows individuals to take woodchuck or skunk on private property without a license or written permit. The results were the following:

- Illinois: No; a permit is required to take a skunk or woodchuck out of season.
- Indiana: Yes; woodchucks may be taken year-round without a permit or hunting license. There are no limits to the number that can be taken. Skunks may be live-trapped on private property by the owners or tenants year-round and euthanized or released.
- Iowa: Yes; woodchucks may be taken year-round without a permit or hunting license on private property by the owners or tenants and their juvenile children. They may also shoot by lawful means woodchucks upon adjacent roads. No; skunks may only be taken with a hunting license or trapping permit in season.
- Kansas: No; although woodchuck may be taken year-round and there are no limits to the number that may be taken, a hunting license is required. Yes; skunks may be trapped on private property by the owners or tenants year-round.
- Kentucky: Yes; woodchucks may be taken year-round without a permit or hunting license on private property owned by the hunter. However, a license is required on property not owned by the individual. Yes; skunks may be trapped on private property by the owners or tenants year-round.
- Minnesota: Yes; woodchucks may be taken year-round without a permit or hunting license. There are no limits to the number that can be taken. Skunks are unprotected; they can be hunted year-round without bag limits, hour restrictions, or a license.
- Missouri: Yes; woodchucks may be taken out of season without a permit or hunting license if they are causing damage. Yes; skunks may be trapped or shot on private

property by the owners or tenants year-round. However, the local department or law enforcement office must be informed of the shooting activity.

- Ohio: No; although woodchuck may be taken year-round if the woodchuck is doing or about to do damage on an individual's property, a license is required. Skunks may only be taken with a hunting license or trapping permit in season.
- Wisconsin: Yes; woodchucks causing damage or nuisance may be taken year-round without a permit or hunting license on private property owned by the property owner and members of their family. All other hunting regulations must be followed. Skunks are unprotected; they can be hunted year-round without bag limits, hour restrictions, or a license.

Biological

Woodchucks and skunks are abundant species. No significant biological affect is expected. The resulting harvest is likely to be very similar to harvest prior to 2014.

Social

The Department has received requests from some landowners and legislators to allow for the control of woodchucks and skunks private property without a base license, furharvester's license, or permit. Some landowners have further indicated that they oppose the 2014 change in legislation that removed the hunting license exception as it related to small game causing a nuisance on enclosed farmland.

The Department has received requests from some landowners and legislators to make the proposed recommendations. Although a furharvester's license or nuisance animal control permit has always been required to take a skunk, aligning the regulations to match raccoon and coyote requirements provides consistency.

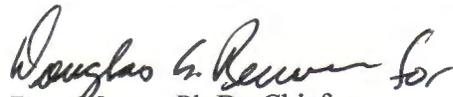
Economic

The Department does not expect a significant decrease in base license purchases, and therefore, does not expect a significant economic impact.

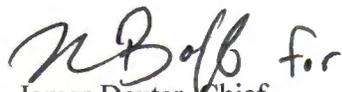
Small Game and Upland Game Birds Regulations
Wildlife Conservation Order Amendment No. 3 of 2015
Page 7
March 23, 2015

Recommendation:

This order is being submitted for information and consideration. This item appeared on the Department's March 2015 calendar and may be eligible for approval on May 7, 2015.

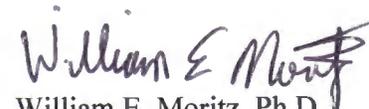

Russ Mason, Ph.D., Chief
Wildlife Division


Bill O'Neill, Chief
Forest Resources Division


James Dexter, Chief
Fisheries Division


Gary Hagler, Chief
Law Enforcement Division


Ronald A. Olson, Chief
Parks and Recreation Division


William E. Moritz, Ph.D.
Natural Resources Deputy

WILDLIFE CONSERVATION ORDER

Amendment No. 3 of 2015

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 May 8, 2015, the following section(s) of the Wildlife Conservation Order shall read as follows:

2.8 Hunt with bow and arrow from scaffold, raised platform, or tree allowed; taking deer, elk, or bear certain species with a firearm from scaffold, raised platform or tree allowed; use of scaffold, platform, ladder, steps or certain other devices in taking an animal on publicly owned lands, exception.

Sec. 2.8 An individual may hunt with a crossbow or a bow and arrow from a scaffold, raised platform, or tree. An individual taking deer, elk, or bear with a firearm may use a scaffold, raised platform, or tree pursuant to all other hunting regulations. An individual taking fox, or coyote, or wolf with a firearm one-half hour before sunrise to one-half hour after sunset may use a scaffold, raised platform, or tree, pursuant to all other hunting regulations. An individual taking small game that are not migratory game birds with a shotgun may use a scaffold, raised platform, or tree pursuant to all other hunting regulations. In taking an animal, an individual shall not do any of the following on publicly owned lands:

(1) Permanently construct or affix to a tree or other natural feature a scaffold, platform, ladder, steps or any other device to assist in climbing a tree, or use any item that penetrates the cambium of a tree in the construction or affixing of any device to assist in climbing a tree.

(2) Use or occupy a scaffold, raised platform, ladder, or step that has been permanently affixed or attached to any tree or other natural feature.

(3) Nothing in this section shall prohibit a scaffold or platform temporarily affixed to a tree by use of a T-bolt or similar device supplied by the manufacturer at the time the scaffold or platform was purchased.

(4) Use or occupy a scaffold or raised platform without having first etched, engraved, implanted, burned, printed, or painted on the scaffold or raised platform, the name and address of the user in legible English easily read from the ground.

(5) Use, occupy, or place a scaffold, raised platform, ladder, steps, or any other device to assist in climbing a tree if the scaffold, raised platform, ladder, steps, or other device is on public lands earlier than September 1 of each year or is not removed by March 1.

3.506 Woodchucks, open season, exception; taking woodchucks doing or about to do damage, individual taking considered permittee.

Sec. 3.506 (1) The open season for woodchucks shall be statewide all year except for state park and recreation areas which shall be closed April 1 to September 14.

(2) A property owner or the property owner's designee may take a woodchuck all year on property owned by the individual when a woodchuck is doing or about to do damage to the individual's property. An individual taking a woodchuck under the authority of this subsection shall be considered a permittee as defined by section 5.50 of this order. A written permit is not required, and the individual shall be authorized to take woodchuck all year by otherwise lawful hunting methods.

3.604 Skunks, hunting and trapping, open season, exception; unlawful act.

Sec. 3.604 (1) The open season for taking skunk by hunting or trapping shall be statewide all year except for state park and recreation areas which shall be closed April 1 to September 14. A person shall not possess a live skunk taken in Michigan.

(2) A property owner or the property owner's designee may take a skunk all year on property owned by the individual when a skunk is doing or about to do damage to the individual's property. An individual taking a skunk under the authority of this subsection shall be considered a permittee as defined by section 5.50 of this order. A written permit is not required, and the individual shall be authorized to take skunk all year by otherwise lawful hunting and trapping methods.

12.751 "Zone 1 sharp-tailed grouse management unit" defined.

Sec. 12.751 "Zone 1 sharp-tailed grouse management unit" means that area of Chippewa and Mackinac counties bounded by a line beginning at the Lake Huron shoreline and Smith road at Sheppard bay south of Cedarville in Mackinac county (section 6, T41N R1E) and proceeding north along Smith road to Meridian road (section 31, T42N R1E), then northerly to highway M-129 (section 30, T42N R1E), then northerly along highway M-129 to the northerly intersection with highway M-48 north of Pickford (section 24, T44N R1W), then westerly along highway M-48 to interstate 75 (section 21, T44N R2W), then northeasterly along interstate 75 to 3-mile road/city limits road at Sault Ste. Marie (section 24, T47N R1W), then easterly along 3-mile road/city limits road to Riverside drive and continuing due east to the St. Mary's river shoreline (section 22, T47N R1E), then southerly along the most western shoreline of the St. Mary's river system to the southern tip of Point de tour at Lake Huron (section 15, T41N R4e) but also to include all of Sugar island and Neebish island, then westerly along the most northerly shoreline of Lake Huron to the point of beginning at the mouth of the Pine river in Mackinac county (section 10, T42N R03W; located about one and half miles east of interstate highway 75) and proceeding northerly along the center of the Pine river to state highway M-134 (northeast corner of section 10, T42N R03W ; also known as north Huron shore drive), then westerly along M-134 to Mackinac trail (section 09, T42N R03W), then northeasterly along Mackinac trail to 16 mile road (also known as USFS road 3113 ; section 04, T42N R03W), then westerly and northerly along 16 mile road (USFS 3113) to the Chippewa county line where the road name changes to Dryburg road in Chippewa county (section 34, T44N R03W), then northerly and easterly along Dryburg road to Teets road (section 21, T44N R03W ; about one and half miles south of town of Dryburg), then westerly on Teets road to county road H-40 (section 19, T44N R03W), then northerly and easterly along county road H-40 past the town of Fibre to Sullivan creek road (also known as USFS road 3131 ; section 18, T44N R03W), then northerly, northwesterly, and northeasterly along Sullivan creek road (USFS 3131) to state highway M-28 (section 23, T46N R04W) about two miles southwest of the town of Raco, then easterly along M-28 to State highway M-221 (section 21, T46N R02W), then northerly along M-221 through the town of Brimley to the intersection of M-221 and Lakeshore drive near the west bank of the Waiska river (section 04, T46N R02W), then into the center of the Waiska river and then northwesterly along the center of the Waiska river into Waiska bay then due north-northeast into Lake Superior to the state/international boundary, then proceeding northeasterly to southeasterly along the state/international boundary and the center of the St. Mary's river system shipping canal, including Sugar island, Neebish island, and Lime island, and continuing on the state/international boundary to the point due south of the southern tip of St. Joseph island (Canada; in section 05, T42N R04E), then from this point to and along the detour passage into Lake Huron, past Point de Tour, westerly in Lake Huron including all the Les Cheneaux and Marquette islands (excluding St. Martin islands and those other islands farther to the south) to the point of beginning.

Issued on this 7th day of May, 2015.

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.

Keith Creagh
Director

