



STATE OF MICHIGAN



DEPARTMENT OF NATURAL RESOURCES

JENNIFER M. GRANHOLM
GOVERNOR

LANSING

REBECCA A. HUMPHRIES
DIRECTOR

SUBMITTED: April 6, 2009
RESUBMITTED: May 11, 2009

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| A P P R O V E D |
| _____, 2009 |
| MICHIGAN NATURAL RESOURCES COMMISSION |
| (ASSISTANT TO THE COMMISSION) |

MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

Subject: Management of Wolves
Wildlife Conservation Order Amendment No. 9 of 2009

Authority:

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

Discussion and Background:

On July 10, 2008, the Department published the Michigan Wolf Management Plan (Wildlife Division Report No. 3484). Under section 6.3.1 of this plan, the Department has committed to ensure adequate legal protection of wolves. Adequate legal protection includes designating the status of the wolf as; 1) endangered, 2) protected, or 3) game animal.

On April 2, 2009, the Director signed an Interim Order to confer protected status once endangered species protection for the wolf was removed. The number of wolves in Michigan (520 in 2008) is 500 percent and 250 percent of federal and state recovery criteria, respectively. The wolf was removed from the state and federal lists on April 9, 2009, and May 4, 2009, respectively.

These federal and state actions will leave the wolf without protected status when the interim order expires on November 2, 2009.

Game status can be conferred only by the state Legislature. Therefore, we recommend that the Department designate the gray wolf as a protected animal, consistent with Action Item 4 of section 6.3.1 of the Michigan Wolf Management Plan, and to prohibit the possession of a roadkill wolf or other protected mammal. This protection also recognizes the ability of an owner of livestock and domestic dogs to kill a wolf in the act of preying upon these animals as provided in Act No. 290 and 318 of the Public Acts of 2008.

NATURAL RESOURCES COMMISSION
Keith J. Charters, Chair • Mary Brown • Hurley J. Coleman, Jr. • John Madigan • Timothy L. Nichols • J. R. Richardson • Frank Wheatlake

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Recommendation:

This order is being submitted for information and consideration. This item appeared on the Department's April 27, 2009, calendar and may be eligible for approval on June 4, 2009.

Russ Mason, Ph.D., Chief
Wildlife Division

Ronald A. Olson, Chief
Parks and Recreation Division

Lynne M. Boyd, Chief
Forest, Mineral, and Fire Management

Gary Hagler, Chief
Law Enforcement Division

Arminda S. Koch
Resource Management Deputy

I approve the staff recommendations.

Rebecca A. Humphries
Director

Date Approved

WILDLIFE CONSERVATION ORDER

Amendment No. 9 of 2009

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 June 5, 2009, the following section(s) of the Wildlife Conservation Order shall read as follows:

4.5 Possession of road-killed wild animals.

Sec. 4.5. A person may possess a road-killed wild animal only as provided for by the following:

(1) For purposes of this section "nongame" means all wild birds and wild mammals not defined as game by Part 401 of the Natural Resources and Environmental Protection Act, 1994 PA 451, being MCL 324.40103(1).

(2) Road-killed nongame mammals, except for mammals protected by section 9.3 of this order and Part 365 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.36503, may be kept by any person at anytime without a permit. Mammals protected by the endangered species act may be possessed only in compliance with Part 365.

(3) Road-killed nongame birds, except for house (English) sparrows, European starlings, feral pigeons, or endangered or threatened species, may be kept only by a scientific or educational institution with a permit from the director for scientific or educational purposes. House (English) sparrows, European starlings, or feral pigeons may be kept by any person at anytime without a permit. Birds protected by Part 365 may be possessed only in compliance with Part 365.

(4) Road-killed game animals, except for a spotted fawn, cub bear, or migratory birds, may be kept by any person without a permit if the hunting or trapping season is open for that species where the animal was killed and if that person has a valid license for taking the animal. A road-killed game animal shall be included in the daily, possession, and season limit. A spotted fawn, cub bear, migratory game bird, and all other game animals killed outside of the open season may be kept only by a scientific or educational institution with a permit from the director for scientific or educational purposes and applicable federal permit.

(5) Notwithstanding the provisions of subsection (4), a road-killed deer that is not spotted, or an adult bear, may be salvaged for food by anyone at anytime with a permit from the director as provided by section 5.10.

(6) A road-killed wild animal from outside the state of Michigan may be kept only by a person who can show proof that it was legal to take or possess that animal in the state where it was killed.

9.1 Permitted acts; certain species.

Sec 9.1 (1) English sparrows, feral pigeons, and starlings may be taken by hunting statewide, year around except within state park and recreation areas from April 1 to September 14. English sparrows and starlings may be taken without a permit when doing or about to do damage to property or committing or about to commit depredations. Opossum, weasels, ground squirrels, and red squirrels may be taken by hunting and trapping statewide, year around except within state park and recreation areas from April 1 to September 14.

(2) Mute swans and their eggs and nests may be taken by department personnel, and persons authorized in writing by the department to control mute swans under one or more of the following situations:

(a) To stabilize or reduce mute swan population levels or to prevent new populations of feral mute swans from being established in this state.

(b) To prevent mute swans interference with the establishment, reestablishment, or reproductive success of native wildlife and with the establishment or reestablishment of native vegetation.

(c) To prevent mute swans interference with the establishment, reestablishment, or reproductive success of endangered or threatened species.

(d) To protect public health, safety, or welfare.

(3) Mute swans taken as provided in this section shall not be released back into the wild in this state. Mute swans rendered and certified incapable of flight by a licensed veterinarian and prevented from reproducing at the permittee's expense may be possessed with written authorization. For the life of the swan, this authorization will be contingent upon the ability of the permittee to render any resulting eggs incapable of hatching. The permit may be revoked by the department upon evidence that the mute swan has successfully reproduced.

(4) A bat may be taken whenever there is any reason to believe the bat was involved in a bat-human or bat-domestic animal exposure to rabies or other health hazard. Bats taken under this subsection shall not be held in captivity except for temporary holding of the animal at the request or recommendation of a physician or public health official for public health reasons. Bats held in captivity for public health reasons shall be humanely euthanized. Except for threatened or endangered species, or as otherwise provided by this order, bats may be taken:

(a) When creating a damage or nuisance problem on privately-owned property.

(b) Incidental to normal forest management activities occurring on public or private lands.

(c) Incidental to closure of an abandoned mine as a result of public safety concerns.

(d) Incidental to demolition of buildings or other structures.

(5) Double-crested cormorants and their eggs may be taken only as follows:

(a) Double-crested cormorants may be harassed without a permit by nonlethal means to deter or prevent damage to private property or to public fishery resources using such devices as noise makers or scare devices and other recognized and recommended means of preventing damage which do not kill, harm, capture, trap, or collect animals.

(b) Double-crested cormorants may be taken and their eggs destroyed or oiled by department employees and designated agents of department employees at times and by manners identified through a state breeding colony or local breeding population control action which has been submitted to the United States fish and wildlife service.

(6) Individuals of a cervidae species not native to Michigan, including, but not limited to sika deer, fallow deer, mule deer, and hybrids thereof, but excluding red deer, elk, and hybrids thereof, found in the state outside of the perimeter fence of a registered cervidae livestock operation for more than 48 hours that do not bear visible identification may be taken by hunting statewide, year around, except within state park and recreation areas from April 1 to September 14, if the animal is submitted for registration and disease testing in a manner specified by the department by the person killing the animal.

(7) Red deer, elk and hybrids thereof found in zone 3 outside of the perimeter fence of a registered cervidae livestock operation for more than 48 hours that do not bear visible identification may be taken by hunting year around, except within state park and recreation areas from April 1 to September 14, if the animal is submitted for registration and disease testing in a manner specified by the department by the person killing the animal.

(8) In addition to the provisions of subsections (6) and (7), the wildlife permit specialist may issue a permit authorizing a department employee or federal employee to kill a cervidae species not native to Michigan, including elk, red deer and hybrids thereof, in a specified part of the state during a specified time period, whether or not visibly marked, if all of the following conditions are met:

(a) The animal is documented by a department employee or federal employee to have been outside of the perimeter fence of a registered cervidae livestock operation for more than 48 hours.

(b) No report of release has been filed with the department matching the species of animal and visible identification, if any, on the animal for the locality in which the animal was found.

(c) The department is unable to determine ownership of the animal by the visible identification, if any, displayed on the animal.

(d) The animal is submitted for registration and disease testing in a manner specified by the department

(9) Gray wolves may be taken by department personnel, and persons authorized in writing by the department, to control gray wolves for one or more of the following purposes:

(a) To stabilize or reduce gray wolf population levels.

(b) To protect public health, safety, or welfare.

(c) To control damage or nuisance caused by gray wolves on privately-owned property.

(d) For purposes of scientific research.

(e) To address disease concerns.

9.3 Protected animals; unlawful acts.

Sec. 9.3. (1) Moose, wolverine, and all birds not defined as game, except those listed in section 9.1, shall not be taken at any time.

(2) Mute swans and bats shall not be taken at any time except as specified in section 9.1.

(3) Gray wolves shall not be taken at any time except as specified in 2008 PA 290, being MCL 324.95151 to 324.95155, 2008, PA 318, being MCL 324.95161 to 324.95167, or in Section 9.1 of this order.

Issued this 4th day of June, 2009.

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

Keith J. Charters, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

Rebecca A. Humphries
Director