STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING

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GOVERNOR

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SUBMITTED: October 17, 2016

MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

Subject: Centerfire Firearms for Nighttime Raccoon, Opossum, Fox, and Coyote Hunting
Wildlife Conservation Order Amendment No. 11 of 2016
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

At the April 2016 Natural Resources Commission (NRC) meeting, the NRC approved Wildlife Conservation Order Amendment No. 4 of 2016, Coyote and Nighttime Predator Hunting Regulations, that extended the length of the daytime and nighttime coyote hunting season to statewide, year around, and simplified regulations for nighttime hunting of furbearers. Both during the review and following the approval of the order, the Department received feedback from multiple stakeholders about allowing the use of centerfire firearms for nighttime predator hunting. At the Michigan United Conservation Clubs 2016 Annual Convention in June, a resolution was passed supporting nighttime predator hunting with centerfire firearms. As part of the continuing discussions on nighttime coyote harvest and in light of increased stakeholder support, the NRC requested the Department prepare an order for consideration of the use of centerfire firearms for the take of coyotes at night. This order proposes allowing the use of .229 caliber or smaller centerfire firearms for nighttime raccoon, opossum, fox, and coyote hunting, with enhanced optic requirements. Allowing the use of centerfire firearms for nighttime raccoon, opossum, fox, and coyote hunting allows for additional recreational opportunity and potential increased harvest. Applying the same regulations to all furbearers with nighttime harvest regulations will maintain simple, easy to enforce regulations.

Current Nighttime Raccoon, Opossum, Fox, and Coyote Hunting Regulations
Currently, Michigan allows for the nighttime take of raccoon, opossum, fox, and coyote. Hunters may use artificial lights for the take of raccoon, opossum, fox, and coyote during the open season for take of the species being hunted. Nighttime hunters are required to hunt with the aid of a game call or predator call or with the aid of dogs only. Hunters using the aid of dogs may only have a firearm, crossbow or bow and arrow loaded at the point of kill.

Centerfire Firearms for Nighttime Raccoon, Opossum, Fox, and Coyote Hunting
This order proposes allowing the use of a centerfire firearm .229 caliber or smaller for nighttime raccoon, opossum, fox, and coyote hunting during their respective open season. This order

also proposes that nighttime centerfire firearm hunters comply with the current requirement that the hunter must use a game call or predator call, or use the aid of dogs only. In addition, this order proposes that nighttime centerfire firearm hunters be required to use a scope equipped with electro-optics designated as a generation 2 or better by the manufacturer that is used to detect visible and infrared energy and provides a visible image or a scope-mounted electro-optical device designated as a generation 2 or better by the manufacturer that is used to detect visible and infrared energy and provides a visible image through the scope. This does not include thermal imaging devices because the infrared radiation cannot detect heat through solid materials such as wood, concrete, or metal. A nighttime centerfire firearm hunter may use a thermal imaging device for locating an animal. Using an electro-optical device may allow nighttime centerfire firearm hunters to see clearly and effectively identify their target.

This order proposes allowing nighttime centerfire firearm hunters to use artificial lights for navigational purposes or to assist in finding a wounded or dead animal. Artificial lights must be similar to the type ordinarily held in the hand or on the person, such as flashlights, portable battery powered spotlights, and headlamps. This order proposes the take of raccoon, opossum, fox, and coyote at night with a centerfire firearm and with the aid of a light to be prohibited. Solely using artificial lights to aid in the take of raccoon, opossum, fox, and coyote with a centerfire firearm would allow a hunter to target distant animals when they are only be able to see eye shine instead of the entire body of the animal.

Pros
Centerfire firearms are a tool utilized for nighttime hunting by hunters in most states surrounding Michigan. Centerfire cartridges can expand hunters' effective range. In areas where harvest of raccoon, opossum, fox, and coyote is important, increasing the allowable methods of take may aid in the harvest of these species. The use of centerfire firearms at night will also increase recreational opportunities.

Cons
Law enforcement officers and others within the Department do not support the use of centerfire rifles/ammunition at night from both a human safety issue and a species protection issue (e.g., wolves, bobcats, cougars, dogs, cats, etc., mistaken as coyotes). Law enforcement officers and others within the Department have serious safety concerns with using the language of .229 caliber or smaller for the following reasons:

- Since January 2003, thirteen people have been shot by hunters in Michigan that failed to properly identify their targets in low light conditions. In most of these incidents, the victim was mistaken as game. Three of these incidents were fatal for the victim, including a teenager shot in the head with a centerfire rifle round in 2012, mistaken as a raccoon in St. Clair County by an individual who was predator hunting.
- A .223 caliber rifle, or any of the other centerfire rifles, like a .22-250, will travel for miles. For example, the average .223 round is accurate out to 600 meters, or 1,950 feet. This is a significant safety concern for rounds going through, or missing animals, and continuing for miles. Hunters at night will not be able to safely see what is in their target background. There could be houses, livestock, other wildlife, campers, or even other people walking and

enjoying the nighttime out of doors. One of the most important points Law Enforcement Division (LED) trains to Michigan's well respected Hunter Education program is to always be sure of your target and what is beyond your target. This is not possible while hunting at night and using centerfire rifles and ammunition.

- Law enforcement officers and others within the Department believe that buckshot size number 3 or smaller is preferable ammunition to utilize at night, which was recently legalized for nighttime predator hunting. However, because this change was only made recently, the Department has not had time to evaluate the impact of this change, along with other liberalized regulations such as the mentored youth age elimination and straight walled "pistol" size rifle rounds in the restricted firearm deer zone. Accordingly, law enforcement officers and others within the Department believe that a more incremental approach to regulation changes, rather than simultaneous substantive changes to multiple regulations, would allow the Department to more accurately evaluate and determine the impact of each individual change and base future regulatory decisions on that information. For example, the Department recently modified the nuisance animal control permits to allow restricted centerfire firearm use for nighttime predator control in specific problem areas, which is typically only associated with private property. The Department has not had time to evaluate this program, and that evaluation could provide valuable information regarding the possible impact of more widespread use of centerfire firearms for nighttime hunting.
- The Department continues to receive complaints and criticism from rapid fire and other firearm use on state lands (Echo Point, Allegan County, and several Southwest Michigan State Game Areas). Nighttime centerfire rifle use will only add to these complaints and criticisms.
- This caliber is also a preferred choice for deer poachers, as AR-15 style .223 caliber rifles have come down considerably in cost. Most magazines sold for AR-15 style .223 caliber rifles also hold 20 or 30 rounds, which would put most people in violation of the law governing semiautomatic rifles holding more than 6 rounds in the chamber and magazine combined. By expanding the allowable use of these firearms to the nighttime, more hunters may be set up for violations of the ammunition limitations, in addition to the significant safety concerns associated with a hunter's inability to clearly identify what is in their target background.

Biological

The use of centerfire firearms for nighttime raccoon, opossum, fox, and coyote hunting is not expected to have any significant biological impact on the populations.

Social

The Department has received feedback from multiple stakeholders about allowing the use of centerfire firearms for nighttime hunting. Allowing centerfire firearms for nighttime hunting will allow for additional recreational opportunity, damage control, and allow an additional method of take for nighttime hunters. Michigan United Conservation Clubs and the Michigan Trappers and Predator Callers Association support the recommendation to remove the nighttime centerfire firearm restriction for nighttime predator hunting. The Michigan Predator Hunters for Centerfire at Night support the recommendation to remove the nighttime centerfire firearm

restriction for nighttime predator hunting, as well as the caliber restriction. Law enforcement officers and others within the Department do not support the recommendation of allowing the use of centerfire rifles/ammunition for nighttime raccoon, opossum, fox, and coyote hunting.

Economic
Allowing the use of centerfire firearms for nighttime raccoon, opossum, fox, and coyote hunting may minimally increase hunting license sales. It may also result in increased sales in hunting equipment and potentially increase the number of trips made by hunters pursuing raccoon, opossum, fox, and coyote.

Other States
The Department polled natural resources professionals in Illinois, Indiana, Ohio, and Wisconsin to determine whether these states allow the use of centerfire firearms for nighttime raccoon, opossum, fox, and coyote hunting. The results were the following:

- Illinois: Illinois allows the use of centerfire rifles or centerfire handguns for the nighttime take of raccoon, opossum, fox, and coyote, during their respective open season. Raccoon, opossum, fox, and coyote may be taken during the respective open season using a small hand-operated light by a person who is on foot. Illinois does not restrict the type of sights or scopes, including laser sights and night vision scopes. The use of centerfire rifles or centerfire handguns for nighttime raccoon, opossum, fox, and coyote hunting has been in place since 1999, if not before.
- Indiana: Indiana regulations state that there are no restrictions on hunting hours or firearms for hunting raccoon, opossum, fox and coyote. Spotlights may be used to take fox and coyote. A continuously burning light that can be seen for at least 500 feet must be carried while pursing raccoon, opossum, fox, and coyote at night. Indiana does not require night vision or thermal imaging devices. No restrictions on hunting hours or firearms for nighttime raccoon, opossum, fox and coyote hunting have been in place since 1995, if not before.
- Ohio: Ohio does not prohibit the taking of fox, coyote, raccoon, and opossum with centerfire firearms at night. There are no restrictions for the use of night vision. It is unlawful for any person to hunt furbearing animals from sunset to sunrise, without carrying a continuous white light visible for a distance of at least one-quarter of a mile. However, persons hunting fox, raccoon or coyote with a call from a stationary position may use a continuous single beam light of any color. When two or more persons are hunting together for such animals, one light only is required and may be carried by any member of the party. There has never been a prohibition on the taking of raccoon, fox, opossum, or coyotes with centerfire firearms, unless otherwise provided (e.g., on specific public hunting areas where it is prohibited).
- Wisconsin: Wisconsin allows the use of centerfire firearms for nighttime raccoon, opossum, fox, and coyote hunting, during the respective open season. Wisconsin regulations state that any rifle, handgun, muzzleloader or shotgun may be used for nighttime raccoon, opossum, fox, and coyote hunting, with barrel length restrictions. A flashlight or firearm-mounted light may be used at the point of kill while hunting on foot

for raccoon, opossum, fox, and coyote. Lights may not be used to shine for these animals while in possession of a firearm. Wisconsin does not require night vision or thermal imaging devices. Staff from Wisconsin Department of Natural Resources reported that a cursory review of conservation laws dating to the early 1900s did not reveal any historical legal restrictions which uniquely prohibited centerfire firearm use while pursuing small game mammals.

Relevant Divisions have contributed to the preparation of this order. This order is being submitted for information and consideration. This item appeared on the Department's October calendar and may be eligible for approval on December 8, 2016.

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WILDLIFE CONSERVATION ORDER

Amendment No. 11 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 December 9, 2016, the following section(s) of the Wildlife Conservation Order shall read as follows:

2.4 Permissible use of artificial lights.

Sec. 2.4 (1) Artificial lights, similar to the type ordinarily held in the hand or on the person, may be used by a person traveling afoot with a bow and arrow, crossbow, a rimfire firearm .22 caliber or smaller or shotgun with loads other than buckshot larger than number 3, slug or cut shell. However, subject to MCL 324.43510, (2) and (3), the person shall not possess a loaded firearm, a cocked crossbow, or bow with a nocked arrow, except as provided in section 2.1a of this order unless one or more of the following conditions apply:

(a) The individual is hunting with the aid of dogs and is at the point of kill.

(b) The individual is hunting with the aid of game call or predator call.

(2) Persons not possessing a bow, crossbow, or firearm while traveling afoot may use lights as defined in subsection (1) during dog training or field dog trials to follow dogs chasing raccoon, opossum, or fox.

(3) Subject to the provisions in section 2.5(3) of this order, artificial lights, similar to the type ordinarily held in the hand or on the person, may be used by a person in possession of an unloaded .229 caliber or smaller centerfire firearm traveling afoot at night if one or more of the following conditions apply:

(i) The individual is using an artificial light and traveling afoot to and from the individuals hunting location.

(ii) The individual is using an artificial light and traveling afoot to find a wounded or dead animal.

(iii) This subsection shall not prohibit an infrared illuminator used to aid in a scope equipped with electro-optics designated as a generation 2 or better by the manufacturer that is used to detect visible and infrared energy and provides a visible image or a scope-mounted electro-optical device designated as a generation 2 or better by the manufacturer that is used to detect visible and infrared energy and provides a visible image through the scope.

2.5 Hunting hours, exceptions; prohibited activities.

Sec. 2.5 (1) Except for the trapping of animals and as otherwise specified in this section, the hunting hours shall substantially conform to one-half hour before sunrise to one-half hour after sunset and shall be those starting times and ending times published in the Michigan hunting and trapping guide or in the respective state hunting guide for that animal.

(2) In addition to the daylight hunting hours specified in subsection (1) and 3.605, a person traveling afoot at night and in possession of only a bow and arrow, a crossbow, a rimfire firearm .22 caliber or smaller or shotgun with loads other than buckshot larger than number 3, slug or cut shell may take within their specified open seasons raccoon, opossum, coyote, and fox. However, subject to MCL 324.43510, (2) and (3), a person hunting these species during the nighttime hunting hours shall not possess a loaded firearm, a cocked crossbow, or bow with a nocked arrow unless one or more of the following conditions apply:

(a) The individual is hunting with the aid of dogs and is at the point of kill.

(b) The individual is hunting with the aid of game call or predator call.

(3) A person traveling afoot at night and in possession of only a .229 caliber or smaller centerfire firearm may take within its specified open season raccoon, opossum, coyote, and fox subject to the following provisions:

(a) The individual uses a scope equipped with electro-optics designated as a generation 2 or better by the manufacturer that is used to detect visible and infrared energy and provides a visible image or a scope-mounted electro-optical device designated as a generation 2 or better by the manufacturer that is used to detect visible and infrared energy and provides a visible image through the scope. This shall not include thermal imaging devices.

(b) Subject to MCL 324.43510, (2) and (3), a person hunting within its specified open season raccoon, opossum, coyote, and fox during the nighttime hours shall not possess a loaded .229 caliber or smaller centerfire firearm unless one or more of the following conditions apply:

(i) The individual is hunting with the aid of dogs and is at the point of kill.

(ii) The individual is hunting with the aid of game call or predator call.

~~(3)~~ **(4)** Except for woodcock and crow, the hunting and hawking hours for all waterfowl and migratory birds shall be as listed in the state waterfowl hunting guide. The hunting hours for woodcock shall substantially conform to sunrise to sunset and shall be as published in the Michigan hunting and trapping guide. The hunting hours for crow shall be as specified in subsection (1).

~~(4)~~ **(5)** The hunting hours for wild turkey during the spring season shall substantially conform to one-half hour before sunrise to one-half hour before sunset, and shall be those starting times and ending times published in the state hunting guide for wild turkey.

~~(5)~~ **(6)** The hunting hours for teal during the early season shall substantially conform to sunrise to sunset, and shall be those starting times and ending times as published in the waterfowl hunting digest.

~~(6)~~ **(7)** Subject to MCL 324.43510, (2) and (3), except during the hunting hours specified in this section and as otherwise provided by subsection (2), a person shall not possess afield a firearm unless it is unloaded in the barrel, or crossbow or a bow and arrow unless all arrows and bolts are placed in a quiver. A person may, to comply with section 4.1(2), kill a down and mortally wounded deer, bear, or elk using an otherwise legal means and may possess a loaded firearm, a cocked crossbow, or bow with nocked arrow only at the time and at the point of kill. Notwithstanding any other provision of this subsection, a person hunting under the authority of a wild turkey license during the spring wild turkey season may load and carry a loaded firearm afield while going to their hunting stand up to one hour prior to the spring wild turkey hunting hours.

Issued on this 8th day of December, 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.

Keith Creagh
Director