



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



KEITH CREAGH
DIRECTOR

SUBMITTED: October 15, 2012

MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

Subject: Wildlife Damage and Nuisance Control Permits
Wildlife Conservation Order Amendment No. 15 of 2012
FOR INFORMATION ONLY

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:

The Department recommends certain regulatory changes and clarification regarding permitting the control of damage and nuisance wildlife, including competency testing and an administration fee. The objective is to require testing for a minimum level of skills to ensure safe handling of wildlife and to assure the public that there are minimum qualifications to become a permitted control business. In particular, the Department hopes to reduce concerns from the public regarding permit holders. The test for the controllers to become permitted covers topics such as the humane treatment of wildlife, avoiding non-target species, proper setting of traps, approved methods of euthanasia and disposal, as well as preventative measures and long-term solutions to wildlife damage issues.

Definitions

The Department recommends renaming the "Damage and Nuisance Animal Control Permit" to "Wildlife Damage and Nuisance Control **Private** Permit." The Department further recommends renaming the "Wildlife Damage and Nuisance Control Permit" to "Wildlife Damage and Nuisance Control **Business** Permit."

In addition, the Department recommends the following definitions:

- Authorized Designee – a person who has been designated by a permittee to implement the provisions of a Wildlife Damage and Nuisance Control Private Permit.
- Complainant – a person(s) or entity reporting a complaint of nuisance or damage to personal or real property caused by wild birds or wild mammals.
- Control Business – nuisance animal control business, public nuisance animal control agency, or non-profit nuisance animal control organization.
- Permitted Control Business – a control business meeting all of the requirements to obtain a Wildlife Damage and Nuisance Control Business Permit.
- Sub-permittee – a permitted control business employee who will be controlling, releasing, or implementing preventative measures on wildlife or disposing of wildlife. Sub-permittees have successfully completed the animal damage controller competency test.

Requirements

The Michigan Animal Damage Control Association (MADCA) and The National Wildlife Control Operators Association (NWCOA) have not only provided support for but also requested a permit fee and competency test for control businesses. In 2011, NWCOA, the University of Nebraska-Lincoln, and Cornell University developed testing materials that cover a wide range of relevant issue areas, including the humane treatment of wildlife, avoiding non-target species, proper setting of traps, approved methods of euthanasia and disposal, as well as preventative measures and long-term solutions to wildlife damage issues. The course also provides detailed information on the five most common nuisance animals – all of which are active in Michigan. These include bats, raccoons, skunks, tree squirrels, and urban birds (feral pigeons, house sparrows, and starlings). Department experts have reviewed the testing material and concluded that it fits our needs, can be tailored to our specific regulations, and will require little oversight by the department. We do expect that the department's administrative duties will increase as we collect testing certificates and other business-related details.

The Department recommends that each control business owner or operator be required to successfully pass the animal damage controller competency test and obtain the Wildlife Damage and Nuisance Control **Business** Permit. Any other control business staff who will be controlling, releasing, or implementing preventative measures on wildlife or disposing of wildlife may also take the competency test, and upon successful completion, be listed as a sub-permittee. When additional staff – **who are not sub-permittees** – assist with the controlling, releasing, or implementing preventative measures on wildlife or disposing of wildlife, they may only assist in the work while directly accompanied by a permittee or sub-permittee.

Testing components will be:

- Administered by the University of Nebraska-Lincoln (and Cornell) (UNL)
- Completed using an online testing system
- Graded based on a minimum threshold score of 80% for successful completion

Currently permitted control businesses, receiving over \$200 in control activity fees annually, would be required to complete and pass the animal damage controller competency test by the permit's next expiration date following December 13, 2012. Once the control business's permittee has completed the testing requirement, the permittee would not be required to test again unless the control business's permitted status is lapsed or a significant change in the legal methods for control is enacted and articulated through the Wildlife Conservation Order amendment process.

Organizations that only exercise damage and nuisance animal control measures under a Canada Goose Permit, would not be required to complete the animal damage controller testing. These organizations are currently required to complete Department-sponsored training to handle and transport geese, and the Department believes this is sufficient.

Organizations or individuals that receive \$200 or less for effecting damage and nuisance animal control measures under the business permit would not be required to complete the animal damage controller testing. The Department believes this would allow experienced trappers, when appropriate, to occasionally help a complainant with a nuisance animal out of season.

Fees

Due to the administrative costs for this program, the Department recommends that a permitted control business be required to pay a permit fee of \$50 at the initial application and every three years for renewal. The department has several other permits that are on a three-year administrative cycle, and the fee is in the mid-range comparatively. Permittees receiving \$200 or less annually for effecting control measures are exempt from the permit fee.

In addition, the test and material fees would be payable to UNL and cover the organization's administrative costs. The fees would be set for a minimum of two years and would be broken down as follows:

- \$250 per person for the course and exam including a digital copy and a hardcopy of the controller manual;
- \$200 per person for the course and exam including a digital copy of the controller manual;
- \$150 per person to take the exam only;
- \$37.50 to retake the exam if previous attempt failed; or
- \$40 to purchase the controller manual only.

Wildlife Damage and Nuisance Control **Private** Permits are currently only issued to landowners or lessees, and can be used by their designated agents. Permits are nontransferable. The Department recommends clarifying that any authorized designee – who is hired to assist a private permit holder with control activities and accepts payment for performing these control activities – must be a permittee or a sub-permittee of a permitted control business.

By requiring that all authorized designees accepting a fee are acting on behalf of a permitted control business, this ensures that businesses interacting with the public are demonstrating a minimum level of competency. Consequently, wildlife will be controlled in a safe and humane manner. This provision also prevents the use of the private permit to circumvent the testing and fee requirements of a business permit.

The Department recommends continuing to issue the Wildlife Damage and Nuisance Control **Private** Permit at no charge.

The Department does not recommend changing the possession laws set forth in section 4.3 of this order. Accordingly it would remain illegal to purchase or sell animals taken under either permit.

Disposal of Road-Killed Wild Animals

In order to assist in the more timely removal of road-killed wild animals that have not been salvaged for food, the Department recommends allowing permitted control businesses to dispose of the carcasses. Feedback indicates that the public would be pleased to have the carcasses removed more quickly. The permittees and sub-permittees would have already undergone training on the disposal of carcasses so no safety concerns are expected.

The Department does not recommend changing the prohibition of moving road-killed bear, elk, or moose.

Falconry

Under a Federal Migratory Bird Special Purpose – Abatement Permit, a Master Falconer is able to use a captive-bred raptor to conduct abatement activities when migratory birds or other wildlife are causing property damage or posing a risk to human health and safety. This permit also allows the master falconer to receive payment for providing abatement services.

The Department would note specifically in our damage and nuisance animal control process, that we adhere to federal rules regarding abatement. If a fee is accepted for abatement activities, we recommend requiring the Master Falconer to become a permitted control business. We also recommend defining abatement activities as “the act of using a raptor to pursue (and in some cases to take) depredating birds or other wildlife to mitigate depredation or to reduce risk to human health or safety.”

We further recommend clarifying that a permit is not needed for a falconer to conduct abatement activities on house (English) sparrows, European starlings, or feral pigeons. The Department also recommends that if the falconer is practicing falconry and not receiving any payment or service, abatement-like activities may be conducted as long as all other falconry regulations are followed. This is in alignment with federal rules as well.

Taking without a Permit

Please note that no sections of this amendment are intended to place any additional restrictions on the control of invasive species such as house (English) sparrows, European starlings, or feral pigeons. Feral swine may be taken year round with a valid hunting license or a concealed pistol license on public land and private land with permission.

Opossum, porcupine, weasel, red squirrel, skunk, ground squirrel, and woodchuck may be taken year round with a valid Michigan hunting license. Crows may also be taken outside of the open season but during hunting hours and on private property if causing a nuisance or creating a health hazard. Coyote and raccoons doing damage or about to do damage may be taken on private property when out of season. A license is not needed.

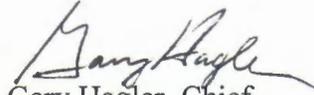
This amendment is not intended to impact the legal taking of any game animals within season dates, bag limits, or via valid licensing.

Recommendation:

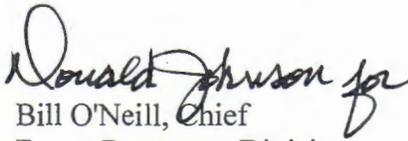
This order is being submitted for information and consideration. This item appeared on the Department's October 2012 calendar and may be eligible for approval on December 13, 2012.



Russ Mason, Ph.D., Chief
Wildlife Division



Gary Hagler, Chief
Law Enforcement Division



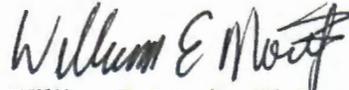
Bill O'Neill, Chief
Forest Resources Division



Ronald A. Olson, Chief
Parks and Recreation Division



James Dexter, Chief
Fisheries Division



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

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

Keith Creagh, Director

Date

WILDLIFE CONSERVATION ORDER

Amendment No. 15 of 2012

By authority conferred on the Natural Resources Commission and the Director of the Department of Natural Resources by section 40107 of 1994 PA 451, MCL 324.40107, it is ordered that effective December 14, 2012, the following section(s) of the Wildlife Conservation Order shall read as follows:

4.5 Possession of road-killed ~~w~~Wild animals killed by motor vehicle; possession; permit; disposal.

Sec. 4.5 ~~A person~~ **An individual** may possess a ~~road-killed~~ wild animal **killed by collision with a motor vehicle, or so injured that it must be killed**, 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, wildlife conservation, 1994 PA 451, being MCL 324.40103(1).~~

(2) ~~Road-killed n~~**Nongame mammals killed by collision with a motor vehicle**, except for mammals protected by section 9.3 of this order and by part 365, **endangered species protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.36503**, may be **kept possessed** by ~~any a~~ person at any time without a permit. Protected mammals may be possessed only in compliance with part 365, ~~by the endangered species Act protection, 1994 PA 451.~~

(3) ~~Road-killed n~~**Nongame birds killed by collision with a motor vehicle**, except for house (English) sparrows, European starlings, feral pigeons, or endangered or threatened species, may be **kept possessed** 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 possessed** by any person at anytime without a permit. **Protected birds protected by Part 365** may be possessed only in compliance with part 365, **endangered species protection, 1994, PA 451.**

(4) ~~Road-killed g~~**Game animals killed by collision with a motor vehicle**, except for a spotted fawn, cub bear, or migratory birds, may be **kept possessed** 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 possessed** 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) ~~A road-killed~~ **deer killed by collision with a motor vehicle** that is not spotted or an adult bear may be salvaged for food by ~~anyone~~ **a person** at any time with a permit from the director as provided by section 5.10.

(b) **A game animal killed by collision with a motor vehicle, except moose, elk, or bear, may be disposed of by a person operating under the requirements of section 5.52 of this order without additional permit(s).**

(6) ~~A road-killed~~ **wild animal killed by collision with a motor vehicle** from outside the state of Michigan may be **kept possessed** 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.

5.10 Highway-killed Deer and or bear killed by motor vehicle; permit, issuance; ~~prohibited acts.~~

Sec. 5.10 (1) A deer or bear killed by collision with a motor vehicle, or so injured that it must be killed, may be possessed by a person only ~~if that person has obtained a highway-killed deer and bear~~ **with a permit**. The ~~highway-killed deer and bear~~ permit may be issued by a police or peace officer investigating the motor vehicle collision upon a form prescribed by the director according to the following ~~rules~~:

(a) The driver of the damaged vehicle shall have first priority to possess the highway-killed deer or bear.

(b) A highway-killed deer and bear permit shall not be issued to possess a spotted fawn or cub bear killed by collision with a motor vehicle.

(c) A person possessing a highway-killed deer or bear killed by collision with a motor vehicle shall immediately produce the highway-killed deer and bear permit upon the demand of a conservation officer or peace officer. Within 24 hours following the issuance of a highway-killed deer and bear permit to possess a deer or bear killed by collision with a motor vehicle, a person possessing a highway-killed deer or bear carcass shall securely attach the permit to the carcass of the deer or bear killed by collision with a motor vehicle. The permit shall remain attached until the carcass is processed or butchered for consumption.

(d) A person operating under the requirements of 5.52 of this order may dispose of the carcass of a deer not salvaged for food and not otherwise unlawfully taken or possessed.

(2) A permit authorized under this section may be issued by a department conservation officer to dispose of the carcass of a deer or bear which was otherwise accidentally or unlawfully taken, or unlawfully possessed.

5.50 Wildlife damage and nuisance animal control permit definitions.

Sec. 5.50 For the purposes of sections 5.51 to 5.55 of this order, the terms in this section shall have the following meanings ascribed to them in this section:

(1) "Authorized designee" means a person who has been designated, in writing by a permittee, to implement the provisions of a permit.

(2) "Complainant" means a person reporting a complaint of nuisance or damage to personal or real property caused by wild birds or wild mammals.

(3) "Control business" means a nuisance animal control business, public nuisance animal control agency, non-profit nuisance animal control organization, or other commercial business, agency, or organization that engages in the control of wildlife.

(4) "Curtilage" means a residential dwelling, associated buildings, and associated yard used for domestic purposes.

(5) "Permit" means any type of permit issued under the authority of sections 5.50 to 5.55 of this order for the control of damage or nuisance caused by wildlife.

(6) "Permitted control business" means a control business that has been issued a permit by the department subject to the requirements in section 5.52 of this order.

(7) "Permittee" means a person who has applied for and been issued a permit.

(8) "Pesticide" shall have the same meaning as that ascribed by the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, as amended, part 83, pesticide control, 1994 PA 451, being sections MCL 324.8301 to 324.8336 of the Michigan Compiled Laws.

(9) "Restricted use pesticide" shall have the same meaning as that ascribed by the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, as amended, part 83 pesticide control, 1994 PA 451, being sections MCL 324.8301 to 324.8336 of the Michigan Compiled Laws.

(10) "Sub-permittee" means an employee of a permitted control business who may control, release, or implement preventative measures on wildlife or dispose of wildlife under the authority of a wildlife damage and nuisance control business permit. Sub-permittees must successfully complete animal damage controller testing approved by the department.

5.51 Wildlife damage and nuisance animal control private permit investigation and issue; nonlethal harassment; exception; reporting; care and disposal; raccoon release requirements; department employees.

Sec. 5.51 (1) Except as provided by subsections (45), (6), and (810), a wildlife damage and nuisance animal control private permit shall be required by anyone a person to prevent or control, by shooting, trapping or otherwise, the depredations of animals at a time or in a manner not otherwise permitted by law or order. Except as provided in sections 5.51a, 5.52, 5.52a, and 5.53 of this order, a department conservation officer or wildlife biologist shall make an investigation upon complaint of any person allegedly suffering damage caused by wild birds or wild mammals and may issue a wildlife damage and nuisance animal control private permit. At the time of such investigation, the complainant shall furnish the department investigator with a written statement, on forms provided for this purpose by the department, indicating and identify the location, extent, kind, and approximate value of the property allegedly damaged, destroyed, or in danger of being damaged or destroyed, the kind and number of animals believed to be doing the damage and such other information as may be required.

(2) If, results of the department's investigation warrants control of the animal(s) involved, the department investigator may, except for horticultural or agricultural damage caused by deer, issue a permit to authorizing authorize their control of the animal(s) by shooting, trapping, or other means as noted specified on the permit.

(a) Permits to control horticultural or agricultural damage caused by deer may be issued by the department investigator per section 5.41 of this order.

(b) Permits to control deer at airports may be issued by the department's district law supervisor.

(3) Permits shall be issued only to bona fide landowners or lessees, or their authorized designee, and shall not be transferable.

(4) An authorized designee shall not accept a commission, service fee, or other valuable consideration for providing or enacting control methods unless the authorized designee meets all the requirements set forth in section 5.52 of this order.

(4) (5) Except for animals protected by part 365, endangered species protection, of the natural resources and environmental protection act, endangered species protection, 1994 PA 451, nonlethal means of harassment to deter or prevent damage to private property, such as noise makers or scare devices; exclusion devices, such as fences or screening; and other recognized and recommended means of preventing damage which do not kill, harm, capture, trap, or collect animals shall not require a permit.

(6) Except for animals protected by part 365, endangered species protection, 1994, PA 451, falconry may be used as a means of harassment or lethal harassment, notwithstanding the provisions of 10.3 (5) of this order and for which no commission, service fee, or other valuable consideration is accepted by the falconer.

(7) (7) All animals taken under the authority of a permit shall be reported to the department in the manner specified on the permit.

(8) (8) All animals taken under the authority of a permit shall be properly cared for and disposed of as directed by the permit or this order.

(9) (9) A live raccoons captured under a wildlife damage and nuisance animal control private permit shall be possessed and released only as follows:

(a) A raccoons, if released, shall be released only in the same county where captured and, if held in captivity, shall be isolated in a manner to prevent physical contact with any animals not originating from the same county. Each cage shall be tagged by the permittee with the county of origin and date of capture.

(b) A cages and areas used to hold raccoon(s) for release shall be constructed of materials that can be effectively disinfected.

(c) If a raccoon has come into physical contact with a raccoon originating from another or unknown county of origin, both raccoons shall be isolated from physical contact with other raccoons and humanely euthanized within 24 hours of exposure.

(8) (10) Department employees shall be exempt from the requirement of obtaining a permit to take animals, nests, or eggs for damage and nuisance control in the course of performing official job responsibilities.

5.52 Nuisance animal control businesses, public nuisance animal control agencies and non-profit nuisance animal control organizations Wildlife damage and nuisance control business, permit issuance; expiration; effect control measures; effect control devices; sale of live feral pigeons; disposal by licensed hunter; non-profit organization compliance; trap check and marking; captured animal release; raccoon possession and release; animal disposal; control costs and agreement; department liability; additional requirements; exceptions.

Sec. 5.52 The department's wildlife permit specialist may issue a **wildlife damage and nuisance control business permit** to a ~~reputable nuisance animal control business, public nuisance animal control agency, or non-profit nuisance animal control organization~~ **control business** for the purpose of taking certain animals causing damage to personal or real property. A ~~person~~ **control business** issued a permit under this section becomes a **permitted control business** and is subject to all of the following requirements:

(1) Permits shall expire on the third March 31 after the date of issue, except as noted in section 5.52b of this order.

(2) The permittee must successfully pass an animal damage controller competency test approved by the department. ~~Additional permitted control business staff who successfully complete the test shall be named sub-permittees and permittee shall provide information on additional control business staff as requested by the department. The permittee is responsible for all actions conducted by any control business staff of a permitted control business under the authority of the permit. Except:~~

(a) A permittee who receives not more than \$200 annually in commission, service fee(s), or other valuable consideration(s) for providing or enacting control methods is not required to take the animal damage controller competency test.

(b) Staff of a permitted control business who assist in the control, release, or implementation of preventative measures on wildlife or disposing of wildlife and have not successfully completed the animal damage controller competency test shall only assist in the work while directly accompanied by a permittee or sub-permittee.

(2) (3) A permittees or sub-permittee may, upon verifying the complaint of any person suffering damage or nuisance, effect control measures at any time of year within a ~~cities~~ city, villages, or townships closed to hunting or prohibiting the discharge of firearms. In other areas of the state, a permittees or sub-permittee may, upon verifying the complaint of any person suffering damage or nuisance, effect control measures from April 1 to September 30. Notwithstanding the other provision of this subsection, a permittees or sub-permittee may, upon verifying a complaint of damage or nuisance, effect control measures at any time of year within the curtilage of the complainant. ~~For the purposes of this subsection, "curtilage" means the dwelling house, associated buildings, and associated yard used for domestic purposes.~~ Control measures in areas and at times not otherwise provided by this subsection shall only be initiated on those complaints referred to the ~~permittee~~ **permitted control business** by a ~~department~~ wildlife biologist or conservation officer. ~~All other control business staff must meet the provisions of 2(b) of this section.~~

(3) (4) Permittees or sub-permittees shall be authorized to ~~undertake effect control measures on the premises within the curtilage of the complainant for the control of bats that are not threatened or endangered protected by part 365, endangered species protection, 1994 PA 451, and the control of coyote, fox, weasels, mink, raccoon, skunk, opossum, woodchuck, badger, muskrat, squirrels, ground squirrels, rabbits, English sparrows, feral pigeons, starlings, and crows. Permittees or sub-permittees shall also be authorized to undertake effect control measures on the premises of the complainant on beaver on private lands in zone 3 during the closed season; however, beaver shall not be live trapped and relocated or translocated without authorization of the department wildlife management unit supervisor. Control of damage by other wildlife shall be undertaken effected only as authorized by a department wildlife biologist or conservation officer. Control of damage caused by protected migratory birds shall~~

require a federal permit, except as noted in section 5.52b of this order. **All other control business staff must meet the provisions of 2(b) of this section.**

(4) (5) To effect control measures, permittees or sub-permittees may use foothold traps, body gripping or conibear type traps, live traps, firearms if possessed and used in compliance with all applicable state, local, and federal firearm laws and colony or multiple-catch traps for species other than muskrat. Colony traps may be used for muskrat if used in compliance with subsection 3.600(5). To ~~effect~~ effect control measures, permittees or sub-permittees may also use snares or cable restraints the entire year if one or more of the following conditions are met:

(a) Permitted species is within the curtilage of the complainant.

(b) Permitted species is trapped upon the premises of the complainant in completely submerged underwater sets.

(c) For the control of fox and coyote outside the curtilage upon the premises of the complainant in the Lower Peninsula if the snare or cable restraint meets the requirements of subsection 3.609(2), subdivisions (b) through (j).

(d) For the control of fox and coyote and is a pull-trigger powered device designed to catch the animal by the neck and meets the requirements of 3.609(2), subdivisions (b), (e), (f), (h) and (i).

(5) (6) Permittees A permitted control business may sell live nuisance feral pigeons live trapped during legitimate nuisance control operations.

(6) (7) A dead animal taken by means other than pesticides during the open season for that animal may be disposed in any manner provided by section 4.3 of this order if the person disposing of the animal is licensed to take the animal under part 435, hunting and fishing licensing, ~~of the natural resources and environmental protection act, 1994 PA 451.~~

(7) (8) Non-profit nuisance animal control organizations shall comply with all rules and regulations for permittees a permitted control business. ~~The permit shall be issued in the name of an official of the organization. The person to whom the non-profit nuisance animal control permit is issued shall not authorize any employee or volunteer of the organization to undertake control measures without providing the employee or volunteer a copy of the permit countersigned by that person. An employee or volunteer undertaking nuisance animal control measures shall produce a copy of the countersigned permit upon demand of a police or peace officer.~~

(8) (9) All live traps, foot-hold traps, and other catching devices ~~which are~~ designed and used in a manner to trap or capture animals alive shall be checked daily. All traps and catching devices used under the authority of a permit issued under this section shall be marked as provided by section 3.600, subsections (2) and (3), except that the trap or catching device shall be marked "permit no." followed by the permittee's permitted control business permit number, ~~and the business name, and business-phone number of the permittee.~~

(9) (10) Captured animals shall not be released from or upon a public roadway or right of way. Captured animals shall not be released upon the lands of another person, whether private or public lands, without the consent of the landowner or land manager.

(11) A live raccoon captured under a wildlife damage and nuisance control business permit shall be possessed and released only as follows:

(a) A live raccoon, if released, shall be released only in the same county where captured and, if held in captivity, shall be isolated in a manner to prevent physical contact with an animal not originating from the same county. Each cage shall be tagged by the permittee with the county of origin and date of capture.

(b) A cage and area used to hold a live raccoon for release shall be constructed of material that can be effectively disinfected.

(c) If a live raccoon has come into physical contact with a raccoon originating from another or unknown county of origin, both raccoons shall be isolated from physical contact with other raccoons and humanely euthanized within 24 hours of exposure.

~~(10)~~ (12) All animals, which the ~~permittee~~ **permitted control business** is authorized to take, shall be taken and disposed of in a manner to ensure humane handling or killing **and subject to all of the provisions in the animal damage controller test and materials approved by the department.** ~~Captured animals shall not be held longer than 24 hours unless requested by a department representative, or by a physician or public health official for public health reasons. Captured animals shall not be euthanized except by methods recommended and approved by the department.~~

~~(11)~~ (13) Any control measures ~~undertaken~~ **effected** by the permittee **or sub-permittee(s)** shall be considered a contractual agreement between the ~~permittee~~ **permitted control business** and the complainant. The cost of effected control under the authority of a permit is the responsibility of the ~~permittee~~ **permitted control business.**

~~(12)~~ (14) The department shall not be liable for any damage suffered by a complainant as a result of the performance of the permittee **or sub-permittee(s)** operating under the authority of a permit.

(15) **The permitted control business must meet the provisions of 5.110(8) of this order, unless subject to 5.52(2)(a).**

5.54 Wildlife ~~D~~amage and nuisance animal control permit; record keeping requirements.

Sec. 5.54 A person issued a **wildlife damage and nuisance animal control private or business permit shall may be required by the department to keep records of all nuisance animal control operations, including but not limited to documenting the complainant's name, address, date of service, ~~service technician,~~ species of nuisance animal, number of each species taken, number of nests and eggs destroyed, county in which captured, disposition of all animals taken, and county of release.** These records and any animals in the permittee's possession shall be available for inspection by a conservation officer or other representative of the department at any reasonable time. Prior to the expiration of a permit, the permittee shall submit an accurate summary of permitted activities upon forms furnished by the department. Prior to a permit being renewed, the permittee shall also submit a completed renewal application **and fees if applicable.**

5.55 Wildlife ~~D~~amage and nuisance animal control permit; amendment, suspension, revocation, denial.

Sec. 5.55 (1) Pursuant to ~~section 17 of the wildlife conservation, Act No. 256 of the Public Acts of 1988, being section 300.267 of the Michigan Compiled Laws, a conviction for part 401, wildlife conservation, 1994 PA 451, MCL 324.40114(5),~~ a violation of the provisions of sections 5.50 to 5.54 of this order shall result in the revocation of a permit.

(2) The ~~modification-amendment, or suspension, revocation, and denial~~ of a permit is subject to the provisions of ~~section 14 of the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being section 300.264 the administrative procedures act, 1969 PA 306, MCL 24.201 to 24.328.~~ of the Michigan Compiled Laws.

(3) A person ineligible to secure or possess a hunting, trapping, or fur dealers license by state law, court order, or administrative ruling shall not be issued a permit **or act under the authority of a permit in any way** during the period of ineligibility.

5.110 Special permits; fees; disposition.

Sec. 5.110 The following fees are established for permits issued by the director:

(1) A fee of \$100 shall be collected for each taxidermy permit issued. Taxidermy specimen identification tags shall be \$10 per fifty.

(2) A fee equivalent to the fee charged for a resident antlerless deer hunting license shall be collected for each managed deer hunting permit and each deer management assistance permit purchased by a permittee.

(3) An annual fee of \$200 shall be collected for a site permit to participate in the capture and holding of Canada geese, as specified in section 5.51b of this order, except as follows:

(a) An annual fee for a single family residence shall be \$100.

(4) An annual fee of \$300 shall be collected for a site permit to participate in the transport of Canada geese as specified in section 5.51b of this order.

(5) An annual fee of \$200 shall be collected from a nuisance animal control business, public nuisance animal control agency, or non-profit nuisance animal control organization to participate in the following, as specified in section 5.52b of this order:

(a) Capture, holding or killing of Canada geese.

(b) Destruction of Canada goose nests and eggs.

(6) An annual fee of \$300 shall be collected from a nuisance animal control business, public nuisance animal control agency, or non-profit nuisance animal control organization to participate in the transport of Canada geese as specified in section 5.52b of this order.

(7) ~~Effective January 1, 2011,~~ A fee of \$100.00 shall be collected for each falconry permit issued as described in section 10.3(7) of this order.

(8) A fee of \$50 shall be collected for each wildlife damage and nuisance control business permit issued and upon renewal as described in section 5.52.

~~(8)~~ (9) All moneys received from the sale of permits and licenses as provided in this section shall be turned over to the state treasurer and credited to the game and fish protection fund.

~~(9)~~ (10) No fee shall be collected for any of the following permits:

(a) Highway killed deer/bear permit.

(b) Deer damage shooting permit.

~~(c) Damage and nuisance animal control permit, except as noted in section 5.110(3) and section 5.110(4) of this order, including disease control and disease control replacement permits.~~

~~(d)~~ (c) Rehabilitation permit.

~~(e)~~ (d) Permit to take game with a crossbow.

~~(f)~~ (e) Site permit to destroy Canada goose nests and eggs, as specified in section 5.51b of this order.

10.2 Definitions.

Sec 10.2 (1) **"Abatement activity" means the act of using a raptor to take a depredating bird or other wildlife to mitigate depredation or to reduce risk to human health or safety.**

~~(1)~~ (2) "Eyasses" means young birds not yet capable of flight.

~~(2)~~ (3) "Falconer" means a person possessing a valid falconry permit.

~~(3)~~ (4) "Falconry" means the sport of taking game and unprotected species by means of a trained raptor.

~~(4)~~ (5) "Falconry hacking" means the temporary release of a raptor held for falconry to the wild to survive on its own.

~~(5)~~ (6) "Falconry permit" means a document which authorizes the holder to practice falconry.

~~(6)~~ (7) "Federal regulations" means the United States fish and wildlife service regulations and standards.

~~(7)~~ (8) "Hybrid raptor" means offspring of birds listed as two or more distinct species in 50 CFR 10.13.

~~(8)~~ (9) "Imping" means the repair of a broken feather on a raptor by attaching a molted feather or feather from another bird to the stub of the damaged feather.

~~(9)~~ (10) "Imprinted raptor" means a raptor that is hand-raised in isolation from the sight of other raptors from 2 weeks of age until it has fledged.

~~(10)~~ (11) "Marker" means the federal identification device bearing a serial number or ISO-compliant (134.2 kHz) microchip which must be attached to a raptor used in the sport of falconry.

~~(11)~~ (12) "Mew" means the building or room in which raptors are held and sheltered.

~~(12)~~ (13) "Service" means the United States fish and wildlife service of the department of the interior.

~~(13)~~ (14) "Passage" means a flighted raptor less than 1 year of age.

~~(14)~~ (15) "Weathering area" means an outdoor facility in which raptors are held and sheltered.

~~(15)~~ (16) "Wild raptor" means a raptor taken from the wild.

10.3 Falconry permit; application; examination; unlawful acts.

Sec 10.3 (1) An applicant shall be required to answer correctly at least 80 percent of the questions on a supervised examination approved by the service and administered by the department. The examination shall relate to basic biology, care and handling of raptors, pertinent literature, laws and regulations, or other appropriate subject matter. Upon passing the falconry examination, the applicant is eligible to become an apprentice falconer.

(2) A Michigan resident may possess, transport, and use raptors for falconry purposes provided the person obtains a falconry permit from the wildlife division permit specialist. Applications shall be made on forms provided by the wildlife division permit specialist. Applications made by falconers under the age of 18 must be cosigned by a parent or legal guardian who is legally responsible for the activities of the falconer.

(3) A nonresident may possess, transport, and use raptors for falconry purposes provided the person possesses a federally recognized falconry permit. A nonresident may obtain a falconry permit from the wildlife division permit specialist upon successful completion of a department supervised examination or documentation of prior falconry experience, and inspection of the applicant's falconry facilities. Applications made by falconers under the age of 18 must be cosigned by a parent or legal guardian who is legally responsible for the activities of the falconer.

(4) There shall be 3 classes of falconry permits. They shall be known as apprentice falconer, general falconer, and master falconer permits. The qualifications for each class of permits are:

(a) Apprentice falconer permit:

(i) An apprentice falconer shall be at least 14 years old.

(ii) An apprentice falconer, regardless of age, must have a sponsor, who is a general or master falconer with at least 2 years' experience at the general falconer level.

(iii) An apprentice must provide a current sponsorship agreement to the wildlife division permit specialist.

(iv) A sponsor shall not have more than 3 apprentices at any one time.

(v) An apprentice falconer shall not possess more than 1 raptor and shall not obtain more than 2 raptors for replacement during any 12-month period beginning January 1 of each year.

(vi) An apprentice falconer shall possess only an American kestrel (*Falco sparverius*) or a red-tailed hawk (*Buteo jamaicensis*) which must be taken from the wild in a state where lawful. An apprentice falconer shall not possess an imprinted raptor.

(vii) An apprentice falconer shall not import or possess eyasses.

(b) General falconer permit:

(i) A general falconer shall be at least 16 years old.

(ii) A general falconer shall have at least 24 months of falconry experience as an apprentice, or the equivalent of 24 months of falconry experience as an apprentice if obtained prior to the year 1977, or the equivalent of 24 months of falconry experience as an apprentice if obtained in a foreign country.

(iii) An apprentice falconer, upon meeting the qualifications for a general falconer permit, must make a written request to the wildlife division permit specialist for a change in classification. This request must include a document from a general or master falconer stating that the applicant has practiced falconry with wild raptors as an apprentice falconer or equivalent for at least 24 months, including maintaining, training, flying, and hunting the raptor(s).

(iv) A general falconer shall not possess more than 3 raptors and shall not obtain more than 2 raptors taken from the wild for replacement during any 12-month period beginning January 1 of each year.

(v) A general falconer may not transport or possess a golden eagle (*aquila chrysaetos*), bald eagle (*haliaeetus leucocephalus*), white-tailed eagle (*haliaeetus albicilla*), or steller's sea eagle (*haliaeetus pelagicus*).

(c) Master falconer permit:

(i) A master falconer shall have at least 5 years of falconry experience as a general falconer, or the equivalent of 5 years of falconry experience as a general falconer if obtained prior to the year 1977, or the equivalent of 5 years of falconry experience as a general falconer if obtained in a foreign country.

(ii) A general falconer, upon meeting the qualifications for a master falconer permit, must make a written request to the wildlife division permit specialist for a change in classification.

(iii) A master falconer shall not possess more than 10 raptors, of which no more than 5 may be wild raptors, and shall not obtain more than 2 raptors taken from the wild for replacement during any 12-month period beginning January 1 of each year. A master falconer may not possess more than 3 golden eagles taken from the wild.

(iv) A master falconer must make a written application on a form provided by the wildlife division permit specialist prior to possessing a golden eagle, white-tailed eagle, or stellar's sea eagle.

(5) As provided by part 435, hunting and fishing licensing, ~~natural resources and environmental protection act~~, 1994 PA 451, MCL 324.43501 to 324.43561 a person taking an animal with the use of a raptor is required to have a license for that species, **except:**

(a) A master falconer may conduct abatement activity as a permitted control business under a federal migratory bird special purpose – abatement permit as provided for by 50 CFR Part 21, Subpart C and pursuant to all the provisions set forth in 5.52 of this order.

(b) An additional permit is not required for a general falconer or master falconer to conduct abatement activity as part of normal falconry practices and for which the falconer shall receive no commission, service fee, or other valuable consideration, and pursuant to all other provisions of chapter X of this order.

(c) An additional permit is not required for a general falconer or master falconer to conduct abatement activity on house (English) sparrows, European starlings, or feral pigeons and for which the falconer shall receive no commission, service fee, or other valuable consideration.

(6) A general or master falconer shall not transport or possess, any species not defined as a raptor, or any species listed as ~~threatened or endangered~~ **protected** by the department or service, for falconry purposes, except as provided by appropriate federal falconry regulations and by part 365, endangered species protection, ~~of the natural resources and environmental protection act~~, 1994 PA 451, MCL 324.36501 to 324.36507.

(7) A falconry permit may be valid for 3 years, or from issue date through the third June 30 after issue. Falconers may request renewal of permit upon expiration without a facility inspection or test, except that renewal of a permit which has lapsed for 3 or more years requires inspection of the falconer's facilities and renewal of a permit which has lapsed for 5 or more years requires that the falconer ~~take an~~ pass the basic falconry exam as specified in section 10.3(1) ~~of this order~~.

Issued on this 13th day of December, 2012.

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

Timothy L. Nichols, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

Keith Creagh
Director

