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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



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ACTING DIRECTOR

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MEMORANDUM TO THE DIRECTOR

Information: Natural Resources Commission

Subject: Wildlife Rehabilitation Regulations
Wildlife Conservation Order Amendment No. 1 of 2023

Authority:

The Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, MCL 324.40106, authorizes an individual to possess game or any protected animal, whether living or dead, or parts of any game or protected animal, from this state or from outside of this state, as provided for in Part 401 of NREPA or by an order or interim order of the Department. In addition, the NREPA, 1994 PA 451, MCL 324.40114 and MCL 324.40107, authorizes the Department to issue permits authorizing the taking or possession of animals for the purpose of rehabilitating animals and to determine conditions under which permits may be issued by the Department.

Discussion and Background:

The Department maintains a permitting process to allow individuals to rehabilitate sick or injured wildlife and orphaned juvenile wildlife for the purpose of releasing them back into the wild. There are currently 116 permitted wildlife rehabilitators in Michigan. The regulations governing these activities have not been reviewed since 2014 and provide complex and insufficient guidance to Department employees, permittees, and members of the public. The Department has reviewed the regulations and permitting process related to wildlife rehabilitation, including permit requirements, reporting and recordkeeping, care and housing requirements, and release standards. In addition, the regulations were reviewed and discussed with Michigan's permitted wildlife rehabilitators through surveys and engagement meetings. There are several changes proposed resulting from the review and discussions with internal staff and permitted wildlife rehabilitators. The Department's recommendations, as explained in this memorandum, are intended to improve guidance, improve permit administration, and clarify/simplify regulations.

The Department manages wildlife at the population level rather than the individual level. Nevertheless, the Department recognizes the critical role that permitted wildlife rehabilitators play in capturing and caring for sick, injured, and orphaned wildlife in Michigan. The Department acknowledges the value of this service to the public and appreciates the strong network of permitted wildlife rehabilitators in Michigan.

Permitting Requirements:

New Applicants

The requirements to obtain a wildlife rehabilitation permit were reviewed and discussed with internal staff and permitted wildlife rehabilitators. There was agreement that more requirements are needed to obtain a wildlife rehabilitation permit to ensure that only those who are adequately capable and prepared to rehabilitate wildlife are issued a permit. The Department recommends adding the following requirements to obtain a wildlife rehabilitation permit:

- An applicant must be at least 18 years of age or older.
- An applicant must have at least 30 hours of logged experience being an approved subpermittee under a permitted wildlife rehabilitator in Michigan. Alternatively, an applicant must have at least 30 hours of logged experience under a licensed veterinarian.
- An applicant must provide documentation of the parcels of land where wildlife rehabilitation activities will occur. If the applicant does not own the property, the applicant must submit an agreement in which the property owner gives authorization to conduct wildlife rehabilitation activities.
- The applicant must certify that they understand and will comply with the rules and regulations, including local ordinances and humane euthanasia.
- Following an inspection to a new application or amendment to a current permit or subpermit, the Department may deny the application or amendment if it doesn't meet the permit requirements.

Issues Pros and Cons

The additional requirements are intended to raise the level of professionalism, preparedness, and expertise for those rehabilitating wildlife. The requirements also ensure that applicants are properly qualified and responsible for the care and treatment of wildlife.

Some permitted wildlife rehabilitators expressed that too many requirements may result in less individuals applying for a wildlife rehabilitation permit.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois: An applicant is required to be at least 15 years old and must have specific experience.
- Indiana: An applicant is required to be at least 18 years old and have one year of experience under a licensed veterinarian, zoological park, university animal clinic, or a current wildlife rehabilitator.
- Ohio: An applicant is required to be at least 18 years old and must have specific experience depending on what permit category they apply for.
- Minnesota: An applicant is required to be 18 years old and must have specific experience depending on what permit category they apply for.
- Wisconsin: An applicant must have specific experience depending on what permit category they apply for. An applicant must certify that they have read all the rules and regulations and written assurance that the facility is in compliance with local ordinances and zoning regulations.

Biological

The Department does not expect a biological impact.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 57 percent are satisfied with the proposed recommendations. Some permitted wildlife rehabilitators expressed interest in requiring proof of minimum competency based on a written examination, however the Department does not have the staff to administer a written examination. The Department may explore the option to allow applicants to take a voluntarily, self-administered online examination for those who want to assess their knowledge. Current requirements include proof of completing a wildlife rehabilitation basic skills class.

Economic

The Department does not expect an economic impact.

Permit Renewals

Once a wildlife rehabilitation permit is obtained, it is valid for five years and expires on December 31 of the fifth year following issuance. Following expiration, a permittee must seek renewal to maintain their permit. In addition, they are required to take a continuing education course. The average time it takes the Department to process a permit renewal is 60 to 90 days. This processing time between permit expiration and permit renewal leaves rehabilitators operating temporarily under their old permit well into the early spring when permitted wildlife rehabilitators start caring for wild animals. To ensure permitted wildlife rehabilitators are in compliance with a renewed permit to rehabilitate wild animals starting in the spring, the Department recommends changing the expiration date to March 31 and starting the renewal process in October/November.

Issues Pros and Cons

Adjusting the timeframe for when a wildlife rehabilitation permit expires and when the Department will start processing renewals aligns with the United States Fish and Wildlife (USFWS) Migratory Bird Rehabilitation Permit. It also provides additional time for permittees to prepare, take the required education course, and reapply for their permit. This recommendation will keep permitted wildlife rehabilitators in compliance by having a renewed permit to rehabilitate wild animals issued in a timely manner.

This may cause confusion; however, the Department will provide updated guidance to permitted wildlife rehabilitators.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois: A permit is valid for one year and expires on December 31. The renewal application is due January 31 of each year.
- Indiana: A permit is valid for one year and the renewal application is due January 31 of each year.
- Ohio: A permit is issued for a three-year cycle.
- Minnesota: A permit is valid for two years. The expiration of the permit depends on when the permit was submitted.
- Wisconsin: A permit is valid for three years from date of issuance.

Biological

The Department does not expect a biological impact.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 93 percent are satisfied with the proposed recommendations.

Economic

The Department does not expect an economic impact.

Subpermittees

A subpermittee is an individual who is working under a permitted wildlife rehabilitator to assist with wildlife rehabilitation. Subpermittees play an important role in assisting with the care and treatment needed to rehabilitate wild animals. The Department and permitted wildlife rehabilitators reviewed and discussed the current regulations related to subpermittees. There was agreement that there needs to be better clarification and stricter regulations because permitted wildlife rehabilitators are responsible for the actions and activities of subpermittees. To ensure that subpermittees are adequately caring for and treating wildlife authorized under a permitted wildlife rehabilitator, the Department recommends the following:

- Permittees and subpermittees may not possess or rehabilitate wild bats, bear, elk, moose, mute swans or skunks. Subpermittees may not possess or rehabilitate wild deer.
- Subpermittees may assist with the transportation of wild animals, including fawns. The transportation of wild animals is the act of relocating wild animals to the premises of a licensed rehabilitator.
- Subpermittees may assist with the rehabilitation of bottle babies except for wild bats, bear, deer, elk, moose, mute swans, or skunks. Bottle babies are baby wild animals that depend on bottles for food, nutrition and/or nourishment.
- A facility inspection is required for those rehabilitating wild animals that are not considered bottle babies.
- If the subpermittee is assisting with wildlife rehabilitation activities at a facility that is not already permitted, then subpermittee must own the property where wildlife rehabilitation activities will occur. If the subpermittee does not own the property, then they must have an agreement in which the property owner gives authorization to conduct wildlife rehabilitation activities.

Issues Pros and Cons

The duties of a subpermittee are to assist with the everyday operations at a wildlife rehabilitation facility, and to assist with the rescue, recovery, and release of wild animals. Since the activities authorized under a subpermit are the responsibility of the permitted wildlife rehabilitator, regulations need to be in place to ensure that wild animals are properly being rehabilitated and taken care of.

There has been some confusion on what is considered a volunteer and a subpermittee. Any individual who will be in the possession of or helping rehabilitate wild animals must be an approved subpermittee by the Department. Volunteers that are not subpermittees are not allowed to come into contact with wild animals being rehabilitated. The Department will provide updated guidance to permitted wildlife rehabilitators.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois: Wildlife rehabilitation activities must be performed by or under direct supervision of a permitted wildlife rehabilitator.
- Indiana: Wildlife rehabilitation activities may be performed by an assistant under a permitted wildlife rehabilitator. Assistants may possess a wild animal at their own facilities if authorized. The permitted wildlife rehabilitator maintains responsibility for the care of the wild animal.

- Ohio: Anyone who possess wildlife for a permit holder at a site other than at the facility for more than 48 hours must be listed as a subpermittee. Facilities are subject to inspection.
- Minnesota: Wildlife rehabilitation activities may be performed by an assistant under a permitted wildlife rehabilitator. Assistant requirements depend on the permit category.
- Wisconsin: Wildlife rehabilitation activities may be performed by a subpermittee under a permitted wildlife rehabilitator. Subpermittee requirements depend on what permit category they are licensed under.

Biological

The Department does not expect a biological impact.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 81 percent are satisfied with the proposed recommendations.

Economic

The Department does not expect an economic impact.

Permit Revocation and Sanction

The Department has the authority to issue wildlife rehabilitation permits under section 40114 of the Natural Resources and Environmental Protection Act, 1994 PA 451. This act also clearly articulates that the suspension and revocation of wildlife rehabilitation permits is subject to the Administrative Procedures Act of 1969 (APA), 1969 PA 306, MCL 24.201 to 24.328. The APA provides state agencies the procedures that need to be followed in all contested cases before the Department. This act, however, does not articulate the process for applying for a new permit after a sanction or revocation. There is also a lack of guidance on how to dispose of wild animals following a permit violation. In order to provide clear guidance to both Department staff and permitted wildlife rehabilitators, the Department recommends the following:

- A person may apply for a new permit five years after the date their permit was revoked by the department. To apply for a new permit, a person must submit a new application and provide evidence that the conditions that resulted in the permit being revoked has been resolved and will not reoccur. The Department may deny the application if the person does not follow these instructions.
 - A person applying for a new permit can only rehabilitate small wild mammals. The permit may be amended after one year to include other animals provided there are no violations.
 - Small wild mammals include raccoon, opossum, rabbit, hare, chipmunk, squirrel, and woodchuck.
- A person may apply for a new permit after the date their permit is subject to a sanction other than revocation. To apply for a new permit, a person must submit a new application and provide evidence that the conditions that resulted in the permit being sanctioned has been resolved and will not reoccur. The Department may deny the application if the person does not follow these instructions or impose limits or conditions to require the person to comply with current regulations.
- If the Department revokes or otherwise address a permit violation, the Department may direct the permittee to dispose of any animal in their possession.

Issues Pros and Cons

The proposed recommendations create consistency across all wildlife rehabilitation permit sanctions and revocations. They also provide proper procedures on how to apply for a new permit after a wildlife rehabilitation permit has been sanctioned or revoked. This allows the Department to address compliance issues, clarifies the administrative process, and allows for better enforcement. The five-year period in which a person can apply for a new permit after a revocation aligns with how long a wildlife rehabilitation permit is valid for.

This may cause confusion; however, the Department will provide updated guidance to permitted wildlife rehabilitators.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois: Failure to comply with Illinois' wildlife rehabilitation rules may result in permit revocation. The revocation period of a wildlife rehabilitation permit is not to exceed five years.
- Indiana: Failure to comply with Indiana's wildlife rehabilitation rules may result in permit suspension or revocation. The revocation period is a minimum of one year.
- Ohio: Failure to comply with Ohio's wildlife rehabilitation rules may result in permit revocation. The revocation period is not to exceed five years.
- Minnesota: Failure to comply with Minnesota's wildlife rehabilitation rules may result in permit revocation. There is no set revocation period.
- Wisconsin: Failure to comply with Minnesota's wildlife rehabilitation rules may result in permit revocation. There is no set revocation period.

Biological

The Department does not expect a biological impact.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 39 percent are satisfied with the proposed recommendations. Many permitted wildlife rehabilitators have asked for clearer guidance on permit revocation. Some permitted wildlife rehabilitators expressed five years is too long to apply for a new permit after a revocation and the five-year period should be based on the individual's offense, however the Department would like to set a five-year period to ensure a fair and consistent process.

Economic

The Department does not expect an economic impact.

Reporting and Record Keeping:

Reporting Wild Animals Kept Overwinter

Wild animals can spend anywhere from a few days to several months at a wildlife rehabilitation facility. The length of time depends on the species, such as how old they were when they arrived, and the nature of their injuries. Some wild animals may need to be kept overwinter before they can be released. Overwintering is defined as keeping a wild animal in possession after December 31. This may be the case of an orphan born very late in the season or if an adult animal has an injury or illness that prevents it from migrating or storing food for the winter. Some juvenile species are generally kept overwinter because they usually remain with their parents through the first winter. Due to these various circumstances, a wild animal may not be able to be released before the winter season. The Department recommends that all wild animals

that are being kept overwinter be reported to the Department on the annual report due on January 31.

Issues Pros and Cons

A permitted wildlife rehabilitator is required to submit an annual report by January 31 to the Department. The report includes the final disposition of each animal that was taken in for rehabilitation. However, the report does not account for wild animals held over from any previous year's report for continued care. Requiring permitted wildlife rehabilitators to report this information will be an extra step in filling out the annual report, but it allows the Department to continue monitoring what species of wild animals are being possessed for rehabilitation. This also aligns with the USFWS Migratory Bird Rehabilitation Permit annual report.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Indiana: A permitted wildlife rehabilitator may possess a wild animal for rehabilitation for 180 days. Exceptions may be approved, but additional time will not be authorized for the sole purpose of releasing the wild animal outside the hunting season for that species.
- Ohio: Rehabilitated wildlife must be released within 180 days unless otherwise authorized.
- Minnesota: When authorized, wild animals that are not sufficiently recovered from injuries or illnesses or are not otherwise ready for release prior to the onset of cold weather in the fall may be kept over winter and released in the spring.
- Wisconsin: A permitted wildlife rehabilitator may not keep any orphaned, sick or injured wildlife for the purpose of rehabilitation, including wildlife not ready for release prior to the onset of cold weather, longer than 180 days unless an extension is granted.

Biological

The Department does not expect a biological impact.

Social

During the wildlife rehabilitation engagement meetings, the Department initially recommended that Michigan's permitted wildlife rehabilitators ask for permission to keep wild animals overwinter, and 57 percent of wildlife rehabilitators were unsatisfied. Instead, the Department and Michigan's permitted wildlife rehabilitators agreed that it be added to the annual report form as a notification to the Department that certain wild animals were held overwinter.

Economic

The Department does not expect an economic impact.

Annual Report Form

Current regulations require permitted wildlife rehabilitators to maintain up-to-date records of all wild animals in their possession for each facility and submit an annual report to the Department. The annual report is due January 31 and must include each animal that was acquired, along with information on the date the animal was acquired, the county of origin, the condition it was in, method and date of disposition, and a unique identification number (if possible). In addition, the USFWS Migratory Bird Rehabilitation Permit annual report must be submitted with the Department's annual report form. Michigan's permitted wildlife rehabilitators expressed that they rehabilitate hundreds of animals per year and requiring to submit this information is time consuming and makes the report extremely long. The Department recently made changes to allow annual reports to be submitted online. During discussions at the engagement meetings, Michigan's permitted wildlife rehabilitators asked that the Department's annual report form align

with the information that is required on the USFWS Migratory Bird Rehabilitation Permit annual report form. The information would be required for all species being rehabilitated. The Department reviewed this request and recommends aligning the report form.

Issues Pros and Cons

The information collected helps the Department monitor wildlife species being handled and possessed for wildlife rehabilitation purposes. It also helps the Department monitor permit eligibility, and to verify that individuals are conducting the appropriate activities authorized by the permit. The Department wants to ensure that the information collected is appropriate for the assessment of the permitted activities. The recommended changes are intended to reduce time spent filling out the annual report. The annual report may look different and may cause confusion; however, the Department will provide updated guidance to permitted wildlife rehabilitators.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois: An annual report must be submitted by January 31 of the next year.
- Indiana: An annual report must be submitted by January 31 of the next year. The report must list the species and condition of each animal, the date the animal was received, the name and county of the donor or other source, and the method, location, and date of disposition of the animal.
- Ohio: An annual report must be submitted. Record information depends on the species being rehabilitated.
- Minnesota: An annual report must be submitted by January 31 of the next year.
- Wisconsin: An annual report must be submitted by January 31 of the next year. A quarterly report must be submitted for all activity involving certain wildlife species.

Biological

The Department does not expect a biological impact.

Social

The Department sent out a survey to Michigan's permitted wildlife rehabilitators asking about their current satisfaction with record keeping and reporting requirements. Approximately 75 percent are satisfied with the current requirements, however it was suggested to simplify the reporting form.

Economic

The Department does not expect an economic impact.

Care and Housing Requirements:

Facility Structures

Wildlife rehabilitation is conducted in a variety of places including homes, stand-alone facilities, or as separate affiliates of other organizations. Regardless of where wildlife rehabilitation is conducted, facilities need to meet established criteria to ensure wild animals receive appropriate housing and to protect both wild animals and humans from disease and contamination. A key part in the success of wildlife rehabilitation is to have appropriate facilities to protect the wild animals without habituating them to human activity. In addition, facilities should be constructed to prevent the escape and injury of wild animals, and to prevent the spread of disease from or to humans, domestic animals, and other wild animals. To ensure wildlife rehabilitation facilities align with the basic requirements as recommended by the National Wildlife Rehabilitators

Association (NWRA) and the International Wildlife Rehabilitation Council (IWRC), the Department recommends:

- Enclosures must be structurally sound, of sufficient strength for species involved, and maintained in good repair to prevent the escape or injury to wild animals being rehabilitated.
- Enclosures must prevent the ingress and egress of animals.
- Facilities must not pose a threat to human or animal safety.
- The Department may approve alternative structures on a case-by-case basis provided they exceed current facility requirements set forth in the NWRA and IWRC.

Issues Pros and Cons

The NWRA and IWRC have standards for the basic requirements for housing wild animals in rehabilitation. In addition, criteria for the prevention of escape, injury, ingress, and egress of animals will ensure the health and safety of both humans and wild animals.

Some of Michigan's permitted wildlife rehabilitators may have to upgrade current facilities or change how they currently rehabilitate wild animals to meet these standards. The Department will provide updated guidance to permitted wildlife rehabilitators.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Indiana: Wild animals must be housed in enclosures that are structurally sound, are of sufficient strength for the species involved and are maintained in good repair to prevent escape or injury to wild animals being rehabilitated.
- Ohio: Wildlife rehabilitators shall comply with the conditions set forth in the permit and provide proper facilities for the animals in their care. All cage and holding facilities shall meet the standards as outlined in the standards for wildlife rehabilitation in Ohio.
- Minnesota: Facilities must be constructed of materials and strength appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury and to contain the animals.
- Wisconsin: Enclosures shall be structurally sound, of sufficient strength for species involved, and maintained in good repair to prevent escape or injury to wildlife being rehabilitated.

Biological

Many diseases are transmitted from animals to humans, humans to animals, and from animal to animal. Requiring facilities to be structured and maintained to prevent escape, injury, ingress, or egress of animals will prevent the spread of disease at the facility during rehabilitation and after release back into the wild.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 78 percent are satisfied with the proposed recommendations.

Economic

The Department does not expect an economic impact.

Care and Treatment of Wild Animals

The care and treatment of wild animals in rehabilitation varies by species. It depends on the nature of the injury, the individual wild animal, and the overall condition of the wild animal. Enclosures should be designed to prevent distress or discomfort to the wild animals for which

they are intended. They should also allow the natural behavior patterns of the wild animals and be screened from any stressful influences which may affect the wild animal's recovery, rehabilitation, release, and its successful integration into its natural habitat. This includes efforts to limit the spread of disease and preventing wild animals from having direct or indirect contact with the public or other animals. To ensure appropriate care during rehabilitation, permittees must follow the IWRC and NRWA standards. In addition, the Department recommends that all wild animals:

- Be kept separate from high-traffic human living quarters and activities.
- Be kept in appropriate enclosures and have direct or indirect contact with a permittee or subpermittee only to the extent necessary to provide adequate care and treatment.
- Not be cared for by anyone other than an approved permittee or subpermittee.
- Not be housed to be visible to, or otherwise allowed to be viewed, by members of the public, unless otherwise approved by the Department.
- Not have direct or indirect contact with members of the public.
- Not co-mingle with, or have direct or indirect contact with, or be able to see domestic animals, including livestock, or animals held under the authority of a permit issued by the department to hold wildlife in captivity or issued to scientific collectors.
- Be of compatible wildlife species when housed together as described by the NWRA and IWRC standards.
- Not be tamed, kept as pets, held with domestic animals, or habituated.

Issues Pros and Cons

Enclosures are essential in the rehabilitation process as they provide safety, security, disease barriers, and separation from human living spaces and domestic animals. Appropriate accommodations are needed to minimize stress throughout the wild animal's captivity. Ongoing stress can result in reduced growth rates, abnormal behavior, increased mortalities, and slow down the recovery process. Also, direct or indirect contact with domestic animals or with people other than a permitted wildlife rehabilitator should be avoided to minimize stress, prevent the introduction of disease, and to avoid habituation.

Some permitted wildlife rehabilitators may have to upgrade current facilities or change how they currently rehabilitate wild animals to meet these standards. The Department will provide clarification to permitted wildlife rehabilitators on the changes.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Indiana: Human and domestic pet contact with wild animals must be minimized to prevent imprinting and bonding to humans. Public exhibition or display of rehabilitated wildlife is prohibited. Electronic viewing and photographs are allowed.
- Ohio: Domestic animals should not be allowed at the wildlife rehabilitation facilities. However, if they are, they should be fully vaccinated and must have no contact with wildlife.
- Minnesota: Animals being rehabilitated must be sufficiently separate and protected from pets and human contact. Human contact with animals being rehabilitated shall be kept to an absolute minimum.
- Wisconsin has similar requirements for the care and treatment of wild animals; including the separation of wildlife from humans and domestic animals.

Biological

Many diseases are transmitted from animals to humans, humans to animals, and from animal to animal. These recommendations are intended to prevent the transfer of illness between animals

or between humans and animals. The recommendations also prevent releasing carriers of disease into wild populations.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 91 percent are satisfied with the proposed recommendations.

Economic

The Department does not expect an economic impact.

Facility Operations

There has been confusion and a lack of guidance on how many permittees can be affiliated with a wildlife rehabilitation facility. A wildlife rehabilitation permit gives written authorization to conduct wildlife rehabilitation activities at a facility or facilities indicated on the permit. There can only be one authorized permittee that's issued a wildlife rehabilitation permit at a facility. All other permitted wildlife rehabilitators working at the facility or facilities indicated on the permit must be subpermittees. In order to provide clarification and clear guidance, the Department recommends adding language to the Wildlife Conservation Order that only allows one permittee to be affiliated with the facility indicated on a permit. All other permitted wildlife rehabilitators working at the facility or facilities must be approved subpermittees.

There are some cases where a permittee may not be able to care for wild animals at a facility because of a planned vacation or a medical emergency. In these instances, the Department may approve another individual to temporarily care for wild animals at a facility if the permittee provides a written request to the Department with the address of the facility, the reason for temporary care, the name of the individual caring for the wild animals at the facility, and the approximate number of days the facility will be in the temporary care of the individual.

Issues Pros and Cons

Wildlife rehabilitation facilities and activities are the responsibility of the permit holder. This allows the Department to properly communicate with one person and puts the liability on an individual in the case that something goes wrong. In addition, this aligns with the USFWS Migratory Bird Rehabilitation Permit regulations. It also allows a subpermittee to gain wildlife rehabilitation experience before applying for their own permit at a different facility.

Some of Michigan's permitted wildlife rehabilitators indicated that having one permittee affiliated and being in charge of a facility can be too much to handle because they are responsible for the actions of the subpermittees.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Indiana: Assistants are allowed, provided they meet certain requirements under a specific rehabilitation permit.
- Ohio: Naming wildlife rehabilitators as volunteers or as subpermittees by a permit holder is recognized as an effective means of building cooperative relationships among wildlife rehabilitators to better serve a geographic area, and as an effective means to supervise the activities of wildlife rehabilitators working in a geographic area.
- Minnesota: In-shelter assistants are allowed, provided they meet certain requirements under a specific rehabilitation permit.
- Wisconsin: Subpermittees are allowed, provided they meet certain requirements under a specific rehabilitation permit.

Biological

The Department does not expect a biological impact.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 67 percent are satisfied with the proposed recommendation.

Economic

The Department does not expect an economic impact.

Use of Non-releasable Migratory Birds for Fostering Juveniles

Wildlife rehabilitation permits are not issued for the purpose of establishing "homes" for permanently injured birds that cannot survive in the wild. Under a wildlife rehabilitation permit, permanently disabled, non-releasable wild birds may not be possessed. These non-releasable migratory birds may only be possessed under other types of permits, such as the scientific collector's permit. However, the scientific collector's permit authorizes possession of wild birds used for scientific or educational purposes, and in some cases, the wild bird may not be suitable for scientific or educational use and may make a good foster parent for orphaned young or juveniles undergoing rehabilitation instead. The USFWS may allow permitted wildlife rehabilitators to hold a non-releasable migratory bird for foster parenting purposes, if authorized. The Department reviewed and considered this regulation and after further discussions, recommends the following:

- Permanently injured, non-releasable migratory birds may be used for fostering orphaned young or juveniles undergoing rehabilitation. The permittee must have both the Wildlife Rehabilitator and Scientific Collector's Permits and be in compliance with USFWS requirements.
- Permanently injured raptors unable to survive in the wild may be used for fostering orphaned young or juveniles undergoing rehabilitation. The permittee must have both the Wildlife Rehabilitator and Falconry Permits and be in compliance with USFWS requirements.

Issues Pros and Cons

If a wild animal is not expected to survive or will remain permanently disabled or otherwise unfit for life in the wild, then it should be euthanized. There is an exception, however, to retain non-releasable migratory birds that are suitable for the purposes of fostering juveniles, if properly permitted and authorized by the USFWS. These non-releasable migratory birds are adult birds that are housed with orphan young to raise and teach species-normal behaviors, so they don't become imprinted to humans or other species. Becoming imprinted and habituated to humans is most common with young birds and makes release into the wild impossible because the bird is unable to form the necessary social bonds to thrive in the wild.

To possess migratory birds for rehabilitation, a wildlife rehabilitator permit must be obtained from both the Department and USFWS. In addition to having both rehabilitator permits, the permitted wildlife rehabilitator must also have a scientific collectors permit or a falconry permit, depending on the species, and get approval to use a non-releasable migratory bird for the purpose of fostering juveniles from both the Department and USFWS. This may cause some confusion; however, the Department will provide clear guidance to permitted wildlife rehabilitators.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois, Ohio, Minnesota, and Wisconsin do not have any regulations pertaining to this proposed regulation.
- Indiana: The use of birds as foster parents of the same species is allowed under specific rehabilitation permits and requirements.

Biological

The Department does not expect a biological impact.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 96 percent are satisfied with the proposed recommendation. Some permitted wildlife rehabilitators indicated that this should apply to all species, however the Department does not support that change because of potential disease spread from the co-mingling of animals.

Economic

The Department does not expect an economic impact.

Good Samaritan Clause

Currently, it is illegal for an individual in Michigan to take temporary possession of an injured or orphaned animal to transport it to a licensed veterinarian or permitted wildlife rehabilitator for care. Most permitted wildlife rehabilitators depend on the public to bring injured animals to their facilities because they do not have enough resources to travel to collect the wild animals. This puts the public in violation of the law. The Department understands that this is an issue and has an accepted grace period for the public to get an injured or orphaned animal to a permitted wildlife rehabilitator or veterinarian for care. There is a Good Samaritan provision at the federal level that allows any person who finds a sick, injured, or orphaned migratory bird to take possession of the bird in order to immediately transport it to a permitted rehabilitator. The Department recommends implementing a Good Samaritan provision to regulate and enforce the temporary possession of wild animals to get them transferred to a permitted wildlife rehabilitator, licensed veterinarian, or Department employee for care. An individual will have 24 hours Monday-Friday and 48 hours Saturday-Sunday to transport the wild animal to a permitted wildlife rehabilitator, licensed veterinarian, or Department employee. Individuals consistently and repeatedly transporting wild animals directly to or from a facility or another facility must either be an approved subpermittee or possess their own wildlife rehabilitation permit. An individual would not be allowed to temporarily possess threatened or endangered species, wild bats, bear, cougars, elk, lynx, moose, mute swans, skunks, or wolves, including their offspring. An individual shall not capture and transport a deer unless it's a fawn.

Issues Pros and Cons

It is illegal for anyone to be in possession of wild animals without proper state and/or federal permits. This will be an exception to the law that will allow a Good Samaritan to intervene, and transport injured wild animals to a licensed veterinarian, permitted wildlife rehabilitator, or Department employee. Keeping a wild animal for longer than necessary and attempting to rehabilitate wild animals without a permit and proper training may cause serious harm to the wild animal and prevent its release back to the wild. Individuals should contact a licensed veterinarian, permitted wildlife rehabilitator, or Department employee before transferring the animal. The proposed regulation aligns with the USFWS Good Samaritan provision.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois, Ohio, and Wisconsin do not have any regulations pertaining to this proposed regulation.
- Indiana: An individual may, without a permit, take possession of a sick, injured, or orphaned wild animal and transport it to an individual with a valid permit under this section within 24 hours.
- Minnesota: Permittees may receive animals from others for the purpose of rehabilitation.

Biological

The Department does not expect a biological impact.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 100 percent are satisfied with the proposed recommendation. Some permitted wildlife rehabilitators expressed that they were uncomfortable with the 24 to 48-hour timeframe due to concerns with the public possessing the wild animal at their home. The Department understands this concern, however, providing a specific timeframe is more enforceable.

Economic

The Department does not expect an economic impact.

Release Standards:

Release Methods

Whenever possible, wild animals should be released into a suitable habitat and location without putting them at risk. Wild animals should be released as soon as possible after rehabilitation, and not be released in an environment that can be of significant risk and reduce the chances of survival. Generally, wild animals are released using a "hard" or "soft" method. A hard release is when the wild animal is released without any support, whereas a soft release method is when a wild animal is provided with temporary post-release support, which may include supplemental feeding, shelter provision, or protection from predators. The Department has biological concerns with using soft release methods, specifically supplemental feeding. Supplemental feeding can congregate other wild animals and pose a disease risk. To ensure that wild animals are being released in suitable habitats and by methods that do not cause risks, the Department recommends:

- Wild animals must be released at a location that provides adequate habitat where they will not create a nuisance. Release on public or private land may only be conducted with approval from the public land administrator or property owner.
- Soft release methods using supplemental food is prohibited except for migratory birds on the premise of the facility as described in the NWRA and IWRC standards.

Issues Pros and Cons

A suitable environment for the release of a wild animal includes appropriate habitat, adequate food resources, members of the same species naturally occupy the area, and it does not place the animal at high risk of injury. Permitted wildlife rehabilitators should factor in the proximity to human developments when determining a suitable release site because wild animals can cause human-wildlife conflicts if released into an urbanized area. Wildlife rehabilitators should follow the proper release methods as described in the NWRA and IWRC standards.

Although soft release methods provide continuing support for the wild animal prior to and following release, the congregation of wild animals at a feeding site poses a disease risk, especially for deer. In addition, feeding wild animals after their release creates a dependency on

humans that can lead to nuisance behavior. The exception to allow the feeding of migratory birds using a soft release method within a wildlife rehabilitation facility is approved by the USFWS.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Illinois' release methods are similar to the Department's proposed recommendations, including the requirement to release rehabilitated wildlife to the wild.
- Indiana's release methods are similar to the Department's proposed recommendations, including the requirement to release immediately, the requirement of landowner permission and location requirements based on wildlife species.
- Ohio regulations state that wildlife must be released within 180 days unless otherwise authorized by the Division of Wildlife. Landowner permission must be obtained prior to releasing wildlife.
- Minnesota has release methods similar to the Department's proposed recommendations, including the requirement to release rehabilitated wildlife immediately in suitable habitat as near to the point where the animal was captured as practical.
- Wisconsin's release methods are similar to the Department's proposed recommendations, including the requirement to release immediately at an appropriate location and the requirement of landowner permission.

Biological

Evidence suggests that feeding increases both the congregation of wild animals and the risk of disease transmission through increasing the probability of contact, food source contamination, and environmental contamination. Michigan currently has a deer baiting and feeding ban in the entire Lower Peninsula and the Upper Peninsula core Chronic Wasting Disease (CWD) surveillance area. Placing substances composed of grains, minerals, salt, fruit, vegetables, hay or any other food material, whether natural or manufactured that can attract deer is considered baiting and is a violation of the law.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 96 percent are satisfied with the requirement to release animals at a location that provides adequate habitat where they will not create a nuisance. Also, 45 percent are satisfied with the recommendation to not allow supplemental feeding when using a soft release method unless it's for migratory birds on the premise of a facility.

Permitted wildlife rehabilitators expressed soft release methods are ideal for wild animals being released in the fall (hand-raised young and animals in long-term rehabilitation) because it increases their chance of survival in the winter. The Department does not support using soft release methods that provide food for wild animals because it poses a disease concern and may lead to nuisance behaviors/human habituation.

Economic

The Department does not expect an economic impact.

Rehabilitating and Releasing Fawns

There are restrictions in place for the rehabilitation and movement of deer to prevent habituation and unintentional spread of disease. The rehabilitation of adult deer is prohibited in Michigan and there are capture and release restrictions for rehabilitated fawns. These restrictions are in place because a primary factor in the spread of disease is human-assisted movement of live

animals. In addition, releasing fawns in the late fall lowers their chance of survival during the winter because of the lack of food resources. In order to prevent the unintentional spread of disease and increase the chances of winter survival, the Department recommends:

- Fawns from Montcalm County shall not be rehabilitated.
- Fawns must continue to be released by October 1, however a written request may be submitted to the Department no later than 15 days prior to October 1 to keep a fawn past October 1.
 - Deer cannot be possessed from October 1 to March 1 unless recommended by a Michigan licensed veterinarian and authorized by the Department.

Issues Pros and Cons

The Department has received pushback from Michigan's permitted wildlife rehabilitators on the October 1 release date for fawns. The Department has reviewed this regulation and will allow for an exception to keep fawns past October 1 if recommended by a Michigan licensed veterinarian and authorized by the Department. This may allow permitted wildlife rehabilitators to keep fawns past October 1 on a case-by-case basis if they provide the Department with a justified written request from a Michigan licensed veterinarian and Department experts agree with the justification. Releasing fawns before October 1 maximizes access to available food resources before they begin to diminish before winter. In addition, there are habituation concerns if fawns are kept past October 1. If fawns cannot be released prior to October 1, then they will need to be euthanized, unless on a case-by-case basis approved by the Department. Evidence from other states indicate that more than three-quarters of rehabilitated fawns do not survive.

Other States

The Department reviewed similar regulations in surrounding states and found the following:

- Indiana: The rehabilitation of white-tailed deer is allowed with specific release requirements. All white-tailed deer that are taken in for rehabilitation and determined to be non-releasable must be euthanized.
- Minnesota: The rehabilitation of white-tailed deer is allowed under specific permit types and conditions.
- Wisconsin: Rehabilitation of deer is prohibited in areas around a new positive case of CWD. Only wildlife rehabilitators with an advanced license can rehabilitate deer.

Biological

It's important for a fawn to be released in advance of harsh winter weather so it learns to forage on its own before food production nearly halts. Acorns typically begin dropping in September and ramp up throughout October before subsiding. This can be an important resource for building fat stores for the winter, and deer should be self-sufficient in locating these resources. In addition, less than 10 percent of corn and 20 percent of soybeans are typically harvested by the beginning of October, but by the end of the month, that jumps to about 50 percent and 70 percent, respectively. Having deer released by October 1 allows them to take advantage of an additional resource before it is removed by farmers.

The movement of live animals is one of the greatest risk factors in spreading disease into a new area. Although natural movements of wild deer contribute to the spread of the disease, human-aided transportation of wild animals greatly exacerbates this risk factor. Restricting live animal movement is likely to control the highest risk of distributing diseases into previously uninfected areas.

Social

The Department polled Michigan's permitted wildlife rehabilitators during the engagement meetings and 58 percent are satisfied with the proposed recommendations. The Department expects some pushback from permitted wildlife rehabilitators, but the Department plans to continue to educate the public about the disease risks associated with the movement and releasing of rehabilitated fawns.

Economic

The Department does not expect an economic impact.

Non-Regulatory Changes:

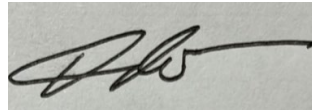
The Department received feedback through surveys and engagement meetings on non-regulatory items such as permit guidance and administration. The Department reviewed the feedback and will be making the following changes, as requested by Michigan's permitted wildlife rehabilitators:

- Provide the public and permitted wildlife rehabilitators with more guidance and information about wildlife rehabilitation. The Department will be creating guidance documents, such as an information circular, to distribute to permitted wildlife rehabilitators that will include the necessary information and regulations related to wildlife rehabilitation and permit requirements. The Department will also provide more information on the Department's website for the public and those interested in becoming a wildlife rehabilitator.
- Provide Conservation Officers with a more detailed inspection report to ensure facilities are meeting proper requirements and standards. The new inspection report includes a checklist detailing the expectations of the facility and example photographs.
- Provide guidance on the use of social media for the public display of wild animals in rehabilitation. It is important that permitted wildlife rehabilitators protect both the wild animals in their care and the images that are portrayed to the public regarding how they rehabilitate wild animals. Animals that are born in the wild cannot be kept as pets in Michigan.

Relevant Divisions have contributed to the preparation of this order. This order was submitted for information on December 8, 2022, at the Natural Resources Commission meeting. This item appeared on the Department's November 29, 2022 calendar and may be eligible for approval on January 12, 2023.



Jared Duquette, Chief
Wildlife Division



David Shaw, Chief
Law Enforcement Division



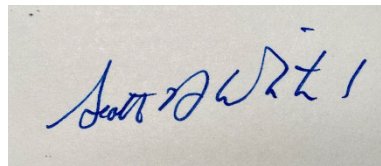
Jeffery J. Stampfly, Chief
Forest Resources Division



Ronald A. Olson, Chief
Parks and Recreation Division



James Dexter, Chief
Fisheries Division



Scott Whitcomb
Acting Natural Resources Deputy

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

Shannon Lott, Acting Director

Date

WILDLIFE CONSERVATION ORDER

Amendment No. 1 of 2023

By authority conferred on the Director of the Department of Natural Resources by sections 40106, 40107 and 40114 of 1994 PA 451, MCL 324.40106, 324.40107 and 324.40114, it is ordered that effective January 12, 2023, the following section(s) of the Wildlife Conservation Order shall read as follows:

5.70 Rehabilitation permit, definitions.

Sec. 5.70 For the purposes of sections 5.71 to 5.75 of this order, the terms in these sections shall have the meaning ascribed to them in this section.

(1) "Bottle babies" means baby wild animals, not including migratory birds, that are being rehabilitated and depend on bottles for food, nutrition, and/or nourishment.

(2) "Continuing education" means classes approved by the department that are required for a wildlife rehabilitation permit renewal every five years.

(3) "Co-mingle" means possessing, housing, transporting, keeping, or otherwise allowing a wild animal to come into direct contact or indirect contact with any other wild animal, domestic animal or bird, livestock, or exotic animal or bird.

(4) "Direct contact" means physical contact between wild animals and domestic animals, including livestock, or physical contact between wild animals and any animals held under the authority of a permit issued by the department to hold game in captivity or a permit issued by the department for scientific collectors.

(5) "Domestic animal" means a species of animal that lives under the husbandry of humans. This includes livestock. This also includes those species of animals used for human food or fiber or those species of animals used for service to humans.

(6) "Donation to" means to give away a wild animal that cannot be released back into the wild to an approved facility as described in 5.74 (1).

(7) "Exotic animal or bird" means a species of animal or bird that is not native to the state of Michigan or the United States.

(8) "Federal permit" means a special purpose permit issued under 50 CFR Part 13 and 50 CFR 21.95 by the United States fish and wildlife service for rehabilitation of migratory birds and federally listed endangered or threatened species.

(9) "Habituated" means being accustomed to the presence or activities of humans, animals, or birds in a way that is inconsistent with the behavior expected of a wild animal of the same species in the wild. Examples include, but are not limited to, wild animals that do not exhibit a flight response or are dependent on humans to provide food for their survival.

(10) "Humane" means the housing, nutrition, hydration, medical care, pain relief, sanitary conditions, stress relief, enrichment, treatment, or individual care that address the needs of the animal in rehabilitation, including euthanasia when release is not possible.

(11) "Imprinted" means to come to recognize another animal, person, or thing as a parent or other trusted being, contrary to the way a wild animal of the same species in the wild would view the other animal, person, or thing.

(12) "Indirect contact" means any sensory (sight, sound, smell, taste, and/or touch) exposure that is more than what the wild animal would experience in its natural environment.

(13) "Migratory birds" are those birds that the United States fish and wildlife service identifies on a list it prepares pursuant to the Migratory Bird Treaty Act that is published in the Federal Register. Migratory birds are also subject to regulation by the department, including under this chapter.

(14) "Overwinter" means possession of a wild animal past December 31st of the year acquired.

(15) "Permit" means the written authorization to conduct wildlife rehabilitation issued by the department under this chapter at an identified facility or facilities.

(16) "Permittee" means an individual who has been issued a permit by the department under this chapter to conduct wildlife rehabilitation at the facility or facilities indicated on the permit.

(17) "Person" shall have the same meaning as defined by section 301 of 1994 PA 451, MCL 324.301.

(18) "Protected animal" means that definition as described in MCL 324.40103(7) as an animal or kind of animal that is designated by the department as an animal that shall not be taken. These include, but are not limited to bats, moose, wolverines, and all birds not defined as game, except house sparrows, feral pigeons, and starlings.

(19) "Members of the public" means any person, except a permittee, subpermittee, licensed veterinarian providing medical care to wild animals at a wildlife rehabilitation facility, employees or representatives of the department or any other governmental agency.

(20) "Public display" means visible to members of the public.

(21) "Rehabilitate" means the care and treatment of injured, sick, oiled, or orphaned wild animals including, but not limited to, capturing, transporting, treating, feeding, housing, and conditioning animals so they can be released back to the wild.

(22) "Rehabilitation" means providing care for injured, sick, or orphaned wild animals as permitted by the department.

(23) "Release" and "release into the wild" means to free a wild animal from confinement to an area where the wild animal is capable of survival. This does not allow for the immediate recapturing of the wild animal, transferring the wild animal to another permittee, or taking the wild animal back into rehabilitation.

(24) "Sanitary" means having adequate food, water, and facilities that are routinely cleaned and disinfected.

(25) "Soft release" means gradually reducing the support provided to a rehabilitated wild animal, such as shelter, food, or water for the specific purpose of improving its chance of survival in the wild. "Soft release" does not include any support or other activity that would violate this order or result in the wild animal becoming habituated.

(26) "Small wild mammals" are defined as follows:

(a) All Michigan mammals classified in the Procyonidae family, which includes northern raccoon (*Procyon lotor*);

(b) All Michigan mammals classified in the Didelphidae family, which includes Virginia opossum (*Didelphis virginiana*);

(c) All Michigan mammals classified in the Leporidae family, which includes eastern cottontail rabbit (*Sylvilagus floridanus*) and snowshoe hare (*Lepus americanus*); and

(d) All Michigan mammals classified in the Sciuridae family, which includes eastern chipmunk (*Tamias striatus*), eastern fox squirrel (*Sciurus niger*), eastern gray squirrel (*Sciurus carolinensis*), least chipmunk (*Tamias minimus*), northern flying squirrel (*Glaucomys sabrinus*), red squirrel (*Tamiasciurus hudsonicus*), southern flying squirrel (*Glaucomys volans*), thirteen-lined ground squirrel (*Spermophilus tridecemlineatus*), and woodchuck (*Marmota monax*).

(27) "Subpermit" means the written authorization issued by the department under this chapter to conduct wildlife rehabilitation under the supervision of a permitted wildlife rehabilitator at an identified facility or facilities.

(28) "Subpermittee" means an adult 18 years of age or older who has been issued a subpermit by the department under this chapter to assist with wildlife rehabilitation under a named permittee's supervision at the facility or facilities listed in the subpermit. Any individual at the facility assisting in the rehabilitation of wild animals must be a permittee or subpermittee.

(29) "Threatened or endangered species" means any wild animal listed as a threatened or endangered species under state or federal law.

(30) "Transport" means the act of a permittee or subpermittee relocating wild animals to the premises of a licensed rehabilitator.

(31) "Wild" means living or growing in the natural environment; not domesticated or not habituated.

(32) "Wild animals" means all wild bird and wild mammal species native to Michigan.

5.71 Rehabilitation permit, general wildlife rehabilitation provisions.

Sec. 5.71 (1) A person shall not possess a live wild animal for the purpose of wildlife rehabilitation without first securing a permit or subpermit from the department, except as provided in subsection 5.71(a).

(a) A licensed veterinarian is not subject to the permitting requirements of section 5.71(1) when the licensed veterinarian is treating a sick, injured, or orphaned wild animal at the veterinarian's facility for not more than 48 hours before releasing it to the wild, transferring it to a permittee, or administering humane euthanasia.

(2) A permittee or subpermittee shall not possess a wild bat, bear, elk, moose, mute swan or skunk. A subpermittee shall not possess a wild deer except when transporting wild fawns.

(3) Only one permittee shall be affiliated with a facility or facilities approved by the department indicated on a wildlife rehabilitation permit. Additional persons affiliated with the facility or facilities need to be subpermittees approved by the department, unless the following exception applies:

(a) The department may approve another person to temporarily care for wild animals at a facility or facilities provided that the permittee provides a written request to the department with the address of the facility, the reason for temporary care, the name of the person caring for the facility or facilities, and the approximate number of days the facility will be in temporary care.

(4) A person may be approved by the department as a subpermittee for the rehabilitation of bottle babies and wild animals except for those species listed in subsection (2), and the transport of wild animals except for those species listed in subsection (2). Subpermittees may transport wild fawns.

(a) An inspection is required for facilities listed on a subpermit for the rehabilitation of wild animals not considered bottle babies. An inspection is not required for subpermittees only transporting wild animals.

(b) If a subpermittee is assisting with wildlife rehabilitation activities at a facility that is not approved by the department, the subpermittee shall own the property where wildlife rehabilitation activities will occur or

have a fully executed agreement in which the property owner gives written authorization to the subpermittee to conduct wildlife rehabilitation activities in a designated area of the property for a defined amount of time.

(5) A permittee or subpermittee shall not capture, receive, possess, transport, or transfer wild animals for any purpose other than wildlife rehabilitation. A permittee or subpermittee shall not transfer live or dead wild animals except to other permittees with appropriate facilities or as allowed by sections 5.74 (1) to 5.74 (4).

(6) A permittee or subpermittee shall not sell or barter live or dead wild animals in any manner.

(7) A permittee or subpermittee shall not transfer live wild animals for capture or release without first securing approval from the landowner where capture or release will occur.

(8) Permittees or subpermittees shall not rehabilitate wild animals in a manner contrary to local, state, or federal statutes, regulations, rules, ordinances, or orders, including other provisions of this order not in chapter V.

(9) The permittee or subpermittee shall provide a copy of their permit or subpermit to the department's agents or other law enforcement agents upon request.

(10) The permittee or subpermittee shall obtain a federal permit prior to obtaining or possessing migratory birds unless otherwise provided by the United States fish and wildlife service. When the limitations of a federal permit are more restrictive than the state permit, the federal limitations shall prevail. It is the responsibility of the permittee or subpermittee to know which bird species are considered migratory.

(11) A person may capture and transport a sick, injured, or orphaned wild animal to a permitted wildlife rehabilitator, licensed veterinarian, or department employee, but only after contacting the facility, licensed veterinarian, or department employee to confirm the wild animal will be accepted. Prior to transport, no care may be provided to a wild animal, except as directed by a permitted wildlife rehabilitator, veterinarian, or department employee.

(a) A person has 24 hours Monday through Friday and 48 hours Saturday through Sunday to capture and transport the sick, injured, or orphaned wild animal to a wildlife rehabilitator, licensed veterinarian, or department employee.

(b) This subsection does not apply to the capture and transport of threatened or endangered species and wild bats, bears, cougars, elk, lynx, moose, mute swans, skunks, and wolves, including their offspring. An individual shall not capture and transport a deer unless it's a fawn.

(c) Any persons consistently and repeatedly transporting wild animals directly to another facility must have a permit or subpermit.

5.72 Rehabilitation permit, application, issuance, amendment, renewal.

Sec. 5.72 (1) An application for a permit shall be submitted on a form or through a web-based application system furnished by the department. A permit application shall be considered only if the applicant is at least 18 years of age or older and has provided documentation of all of the following:

(a) Training and experience in the care and handling of such animals, except if the applicant is a licensed veterinarian, shall be documented by 1 of the following:

(i) letter or affidavit, signed by a licensed veterinarian, indicating that the applicant has demonstrated, through at least 30 hours of paid or volunteer experience, adequate skills in handling injured and orphan animals.

(ii) A letter or affidavit, signed by a current permitted wildlife rehabilitator in Michigan, indicating that the applicant has demonstrated, through at least 30 hours of working as an approved subpermittee by the department and has adequate skills in handling injured and orphan animals.

(b) Adequate facilities as determined by the department based upon the national wildlife rehabilitators association and international wildlife rehabilitation council's current "standards for wildlife rehabilitation." All facilities where animals are kept for longer than 48 hours shall be listed on the permit application and shall be subject to inspection prior to permit issuance and at any reasonable time thereafter by an agent of the department.

(c) A permit shall not be renewed, except if the rehabilitator is a licensed veterinarian, unless the application is accompanied by a certificate of completion for a continuing education class in the rehabilitation of wild animals for a class and at a frequency that has been approved by the department.

(d) In addition to the training and experience requirements of subsection (a), a person applying for a permit that is not a renewal, including applying for a new permit after a sanction other than a revocation under 5.250 or five years after the date a permit was revoked as described in 5.72b, shall furnish with their permit application proof of having completed a wildlife rehabilitation basic skills class that has been approved by the department.

(e) If the rehabilitation facility or facilities are on more than one parcel of land, all parcels shall be listed as part of the application process and inspected by the department.

(2) An applicant shall own the property where wildlife rehabilitation activities will occur or must submit a fully executed agreement in which the property owner gives written authorization to the applicant to conduct wildlife rehabilitation activities in a designated area of the property for a defined amount of time.

(3) An applicant shall certify that they have read and understand the statutes, rules, regulations, orders, and ordinances that apply to the wild animals being rehabilitated at the facility or facilities listed on the application and that they agree to comply with all provisions of those legal obligations.

(4) An applicant shall certify that rehabilitation activities and the facility or facilities are in compliance with statutes, rules, regulations, orders, and ordinances.

(5) Following an inspection to a new application or amendment to a current permit or subpermit, the department may deny the application or amendment if it doesn't meet the regulations described in this order.

5.72a Rehabilitation permit, facility standards and inspections.

Sec. 5.72a (1) Following the standards set forth in the national wildlife rehabilitators association and international wildlife rehabilitation council's "standards for wildlife rehabilitation", all enclosures shall be structurally sound, of sufficient strength for species involved, and maintained in good repair to prevent escape or injury to the wild animals being rehabilitated. The department may approve alternative structures on a case-by-case basis provided they exceed current facility standards set forth in the national wildlife rehabilitators association and international wildlife rehabilitation council's "standards for wildlife rehabilitation." An appropriate enclosure for any wild animals that can fly shall include four walls, a bottom, and a top that does not permit the wild animal to fly outside of the enclosure. All enclosures shall be adequate to prevent the ingress or egress of animals, wild and domestic.

(2) All premises and facilities covered by a permit shall be open to inspection by an agent of the department or by an agent of the United States fish and wildlife service at any reasonable time. An inspection may include the determination that a wild animal shall be released, be taken into possession by the department or United States fish and wildlife service, transferred to another facility, or humanely euthanized as authorized by the department or United States fish and wildlife service.

5.72b Rehabilitation permit, amendment, expiration, revocation, applying after revocation or any other sanction under section 5.250.

Sec. 5.72b (1) A person may apply for a new permit five years after the date that their permit was revoked by the department. To apply for a new permit after a prior permit was revoked, a person must follow the instructions to submit a new application and provide evidence that the conditions or circumstances that resulted in the permit being revoked have been resolved and will not reoccur if the department issues a new permit. If the person does not follow the instructions or if the department determines that the person has not provided evidence that the conditions or circumstances that resulted in the permit being revoke have been resolved and will not reoccur, the department may deny the permit application.

(2) Post-revocation applicants shall apply for a wildlife rehabilitation permit for small wild mammals only. If approved by the department, the permit may be amended a year from issuance to include other animals provided there have been no violations.

(3) A person may apply for a new permit after the date that his or her permit is subject to a sanction under section 5.250 other than revocation without waiting five years. To apply for a new permit after a sanction under section 5.250 other than revocation, a person must follow the instructions to submit a new application and provide evidence that the conditions or circumstances that resulted in the sanction have been resolved and will not reoccur if the department issues a new permit. If the person does not follow the instructions or if the department determines that the person has not provided evidence that the conditions or circumstances that resulted in the sanction have been resolved and will not reoccur, the department may deny the permit application or impose limits or conditions in the permit to require the person to comply with this order.

5.72c Rehabilitation permit, records, and reporting.

Sec. 5.72c (1) The permittee shall maintain an up-to-date record of all wild animals in their possession, except that federally protected and migratory birds may be recorded upon a form furnished by the United States fish and wildlife service. The record for each wild animal, including those held overwinter, shall list the species, the condition of the wild animal, the name and address of the donor or other source, and the method and date of disposition. In addition, the record for threatened or endangered species, those species of special concern described in section 5.74a, and wild animals held overwinter shall include the county of origin and the county of release. If the permittee or subpermittee has multiple facilities, each facility that keeps animals for 48 hours or longer shall maintain and keep up-to-date records on the premises. The permittee shall submit all state and federal permittee and subpermittee records on a form furnished by the department or on a form furnished by the United States fish and wildlife service for the calendar year to the department's wildlife rehabilitation permit specialist by January 31 of each year or within 15 days after termination of the permit. A copy of the records required by this section shall be maintained by the permittee for 2 years following the required date of submission.

5.73 Rehabilitation permit, expiration, and disposition of animals and the parts of animals following a violation.

Sec. 5.73 (1) A permit shall be valid for 5 years, and shall expire on March 31 of the fifth year following issuance, unless revoked, annulled, withdrawn, recalled, or canceled prior to that date.

(2) The department may revoke, or otherwise address a violation as described in section 5.250, a permittee's license if the permittee or a subpermittee of that permittee fails to comply with the conditions, limitations, and any other provisions in this order.

(3) If the department revokes or otherwise addresses a violation as described in section 5.250, the department may direct the permittee or subpermittee to dispose of any animal and the parts of any animal in his or her possession in a manner approved by the department.

5.74 Rehabilitation permit, conditions, limitations, care and treatment of wild animals.

Sec. 5.74 In addition to the conditions and limitations already described in Chapter V, the following conditions and limitations shall apply to the possession of wild animals under the authority of a rehabilitation permit:

(1) Except for threatened or endangered species and animals of special concern, all wild animals which cannot be rehabilitated sufficiently to be released into the wild shall be disposed by one of the following ways:

(a) Donation to a public zoological park approved or accredited by the association of zoos and aquariums or a public sanctuary approved or accredited by the American sanctuary association.

(b) Donation to a research or educational institution that meets acceptance criteria for the issuance of a Michigan scientific collector's permit as provided by section 5.21 of this order.

(c) Humane and discreet euthanasia by methods recommended and approved by the American veterinary medical association. Refusal by a permittee or subpermittee to carry out or have another person carryout humane and discreet euthanasia of a non-releasable wild animal is inhumane treatment and is prohibited by this order. The carcasses of protected animals and game animals shall be turned over to the local conservation officer or disposed of as directed by the department, except as described in subsection (4).

(d) A permittee may possess a permanently injured, non-releasable migratory bird for the purpose of fostering orphaned young or juveniles undergoing rehabilitation. The permittee must have both the wildlife rehabilitation permit and scientific collector's permit and be in compliance with the United States fish and wildlife service requirements before possessing the permanently injured, non-releasable migratory bird.

(e) A permittee may possess a permanently injured raptor unable to survive in the wild for the purpose of fostering orphaned young or juveniles undergoing rehabilitation. The permittee must have both the wildlife rehabilitation permit and falconry permit and be in compliance with the United States fish and wildlife service requirements before possessing the permanently injured, non-releasable migratory bird.

(2) All wild animals on the federal endangered or threatened species list shall be turned over to an agent of the United States fish and wildlife service.

(3) All wild animals not included on the federal threatened or endangered species list but included on the state endangered or threatened species list that shall come into possession by a permittee shall be reported during the same business day, or subsequent first business day if acquired on a holiday or weekend, to the department. Such wild animals shall be handled and disposed of only as provided by the department and shall only be possessed for rehabilitation purposes under the authority of an endangered species permit as provided by Part 365 of the natural resources environmental protection act, 1994 PA 451.

(4) All wild animals exhibiting an illness, disease, or other abnormal behavior that shall come into possession of a permittee or subpermittee, and all wild animals that die of illness or disease while in the possession of the permittee or subpermittee, shall be reported during the same business day, or subsequent first business day if the wild animal shall die or be acquired on a holiday or weekend, to the department wildlife disease laboratory as instructed by the department. Such wild animals shall be possessed, handled, and disposed of only as provided by the department. When necessary, the permittee or subpermittee shall initiate all disease-related protocols at their facility as instructed by the department's wildlife disease laboratory experts.

(5) As soon as a wild animal is capable of fending for itself and shows no signs of being habituated, it shall be released into the wild as directed by the permit and this order. Wild animals shall not be released upon the lands of another except with written permission of that property owner or the public land administrator.

(a) Soft release methods using supplemental food is prohibited except for migratory birds on the premise of the facility as described in the national wildlife rehabilitators association and international wildlife rehabilitation council's "standards for wildlife rehabilitation."

(b) Wild animals shall be released to a location that provides adequate habitat where they will not create a nuisance.

(6) Wild animals of special concern shall be possessed, transported, and disposed of only as provided in this order.

(7) It is the permittee's or subpermittee's obligation to ensure that the facility or facilities is operated and maintained in a manner that does not pose a threat to human or animal safety by following the standards set forth in the national wildlife rehabilitators association and international wildlife rehabilitation council's "standards for wildlife rehabilitation."

(8) All wild animals shall be kept under humane and sanitary conditions as defined in section 5.70 of this chapter at all times based upon the national wildlife rehabilitators association and international wildlife rehabilitation council's "standards for wildlife rehabilitation" except as otherwise approved by the department under section 5.72a.

(9) All wild animals shall be cared and treated for as provided by the standards set forth in the national wildlife rehabilitators association and international wildlife rehabilitation council's "standards for wildlife rehabilitation."

(10) All wild animals being rehabilitated are subject to the following:

(a) Shall be kept separated from high-traffic human living quarters and activities.

(b) Shall be kept in appropriate enclosures at all times and have direct or indirect contact with the permittee or subpermittee only to the extent necessary to provide adequate care and treatment.

(c) Shall not be cared for by anyone other than an approved permittee or subpermittee.

(d) Shall not be housed so as to be visible to, or otherwise allowed to be viewed, by members of the public, unless otherwise authorized by the department.

(e) Shall not have direct or indirect contact with members of the public.

(f) Shall not co-mingle with, have direct or indirect contact with, or be able to see domestic animals, including livestock, or animals held under the authority of a permit issued by the department to hold wildlife in captivity or issued to scientific collectors.

(g) Shall not be tamed, kept as pets, held with domestic animals, or habituated.

(h) Shall be of compatible species, as described in the national wildlife rehabilitators association and international wildlife rehabilitation council's "standards for wildlife rehabilitation", when housed together, and not pose a threat to health or well-being of other wild animals in the same enclosure. Prey and predator species shall be separated by visual and/or olfactory barriers.

5.74a Wild animals of special concern, possession, transportation, and disposal.

Sec. 5.74a Wild animals of special concern are as follows:

(1) Deer of special concern, all wild free-ranging deer. Live wild deer shall not be possessed without a permit from the department, subject to the following:

(a) All wild deer, positively confirmed to be from Alcona, Alpena, Iosco, Montmorency, Oscoda, Otsego, Presque Isle, and Montcalm counties shall not be possessed unless:

(i) euthanized and sent or taken at the earliest possible time to the wildlife disease laboratory by direct arrangement with the wildlife disease laboratory or by arrangement with a local conservation officer.

(ii) obtained by a permittee located inside Alcona, Alpena, Iosco, Montmorency, Oscoda, Otsego, Presque Isle, and Montcalm counties who humanely euthanizes the deer within 24 hours of receipt.

(b) All wild deer, except fawns, positively confirmed to be from inside a county with a confirmed case of CWD, except for Montcalm county, shall not be possessed unless:

(i) euthanized and sent or taken at the earliest possible time to the wildlife disease laboratory by direct arrangement with the wildlife disease laboratory or by arrangement with a local conservation officer.

(ii) obtained by a permittee located in a county with a confirmed case of CWD who humanely euthanizes the deer within 24 hours of receipt.

(c) A licensed permittee located within a county with a confirmed case of CWD, except for Montcalm county, shall only possess a wild fawn from inside that same county if the capture point of the wild fawn is within a 10-mile radius of the licensed permittee's facility. The licensed permittee shall release that same fawn within a 10-mile radius of their facility.

(d) All wild deer, except fawns, positively confirmed to be from outside of a county with a confirmed case of CWD shall not be possessed unless:

(i) euthanized and sent or taken at the earliest possible time to the wildlife disease laboratory by direct arrangement with the wildlife disease laboratory or by arrangement with a local conservation officer.

(ii) obtained by a permittee located outside of a county with a confirmed case of CWD who humanely euthanizes the deer within 24 hours of receipt.

(e) All wild fawns positively confirmed to be from outside of a county with a confirmed case of CWD shall:

(i) not be moved to a county with a confirmed case of CWD.

(ii) be released only in the county of origin. Each cage shall be tagged by the permittee with the county of origin and date of capture for each deer.

(f) If the capture point of a wild deer cannot be positively confirmed to be from a particular county, the deer shall be isolated in a manner to prevent direct, physical contact with other deer and humanely euthanized within 24 hours of receipt. If a deer has come into direct, physical contact with a deer originating from another or unknown county of origin, both deer shall be isolated in a manner to prevent physical contact with other deer and humanely euthanized within 24 hours of receipt.

(g) The permittee shall permanently mark all deer in possession with a clearly visible unique identification mark prior to release as required by the department.

(h) All wild deer, except fawns, cannot be possessed for wildlife rehabilitation.

(i) All wild fawns shall be released by October 1 of the year it was taken into possession for wildlife rehabilitation unless recommended, in a written request, by a Michigan licensed veterinarian and authorized by the department. The written request must be submitted to the department no later than 15 days prior to October 1.

(j) All wild fawns shall not be taken into possession for wildlife rehabilitation October 1 through March 1.

(2) Skunks and bats of special concern, all wild skunks and bats. Live skunks and bats shall not be possessed.

(3) Raccoons of special concern, all wild raccoons. Live raccoons may be possessed and released only as follows:

(a) Raccoons shall be released only in the same county where captured and shall be isolated in a manner to prevent direct, physical contact with wild 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) Cages and areas used to hold raccoons for release shall be constructed of materials that can be effectively disinfected.

(c) If the capture point of a raccoon cannot be positively confirmed to be from a particular county, the raccoon shall be isolated from direct, physical contact with other raccoons and humanely euthanized within 24 hours of receipt. If a raccoon has come into direct, physical contact with a raccoon originating from another or unknown county of origin, both raccoons shall be isolated from direct, physical contact with other raccoons and humanely euthanized within 24 hours of exposure.

(4) Elk of special concern, all wild free-ranging elk. Live wild elk shall not be possessed.

(5) Moose of special concern, all wild free-ranging moose. Live wild moose shall not be possessed.

(6) Mute swans of special concern, all wild mute swans. Live wild mute swans shall not be possessed.

(7) Subject to the provisions of this order, in the event a wild deer is humanely euthanized or dies as the result of disease symptoms consistent with chronic wasting disease, the carcass shall be sent or taken at the earliest possible time to the wildlife disease laboratory by direct arrangement with the wildlife disease laboratory or by arrangement with a local conservation officer or a department employee.

5.75 Rehabilitation permit, kinds of wild animals held under permit.

Sec. 5.75 Permittees or subpermittees shall not possess wild animals other than those indicated on their approved permit or subpermit.

5.250 Special permit regulations; violation.

Sec. 5.250 (1) A permit issued under authority of section 40114 of the NREPA, 1994 PA 451, as amended, may be summarily suspended, suspended, revoked, annulled, withdrawn, recalled, canceled, or amended pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) If the holder of a permit is convicted of violating the permit or section 40114, the permit or license may be revoked and any animal and the parts of any animal in his or her possession shall be disposed of in a manner approved by the department without conducting a proceeding under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328 to summarily suspend, suspend, revoke, annul, withdraw, recall, cancel, or amend the permit.

Issued on this 12th day of January, 2023.

Approved as to matters over which the Director has authority.

Shannon Lott
Acting Director