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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



SHANNON LOTT
ACTING DIRECTOR

SUBMITTED: January 17, 2023
RESUBMITTED: February 14, 2023

MEMORANDUM TO THE DIRECTOR

Information: Natural Resources Commission

Subject: Use of Electronic Trap Monitors by Wildlife
Damage and Nuisance Animal Control Businesses
Wildlife Conservation Order Amendment No. 3 of 2023

APPROVED
March 9, 2023
MICHIGAN NATURAL RESOURCES COMMISSION
Jennifer Callen
(ASSISTANT TO THE COMMISSION)

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.40114 and MCL 324.40107, authorizes the Department to issue permits authorizing the take of animals to prevent or control damage to crops or feed, disease, or nuisance caused by the animals, and to determine conditions under which permits may be issued by the Department.

Discussion and Background:

In April 2020, the Department approved the regulation to allow businesses licensed under a Wildlife Damage and Nuisance Control Permit to monitor traps lawfully permitted to take or capture nuisance wild animals with an operational electronic device under certain conditions. It was recommended that this provision be allowed for three years to allow time for the Department to review the use and effectiveness of these devices. The three-year sunset clause is set to expire on February 28, 2023.

Current regulations allow electronic trap monitors to be used under all of the following conditions by a licensed business permittee provided that the trap is physically checked in person at least once every 72 hours:

- The electronic trap monitor remains in continuous operation while in use and shall be able to provide trap status at least once every 24 hours.
- The electronic trap monitor shall be checked electronically at least once every 24 hours.
- The electronic trap monitor has notification alarms that report real-time trap information including trap door closed activity and trap door open activity within one hour after detection via email or text-based messaging systems.
- The electronic trap monitor has notification alarms that report system health issues via email or text-based messaging.
- The electronic trap monitor has on-demand control unit testing capabilities for determining trap status, signal strength, and battery condition via remote system check-in.
- If the electronic trap monitor notification alarm reports a trap closure, the permittee is required to physically visit the trap within 24 hours of the time the trap was reported closed.
- If the electronic trap monitor reports a system health issue, the permittee is required to physically check the trap within 24 hours of the last time a notification alarm was received.

- Electronic monitoring devices shall be marked with the permittee's identification, specifically the permit number, business name, and business phone number.
- Permittees shall maintain records as provided by section 5.54 of the Wildlife Conservation Order. This also includes alert notifications and trap status check via the centralized application database. All records shall be available for inspection at any reasonable time by a state or law enforcement agency, or its employees, or a tribal conservation officer.
- An individual who displays records using an electronic device is not presumed to have consented to a search of the electronic device. This state, a law enforcement agency, a tribal conservation officer, an employee of this state or a law enforcement agency is not liable for damage to or loss of an electronic device that occurs as a result of viewing records.
- A state or law enforcement agency, or its employees, a tribal conservation officer is not liable for damage to an electronic trap monitor or an electronic device that occurs as a result of inspecting the electronic trap monitor or electronic device.

The Law Enforcement Division (LED) has evaluated the use of these electronic trap monitors by licensed businesses. The LED recommends reauthorizing this regulation to allow businesses licensed under a Wildlife Damage and Nuisance Control permit to monitor traps lawfully permitted to take or capture nuisance wild animals with an operational electronic device under certain conditions, as stated above.

Issues Pros and Cons

Pros

Electronic trap monitors allow for the remote monitoring of traps. Such remote technologies will save time in monitoring traps by reducing travel time and reducing time spent checking empty traps. Nuisance control companies alleviate the burden of wildlife calls from the Department, freeing officers', and biologists' time to concentrate on priority species.

Cons

Electronic trap monitor technologies may have systematic issues, such as signal strength, battery power, and inaccurate readings. In addition, electronic trap monitors may be damaged by animals caught in traps and traps may be sprung without catching animals that may activate the device.

Other States

The Department reviewed regulations in Illinois, Indiana, Ohio, Missouri, and Wisconsin to determine if electronic trap monitors are legal for nuisance animal control businesses. The results were the following:

- Illinois: Electronic monitoring systems may be used in lieu of physical visits for nuisance animal control businesses under certain conditions.
- Indiana: Electronic monitoring systems are illegal.
- Ohio: Electronic monitoring systems are legal for nuisance animal control businesses.
- Missouri: Electronic monitoring systems are illegal.
- Wisconsin: Electronic monitoring systems are illegal.

Biological

The Department does not expect a biological impact to wildlife populations.

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Social

During the 2020-2023 evaluation period, there was no documented illegal activity on the use of electronic trap monitors by licensed businesses. In addition, the Department surveyed licensed businesses and received support to continue the regulation.

Economic

The Department does not expect any significant economic impacts.

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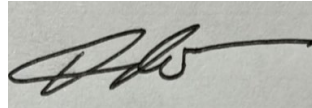
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Relevant Divisions have contributed to the preparation of this order. This order was submitted for information on February 9, 2023, at the Natural Resources Commission meeting. This item appeared on the Department's January and February calendars and may be eligible for approval on March 9, 2022.



Jared Duquette, Chief
Wildlife Division



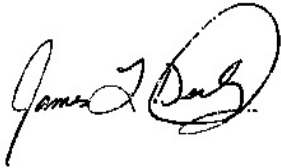
David Shaw, Chief
Law Enforcement Division



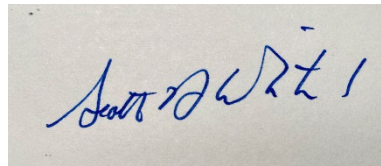
Jeffery J. Stampfly, Chief
Forest Resources Division



Ronald A. Olson, Chief
Parks and Recreation Division

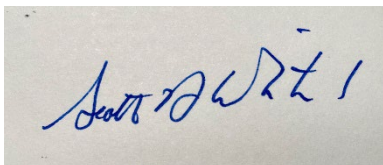


James Dexter, Chief
Fisheries Division



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.



for
Shannon Lott, Acting Director

Date: March 9, 2023

WILDLIFE CONSERVATION ORDER

Amendment No. 3 of 2023

By authority conferred on the Director of the Department of Natural Resources by sections 40107 and 40114 of 1994 PA 451, MCL 324.40107 and 324.40114, it is ordered that effective March 9, 2023, the following section(s) of the Wildlife Conservation Order shall read as follows:

5.52 Nuisance animal control businesses, public nuisance animal control agencies and non-profit nuisance animal control organizations, permit issuance; requirements.

Sec. 5.52 The department's wildlife permit specialist may issue a permit to a reputable nuisance animal control business, public nuisance animal control agency, or non-profit nuisance animal control organization for the purpose of taking certain animals causing damage to personal or real property. A person issued a permit under this section 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 and 5.52d of this order.

(2) Permittees may, upon verifying the complaint of any person suffering damage or nuisance, effect control measures at any time of year within cities, villages, or townships closed to hunting or prohibiting the discharge of firearms. In other areas of the state, permittees 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, permittees 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 by a wildlife biologist or conservation officer.

(3) Permittees shall be authorized to undertake control measures on the premises of the complainant for the control of bats that are not threatened or endangered 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 shall also be authorized to undertake 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 wildlife management unit supervisor. Control of damage by other wildlife shall be undertaken only as authorized by a 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 and 5.52d of this order.

(4) To effect control measures, 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 affect control measures, permittees may also use snares 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 meets the requirements of subsection 3.609(2), subdivisions (b) through (j).

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

(6) 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) Non-profit nuisance animal control organizations shall comply with all rules and regulations for permittees. 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) All live traps, foot-hold traps, and other catching devices designed and used in a manner to trap or capture animals alive shall be checked daily except as provided in subsection (8)(a). 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 permit number, and the business name, and business phone number of the permittee.

(a) Electronic trap monitors may be used under all the following conditions provided that the trap is physically checked in-person by the permittee at least once every 72 hours:

(i) The electronic trap monitor remains in continuous operation while in use and shall be able to provide trap status at least once every 24 hours.

(ii) The electronic trap monitor shall be checked electronically at least once every 24 hours.

(iii) The electronic trap monitor has notification alarms that report real-time trap information including trap door closed activity and trap door open activity within one hour after detection via email or text-based messaging systems.

(iv) The electronic trap monitor has notification alarms that report system health issues via email or text-based messaging.

(v) The electronic trap monitor has on-demand control unit testing capabilities for determining trap status, signal strength, and battery condition via remote system check-in.

(vi) If the electronic trap monitor notification alarm reports a trap closure, the permittee is required to physically visit the trap within 24 hours of the time the trap was reported closed.

(vii) If the electronic trap monitor reports a system health issue, the permittee is required to physically check the trap within 24 hours of the last time a notification alarm was received.

(viii) Electronic trap monitoring devices shall be marked with the permittee's permit number, and the business name, and business phone number of the permittee.

(ix) Permittees shall maintain records as provided by section 5.54 of this order. This also includes alert notifications and trap status check via the centralized application database. All records shall be available for inspection at any reasonable time by a state or law enforcement agency, or its employees, or a tribal conservation officer.

(x) An individual who displays records using an electronic device is not presumed to have consented to a search of the electronic device. This state, a law enforcement agency, a tribal conservation officer, an employee of this state or a law enforcement agency is not liable for damage to or loss of an electronic device that occurs as a result of viewing records.

(xi) This state, a law enforcement agency, a tribal conservation officer, an employee of this state or a law enforcement agency is not liable for damage to an electronic trap monitor or an electronic device

used to inspect records that occurs as a result of inspecting the electronic trap monitor or electronic device.

(9) 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.

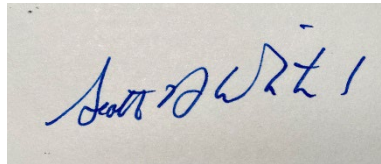
(10) All animals, which the permittee is authorized to take, shall be taken and disposed of in a manner to ensure humane handling or killing. Captured animals shall not be held longer than 24 hours unless requested by a department representative, or by a physician or public health official for public health reasons. Captured animals shall not be euthanized except by methods recommended and approved by the department.

(11) Any control measures undertaken by the permittee shall be considered a contractual agreement between the permittee and the complainant. The cost of control effected under the authority of a permit is the responsibility of the permittee.

(12) The department shall not be liable for any damage suffered by a complainant as a result of the performance of the permittee operating under the authority of a permit.

Issued on this 9th day of March, 2023.

Approved as to matters over which the Director has authority.



for

Shannon Lott
Acting Director