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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



SHANNON LOTT
ACTING DIRECTOR

SUBMITTED: March 13, 2023
RESUBMITTED: April 17, 2023



MEMORANDUM TO THE DIRECTOR

Subject: Nuisance Wildlife Regulations
Wildlife Conservation Order Amendment No. 6 of 2023

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:

The continuing loss of woodlands and farmlands to the development of urban and suburban environments is increasing the chances for conflicts between humans and wildlife, also known as human-wildlife conflicts. Many wildlife species are well adapted to living near people and as they become accustomed to humans, they may cause conflicts. These conflicts include wild animals damaging crops, livestock, or property; wild animals posing a threat to human health or safety; and wild animals living in unwanted areas. This is also commonly referred to as “nuisance wildlife”. Each year, the Department receives several complaints and calls for assistance from property owners and municipalities involving nuisance wildlife. Many nuisance situations are a result of high populations of a particular species. The Department regulates harvest of species by annual hunting and trapping seasons, and harvest is often the most important factor in decreasing the potential for nuisance wildlife. However, regular hunting and trapping alone may not represent adequate solutions when 1) damage is extensive and occurs outside of the hunting or trapping season; 2) if damage is the result of an individual wild animal rather than the overabundance of an entire population; 3) if problems are being caused by species that are normally not harvested during the hunting or trapping season, generally due to the lack of harvest effort; or 4) if problems are occurring in highly urbanized areas where hunting or trapping are not practical or permitted. In such situations where regular season harvests are not successful or practical in controlling nuisance wildlife, other methods to resolve issues are required.

One method for a property owner or municipality to resolve nuisance wildlife issues is to obtain a damage and nuisance animal control permit. The Department administers a permit system for damage and nuisance animal control when hunting and trapping cannot alleviate problems. The permit system allows nuisance wild animals causing damage to property to be taken during times of the year and by methods not normally allowed under the regular hunting and trapping

regulations. However, issuing these permits can create an administrative burden for both the property owner or municipality and Department staff. These permits are often issued after an inspection, which can take a few days depending on time of year and workload of Department staff. In the meantime, the wild animal could be causing more damage, leaving the landowner or municipality to deal with the issue with limited tools available. The Department is looking at other methods to help control nuisance wildlife to minimize these types of situations.

The Department's Wildlife Division has a human-wildlife conflict workgroup (workgroup) that developed regulatory recommendations to help alleviate nuisance wildlife issues across the state. The recommendations were also reviewed by the Department's furbearer workgroup. The recommendations, as outlined in this memorandum, provide regulatory consistency across common species that create nuisance issues, and alleviate time property owners, municipalities, and Department staff spend obtaining and issuing damage and nuisance animal control permits. The Department supports the recommendations provided by the workgroup.

Wildlife Damage Control on Private Property

The workgroup reviewed regulations regarding wildlife damage control on private property and discussed various ways to help property owners alleviate damage caused by nuisance wildlife. There are currently regulations in place for controlling nuisance woodchuck, raccoon, coyote, and skunk on private property. These species can cause serious damage to livestock, structures, equipment, crops, and gardens. A property owner or authorized designee can take these species all year on property owned by the individual without a license if the wild animal is doing or about to do damage. A written permit is not required if the individual abides by legal hunting and trapping methods for those species; woodchuck can be taken by legal hunting methods and raccoon, coyote, and skunk can be taken by legal hunting and trapping methods.

There is unclear guidance of how the term "doing or about to do damage" is to be understood because it is not defined in the Wildlife Conservation Order. Some may consider "doing or about to do damage" as the ability for a wild animal to cause damage when it is not physically present, while others may consider it as the physical presence of a wild animal causing damage. The ambiguity of the term often creates confusion and enforcement challenges. The workgroup recommends defining the term "damage" and changing the term "doing or about to do damage" to "doing damage or physically present where it could imminently cause damage". The recommended definition for damage is physical harm to forest products; roads; dams; buildings; orchards; apiaries; livestock; and horticultural or agricultural crops. Beaver or muskrat are only considered to be doing damage if their activities result in flooding or culvert blockages that cause damage.

Other common species that can cause significant damage are beaver, cottontail rabbit, fox squirrel, gray squirrel, ground squirrel, muskrat, opossum, red squirrel, and weasel. These species can also cause serious damage to structures, equipment, crops, gardens, and livestock. Rabbits and squirrels can cause problems for property owners when they chew through structure or equipment wires. Weasels can kill chickens, ducks, and other small livestock. Beavers can cause problems for property owners when their dams create floodings, or when they block culverts. Muskrats can cause problems when their underground burrows weaken shorelines, dikes, and riverbanks. Currently, if these species are causing damage outside of the open season or the property owner does not have a valid license to take the species, a property owner must obtain a wildlife damage and nuisance animal control permit or hire a nuisance animal control business to resolve the issue.

The Department recommends allowing a property owner or authorized designee to take beaver, cottontail rabbit, fox squirrel, gray squirrel, ground squirrel, muskrat, opossum, red squirrel, and weasel all year on property owned by the individual without a license if the wild animal is doing damage or physically present where it could imminently cause damage to the individual's property. A written permit is not required if the individual abides by all legal hunting and trapping methods for those species. Animals taken under this proposal can be possessed or disposed of at the discretion of the property owner or authorized designee.

Since current regulations only allow for the lawful hunting of cottontail rabbit, gray squirrel, fox squirrel, and woodchuck, the Department recommends that these species also be able to be taken by trapping, only by the methods below if the wild animal is doing damage or physically present where it could imminently cause damage to the individual's property.

- A live-restraining cage trap, other than a trap designed to catch more than one animal at one time. The individual must release or kill a wild animal captured in a live-restraining cage trap immediately at the capture location upon finding the wild animal in a trap. The trap must be tended daily.
- A body-gripping or conibear type trap that is no greater than six- and one-half inches as measured inside the jaw hinges provided that the trap is located inside of a building and:
 - In a hole in the ground that is covered and inaccessible from the surface; or
 - In a box or similar container with a maximum opening diameter of three inches.
- A foothold trap may be used if in a box or similar container with a maximum opening diameter of three inches.

Allowing limited trapping methods for nuisance cottontail rabbits, gray squirrels, fox squirrels, and woodchuck gives property owners an additional tool to remove a wild animal causing damage. These specific trapping methods will target species that may be causing damage in buildings or hard to get to spaces. In addition, the size limits and restrictions on body-gripping or conibear traps and foothold traps target these specific species and minimize the likelihood of trapping non-target species.

Other States

The Department researched other states regulations regarding nuisance wildlife control on private property and found the following:

- Illinois: Any individual may take game mammals, furbearing mammals, other mammals, bats, or game birds that are causing damage to property or risks to human health or safety on the land of another. Illinois does not define damage. Relevant lawful land trapping methods include:
 - Box traps, cage traps, colony traps or traps of similar design.
 - Enclosed foot-hold traps with a single access opening no larger than three square inches.
 - Cushion-hold; offset laminated and wide-jaw foot-hold traps that have an inside jaw spread of six- and one-half inches (16.6 cm) or less.
 - Body-gripping traps powered by two springs and have an inside jaw spread of no larger than 49 square inches if set inside a residence at least four inches from any outside surface of the structure or set outdoors at least eight feet from the ground and enclosed in a tube, cylinder or open-ended box constructed of solid wood, metal or plastic so that the trigger of the trap is located at least 12 inches from any entrance to the enclosure in which it is set.
- Indiana: A resident landowner or a tenant may take beaver, muskrat, skunk, raccoon, fox squirrel and gray squirrel without a permit at any time, if the wild animal is causing damage or threatening to cause damage to property or is posing a health or safety threat

to persons or domestic animals. Indiana does not define damage. Relevant lawful land trapping methods include:

- Foothold traps with an inside jaw spread less than 6 and one half inches.
- Conibears or other body-gripping traps with an inside jaw spread less than eight inches in diameter if round, or seven- and one-half inches if square.
- Ohio: Any person can trap live, non-migratory animals, except white-tailed deer, black bear, or wild turkey when such animals have become a nuisance. A landowner, his agent or tenant, can trap or take raccoons, opossums, coyote, fox, and skunk which are causing damage. Relevant lawful land trapping methods include:
 - Body gripping traps with a jaw spread less than seven inches by seven inches in a building. It is illegal to set or maintain any trap outside of a building which does not comply with lawful furbearer trapping methods.
 - Body gripping traps with a jaw measurement less than five inches.
 - Foot encapsulating traps that have an opening that is less than two inches in diameter or two inches along any one side. A foothold trap may be used if it has an inside diameter jaw spread less than five and three eighths' inches. A foothold trap must be covered.
- Wisconsin: The owner or occupant of any land, and any member of his or her family, may hunt or trap beaver, coyotes, foxes, raccoons, woodchucks, rabbits, and squirrels on the land without a license. The owner or occupant of any land, any member of the owner or occupant's family, and any individual with the owner or occupant's consent may take beaver, rabbits, raccoons, woodchucks, and squirrels on the land at any time by means of live trapping with box traps in areas where the discharge of a firearm is illegal. Lawful hunting and trapping regulations must be followed. "Damage" means physical harm to forest products; streams; roads; dams; buildings; orchards; apiaries; livestock; and commercial agricultural crops, including Christmas trees and nursery stock; and includes flooding and culvert blockages caused by a beaver or muskrat. Relevant lawful land trapping methods include:
 - Body-grip traps that is less than 60 square inches is legal and must have a maximum vertical jaw measurement of seven- and one-half inches when set.
 - Body-grip traps that is between 60 and 75 square inches is legal if enclosed or at least five feet off ground.
 - Cage or Box Trap: a trap that is designed to allow an animal to enter the trap enclosure, be captured and remain alive inside the cage or box-type enclosure until it can be released unharmed or reduced to possession by the operator of the trap. This trap may not be used as a water set or with any other type of trap.
 - Live trap with cage or box traps for beaver, coyote, fox, woodchuck, rabbit, raccoon and squirrel on their land at any time in cities, villages, or other areas where the discharge of firearms is unlawful. Live-trapped animals must either be humanely killed or be released on unenclosed private land with the landowner's permission within 24 hours.

Issues Pros and Cons

Prior to 2014, legislation allowed for a property owner and his or her immediate family member to take small game, such as woodchuck, cottontail rabbit, and squirrel (fox and gray), without a hunting license or permit if the wild animal was taken upon enclosed farmland of the property owner and by lawful methods. These regulations were in place to help landowners resolve nuisance issues and property damage caused by these species. Then in 2014, a legislative change removed this exception, however, the Department implemented similar regulations in 2015 and 2016 because of the increase in damage complaints. The regulation allows for woodchuck, skunk, coyote, and raccoon to be taken on private property if doing or about to do

damage by lawful hunting or trapping methods. Since then, the Department has seen an increase in nuisance and damage complaints by beaver, cottontail rabbit, fox squirrel, gray squirrel, muskrat, opossum, red squirrel, and weasel. The proposed changes will provide property owners with another tool to help remove nuisance wildlife causing property damage.

Biological

The Department does not expect a significant increase in harvest of these species; therefore, no biological impact is expected.

Social

The Department receives numerous requests throughout the year from property owners to obtain a nuisance animal control permit to take beaver, cottontail rabbit, fox squirrel, gray squirrel, muskrat, opossum, red squirrel, and weasel that are causing damage. This delays nuisance control efforts and creates an administrative burden for both property owners and Department staff. Applying the same regulations across species that cause the most damage to private property will also increase consistency.

These recommendations help the Department consistently respond to human-wildlife conflicts across the state while improving the permitting process by reducing barriers for property owners resolving nuisance wildlife issues.

Economic

Allowing the take of these species if doing damage or physically present where they could imminently cause damage to an individual's property will reduce the amount of damages to private property and alleviate some of the cost and administrative burden associated with wild animals causing damage.

Removal of Beavers and Beaver Dams by Road, Drain, and Railroad Authorities

The Department issues damage and nuisance animal control permits to government entities and other corporation entities, such as road commissions, drain commissions, and railroad authorities, for the removal of beavers and beaver dams that are causing public safety issues. Most of the issues these permits address are damage to infrastructure such as roads, culverts, ditches, bridges, and railroad tracks, all of which can create hazards to public safety. This has created an administrative burden for government and corporate entities, as well as Department staff. The workgroup reviewed regulations related to the permitting process for the removal of beaver and discussed various ways to eliminate barriers so entities can resolve public safety issues in a timely and efficient manner.

The Department recommends authorizing public road authorities, country drain commissions or drainage boards, and railroad authorities to remove beaver, beaver dams, and other beaver caused obstructions which directly threaten public roads, drains, and railroad tracks within designated right of ways. Under this proposal, these entities will be considered a damage and nuisance animal control permittee for the purpose of controlling beavers and a written permit would not be required. However, the taking of beaver under this authorization must be conducted by an individual with a valid base license and fur harvester license or a licensed animal damage and nuisance animal control company using legal trapping methods for the take of beaver. Animals taken under this proposal can be possessed or disposed of at the discretion of the permittee. A permit from the Department of Energy, Great Lakes, and Environment (EGLE) may be required.

Other States

The Department researched other states regulations regarding nuisance beaver control for infrastructure damage and found the following:

- Illinois: A permit may be issued to owners and tenants of lands and their agents to remove or destroy any wild bird or wild mammal when it is known to be destroying property or causing a risk to human health or safety upon his or her land. Drainage districts may control beaver provided they notify in writing that a problem exists and of their intention to trap the animals at least seven days before the trapping beings.
- Minnesota: Road authorities may remove an impairment and any associated beaver lodge within 300 feet of the road when the drainage watercourse is impaired by a beaver dam and the water damages or threatens to damage a public road. Government entities may remove a beaver lodge or dam subject to certain regulations. Both road authorities and government entities may kill beaver associated with the damage. A permit is only required if the beaver will be killed within two weeks before or after the trapping season for beaver.
- Ohio: A special permit is not required for trapping nuisance beaver. Nuisance beaver may be trapped by a landowner or their designee. If a person is charging a fee to remove a nuisance animal, they must have a Commercial Nuisance Wild Animal Control Operator license.
- Wisconsin: A beaver may be taken without a license or permit at any time. If a beaver dam is causing damage or is considered a nuisance, the dam can be removed without a permit, but only if no streambed or lakebed material is removed.

Issues Pros and Cons

Beavers are an important keystone species providing habitat benefits and ecosystem services. They create and maintain wetland habitats and brushy young forest habitats in riparian areas. These habitats are biologically diverse and are important for waterfowl, reptiles, amphibians, songbirds, woodcock, and many other wildlife species. In addition, abandoned dams can create and maintain open wet meadows which are also critical habitats, and beaver influenced wetlands are often preferred over wetlands without beaver activity.

While beavers provide these habitat and ecosystem benefits; their actions can also result in conflicts with humans and municipal infrastructure. Beavers cause flooding when they plug culverts, or dam culverts or streams, causing damage to roads or railroad tracks and creating stormwater drainage problems. They also fell trees to build dams, which can cause significant problems if the tree falls near or on a road or railroad track. These conflicts create public safety risks and may require expensive repairs if not resolved in a timely manner. Authorizing these entities to remove beaver and beaver dams that are creating public safety issues without a written permit removes the administrative step of obtaining a permit and allows them to resolve the issue immediately.

The proposed recommendation will remove the need for an entity to obtain a damage and nuisance control permit from the Department; however, a permit may still be required by EGLE.

Biological

The Department does not expect a significant biological impact to beaver populations. Beavers are already being removed when they cause these types of issues; this change would just remove the administrative burden associated with those removals. Beavers are abundant throughout much of the state and Department staff and other government or corporate entities have expressed a desire to reduce barriers to reducing beaver conflicts, especially when they create a public safety issue.

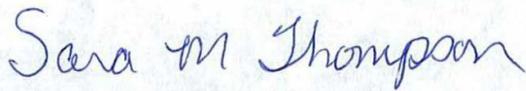
Social

The proposed changes would provide requested opportunities to allow entities to respond to beaver and beaver-caused obstructions that may cause public safety issues more efficiently. This will also reduce Department staff time in responding to these conflicts and issuing local and regional damage and nuisance animal control permits.

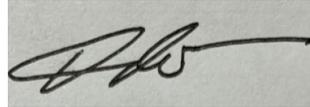
Economic

The proposed recommendations may reduce the amount entities spend in repairs related to beaver damages.

Relevant Divisions have contributed to the preparation of this order. This order was submitted for information on April 13, 2023, at the Natural Resources Commission meeting. This item appeared on the Department's April 4, 2023 calendar and may be eligible for approval on May 11, 2023.



Sara Thompson, Acting Chief
Wildlife Division



David Shaw, Chief
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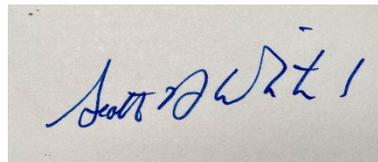
Jeffery J. Stampfly, Chief
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Randy Claramunt, Chief
Fisheries Division



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. 6 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 May 11, 2023, the following section(s) of the Wildlife Conservation Order shall read as follows:

3.506 Woodchucks, open season, exception.; ~~taking woodchucks doing or about to do damage, individual taking considered permittee.~~

Sec. 3.506 (1) The open season for **taking woodchucks by hunting** shall be statewide all year except for state park and recreation areas which shall be closed April 1 to September 14.

~~(2) A property owner or the property owner's designee may take a woodchuck all year on property owned by the individual when a woodchuck is doing or about to do damage to the individual's property. An individual taking a woodchuck under the authority of this subsection shall be considered a permittee as defined by section 5.50 of this order. A written permit is not required, and the individual shall be authorized to take woodchuck all year by otherwise lawful hunting methods.~~

3.604 Skunks, hunting and trapping, open season, exception; unlawful act.

Sec. 3.604 (1) The open season for taking skunk by hunting or trapping shall be statewide all year except for state park and recreation areas which shall be closed April 1 to September 14. A person shall not possess a live skunk taken in Michigan.

~~(2) A property owner or the property owner's designee may take a skunk all year on property owned by the individual when a skunk is doing or about to do damage to the individual's property. An individual taking a skunk under the authority of this subsection shall be considered a permittee as defined by section 5.50 of this order. A written permit is not required, and the individual shall be authorized to take skunk all year by otherwise lawful hunting and trapping methods.~~

3.605 Raccoon hunting and trapping, seasons.; ~~taking raccoons doing or about to do damage, person taking considered permittee.~~

Sec. 3.605 (1) The open season for taking raccoon by hunting or trapping shall be October 1 to March 31.

~~(2) A property owner or their designee may take raccoon all year on property owned by the person when raccoons are doing or are about to do damage to the persons property. A person taking a raccoon under the authority of this subsection shall be considered a permittee as defined by section 5.50 of this order. A written permit is not required, and the person shall be authorized to take raccoon all year by otherwise lawful hunting and trapping methods.~~

3.610 Coyote, open season; exceptions; ~~person taking considered permittee; fur harvester's license not required to hunt.~~

Sec. 3.610 (1) The statewide open season for taking coyote by hunting shall be all year except:

(a) Coyotes shall not be taken in state park and recreation areas from April 1 to September 14.

(2) A resident possessing a base license may hunt coyote without securing a fur harvester's license.

~~(3) Coyotes may be taken all year on private property by the property owner or their designee when coyotes are doing or about to do damage to their property. A written permit is not required, and the person shall be authorized to take coyote all year by otherwise lawful hunting and trapping methods.~~

5.56 Definition of damage, taking certain species causing damage to private property, lawful methods of take, individual taking considered permittee, removal of beaver and beaver dams by road, drain, and railroad authorities, agency of authority considered permittee, requirements.

Section 5.56 (1) For the purposes of this section, "damage" means physical harm to forest products; roads; dams; buildings; orchards; apiaries; livestock; and horticultural or agricultural crops. Beaver or muskrat are only considered to be doing damage if their activities result in flooding or culvert blockages that cause damage as defined in this section.

(2) A property owner or their designee may take the following species all year on property owned by the individual if the wild animal is doing damage or physically present where it could imminently cause damage:

(a) Beaver, cottontail rabbit, coyote, fox squirrel, gray squirrel, ground squirrel, muskrat, opossum, raccoon, red squirrel, skunk, weasel, and woodchuck.

(3) An individual taking a species under the authority of this section shall be considered a permittee as defined by section 5.50 of this order. A written permit under section 5.50 and 5.51 is not required.

(4) An individual taking a species under the authority of this section is exempt from season date restrictions but must abide by all legal hunting and trapping methods and trap check requirements for those species as provided by this order or otherwise permitted by law, exception:

(a) Cottontail rabbits, fox squirrels, gray squirrels, and woodchucks may be taken by trapping only by the following methods:

(i) Live-restraining cage traps, other than a trap designed to catch more than 1 animal at 1 time, may be used in accordance with section 3.600(12)(b).

(ii) Body-gripping or conibear type traps no greater than 6- and one-half inches as measured inside the jaw hinges, may be used provided they are located inside of a building and:

(A) In a hole in the ground that is covered and inaccessible from the surface; or

(B) In a box or similar container with a maximum opening diameter of three inches.

(iii) Foothold traps may be used provided they are completely enclosed in a box or similar container with an opening diameter of no greater than 3 inches.

(5) Removal of beaver or beaver dams causing damage by road, drain, and railroad authorities.

(a) Public road authorities, county drain commissions or drainage boards, and railroad authorities may remove beavers, beaver dams, and other beaver caused obstructions which directly threaten public roads, public drains or railroad tracks year-round within the designated right of ways for those public roads, public drains, or railroad tracks.

(b) The taking of beaver under the authority of this subsection shall be conducted by an individual with a valid fur harvester license or a licensed animal damage and nuisance control company utilizing otherwise legal beaver trapping methods.

(c) An agency of authority removing beaver, beaver dams, and other beaver caused obstructions under the authority of this section shall be considered a permittee as defined by section 5.50 of this order. A written permit under section 5.50 and 5.51 is not required.

(6) Nothing in this order shall preclude the Department of Environment, Great Lakes, and Energy's authority to implement rules and regulations established by Michigan statute.

(7) All animals taken under this section shall be properly possessed or disposed of at the discretion of the permittee.

Issued on this 11th day of May, 2023.

Approved as to matters over which the Director has authority.

Shannon Lott
Acting Director