



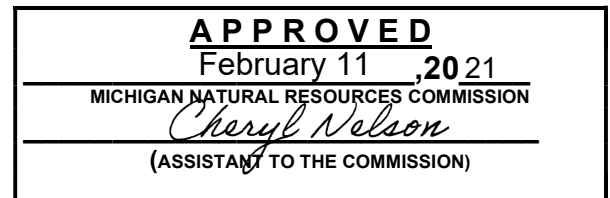
GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

SUBMITTED: October 29, 2020
RESUBMITTED: November 25, 2020
RESUBMITTED: December 14, 2020
RESUBMITTED: January 19, 2021



MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

Subject: Deer Regulations
Wildlife Conservation Order Amendment No. 8 of 2020

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, authorizes the Director and the Commission to issue orders to manage wild animals in this state.

Discussion and Background:

In July 2020, the Natural Resources Commission (NRC) approved deer regulations for the 2020 deer hunting season as part of the first package of deer regulations for the 2020-2022 deer regulations cycle. The first package of regulations focused on providing additional opportunities and cost savings for hunters and offered flexibility in how hunters pursue deer. In preparation for the second package of regulations for the 2021-2022 deer hunting seasons, the Department reviewed various regulations, including antlerless quotas and licenses, and antler point restrictions (APRs). These regulations were reviewed and developed by internal staff and discussed with stakeholders, partners, and the public through surveys and public meetings. The Department's recommendations, as explained in this memorandum, are intended to simplify, and reduce confusing regulations, and remove barriers to participation in deer hunting. In addition, deer management tools and regulation recommendations that must be implemented into the retail sales system must be acted on to allow time for development and implementation by the March 2021 license year.

Statewide Recommendations:




Universal Antlerless License and Elimination of Antlerless Quotas and Drawings

Currently, an antlerless deer license entitles residents and nonresidents to take an antlerless deer within the deer management unit specified on the license. There are two types of antlerless deer hunting licenses:

1. A public land antlerless deer license is valid for taking antlerless deer from public lands (including state, federal, and county lands) and required to hunt Commercial Forest lands.
2. A private land antlerless deer license is valid for taking antlerless deer from private lands, with permission from the landowner.

Antlerless deer license availability is limited by antlerless deer license quotas established for each deer management unit. Hunters may apply for one quota-limited antlerless deer license during the application period. It costs \$5 to apply.

All remaining antlerless deer licenses are sold on a first-come, first-served basis, including the quota-limited licenses that remain after the drawing as well as licenses for deer management units with unlimited antlerless deer licenses. Leftover licenses are sold until license quotas are met in each deer management unit. There is currently a season purchase limit of 10 private land antlerless licenses and no season purchase limit for public land antlerless licenses.

Many DMUs across the Lower Peninsula (LP) do not sell out of antlerless licenses, indicating that demand for harvest is not enough to align with desired management direction. Accordingly, in order to simplify and create consistent regulations across the state, the Department recommends eliminating the public and private land antlerless deer licenses and creating an universal antlerless license that will be valid on both public and private land across all open deer management units. In addition, the Department recommends eliminating antlerless quotas and drawings in the LP (all LP DMUs) and South-Central Upper Peninsula (UP) (DMUs 055, 022, 122, 121, and 155). The middle zone UP DMUs will be combined into two larger DMUs that will require a deer hunting access permit that will be available to applicants through a random drawing. The deer hunting access permit will need to accompany the universal antlerless license. The Midwest L  encompass DMUs 027, 036, 152, and 252. The Mideast UP D  encompass DMUs 021, 349, 249, 149, 017, and 117. The north zon  7, 066, 131, 042, 031, 007, and 048) will be closed to antlerless licenses.

In addition, the Department recommends a season purchase limit of 10 antlerless licenses.

Issues Pros and Cons

Creating a universal antlerless license that is valid on both public and private land across all open deer management units will provide hunters with more flexibility and opportunity to hunt in deer management units open to antlerless licenses. Eliminating antlerless quotas and the license drawing for the entire LP and South-Central UP will also reduce staff time for retail sales system administrators who currently manage a complex licensing process which requires hunters to apply for and/or purchase separate public and private land antlerless licenses for over 100 DMUs. These changes should result in less confusion for hunters and give the opportunity for greater mobility in the use of their antlerless license.

There may be some confusion as hunters are accustomed to choosing a public or private land antlerless license for a specific deer management unit when purchasing an antlerless deer license. The Department will continue effective communications and customer service related to the regulatory changes.

Biological

Eliminating the antlerless quotas and license drawing in addition to creating a universal antlerless license may increase antlerless harvest because hunters have more flexibility and opportunity to harvest antlerless deer, however the increase in harvest is not expected to have a population level impact. With the recent changes to the deer license and deer combination license in allowing antlerless deer to be taken during the firearms and muzzleloader seasons, the impact of a universal antlerless license should be minimized as individuals can already harvest antlerless deer across DMUs in the LP.

In the UP, higher snowfall zones in the north tend to have lower deer densities than lower snowfall zones where deer are over-abundant in most areas. In the middle portion of the UP, where an antlerless deer hunting access permit will be available through a drawing, deer densities tend to differ between the east and west relating to landscape-level differences. As deer densities can fluctuate across years due to snowfall trends, the boundaries of these areas and associated quotas will continue to be evaluated to maximize opportunity for hunters in a manner that is sustainable to the resource.

Social

Some hunters may not accept this regulation. This regulation may result in a perception of overharvest and reduction in deer population. Likewise, there will be hunters who support this regulation as it provides flexibility and opportunity.

Economic

This recommendation may result in a loss of revenue due to the elimination of the antlerless license drawing; however, it may result in an increase of antlerless licenses sold.

Upper Peninsula Recommendations:

Crossbows During Late Archery Season

When crossbows were originally recommended to be allowed for all archers in the state of Michigan (2009), a group of concerned sports persons came to the NRC and asked that crossbows not be allowed during the late season of the archery season (December 1 through January 1). The reason being that this group felt deer in the UP were too vulnerable to harvest during that time frame (yarding up) and that crossbows were too efficient at killing deer. The NRC amended the recommendation and prohibited crossbows during the late archery season unless someone, due to medical reasons, could not pull back a long bow or compound bow and therefore could only use a crossbow or modified bow during that time. A permit was required.

In 2019, the Natural Resources Commission made an amendment to allow crossbows during the late archery season in the UP CWD Core Surveillance Area.

Currently, there is no evidence to suggest that allowing crossbows would increase the number of deer killed or that deer are more vulnerable to crossbows than to any other piece of archery equipment. To provide more recreational opportunity, the Department recommends allowing crossbows during the late archery season in the entire UP.

Allowing crossbows during the late archery season also removes the permit requirement for crossbows or modified bows. When the NRC approved the expansion of crossbow regulations in 2010, it included the use of modified bows where crossbows are legal. The recommendation to allow crossbows during the late archery season will now allow crossbows to be used statewide, therefore a crossbow or modified bow permit is no longer required.

Issues Pros and Cons

Allowing crossbows during the late archery season in the UP will simplify and provide consistent statewide regulations. In addition, it will provide for additional recreational opportunity in late archery season and will allow for more flexibility for hunters. Current regulations allow for the use of crossbows during the early archery season statewide and in the late archery season in the UP Core CWD Surveillance Area.

There may be some hunters who oppose of this regulation because they feel that deer in the UP are too vulnerable to harvest during the December 1 through January 1 time frame (yarding up) and that crossbows are too efficient at killing deer.

Biological

There is no current evidence that this regulation would have a population level impact. In addition, there is no evidence that suggests deer are more vulnerable to crossbows than to any other piece of archery equipment.

Social

While some may object to allowing crossbows during the late archery season in the UP, there are those who have expressed a desire to see them allowed because they have a crossbow and can only utilize it during half of the archery season. In addition, it provides flexibility in their equipment options.

Economic

There may be a small economic impact with late archery hunters purchasing crossbows.

Removing Hunter's Choice Option (3-point Antler Point Restriction on the Deer Combination Regular License, Excluding Drummond Island)

Hunter's choice was put in place in 2009. This regulation was enacted by the NRC across the entire UP. It changed the deer combination license by putting a 3-point APR on the regular tag while keeping the 4-point APR on the restricted tag. The single deer license remained unchanged, which required an antler to be 3-inches or greater in length for a buck. This regulation made hunters decide what type of buck they wanted to pursue at the time of purchase. If a hunter wanted to be able to take any buck, then the hunter had to purchase the single deer license; however, the hunter was limited to one buck. If a hunter wanted a chance at two bucks, then the hunter purchased the deer combination license, but the hunter had to hunt under the APRs associated with both tags.

Department staff have reviewed this regulation and determined that this regulation has not achieved a biological benefit and has had very little impact on shifting the age structure of bucks in the UP. To create statewide consistency and clarify buck harvest opportunities, the Department recommends removing the 3-point APR on the deer combination regular license in the UP.

Issues Pros and Cons

Removing the hunter's choice regulation will simplify regulations and provide statewide consistency. This gives hunters who hunt both the LP and the UP flexibility to use their deer combination license in the LP or the UP without the complexity of an APR regulation on their regular tag if hunting the UP. It also allows hunters who wish to pursue smaller bucks the opportunity to purchase a deer combination license instead of a single deer license.

Since this regulation has been in place for 11 years, hunters may agree with the current regulation and will not support changes. In addition, proponents of APRs may be resistant to this change.

Biological

The hunter's choice option in the UP has not achieved a biological benefit. It had very little impact on shifting the age structure of bucks in the UP.

Social

The Department has heard from hunters that they support the regulation as it currently is. However, when given an alternative, many say that returning to the prior regulations (i.e. removing the APR on the deer combination regular tag) would be acceptable as well. The Department has also heard from hunters that having this regulation discourages them from buying the hunt/fish combination license.

Economic

This change may generate additional revenue to the extent that this encourages hunters to purchase a deer combination license instead of a single deer license.

Supplemental and Recreational Feeding

The Natural Resources and Environmental Protection Act, PA 451 of 1994, MCL 324.40111a authorizes the NRC to regulate the feeding of deer in Michigan. This authority provides the NRC with the ability to regulate the depositing, distributing, or tending of feed to prevent deer from starving or for recreational viewing. Current regulations allow individuals to supplemental feed with a permit or recreationally feed in the UP under certain criteria except in the Core CWD Surveillance Area. The Department has identified certain issues related to supplemental and recreational feeding, including safety issues, confusion, and unenforceable regulations. Department staff have reviewed these issues and recommends simplifying and creating consistency between supplemental and recreational feeding, where possible. Specifically, the Department recommends:

- Simplify supplemental feeding by no longer requiring a permit.
- Eliminate confusion by defining dates when supplemental feeding can start and end (can no longer occur before January 1 and not extend beyond May 15).
- Eliminate safety concerns by allowing the Department to prohibit recreational or supplemental feeding if a location is deemed to be a public safety issue.
- Make recreational and supplemental feeding consistent by allowing these feeding types under the same conditions (e.g., cannot hunt over, cannot use as bait).
- Fixing unenforceable regulations by requiring the placement of feed be restricted to two gallons per residence per calendar day and no more than two gallons of feed may be present at any one time for recreational feeding.

Issues Pros/Cons

The proposed regulations will simplify and create consistent regulations between supplemental and recreational feeding, resulting in better regulatory compliance and more enforceable regulations. In addition, the proposed regulations eliminate confusion and safety concerns associated with both types of feeding.

There may be some confusion with individuals who are aware of the current differences between supplemental and recreational feeding, or to those who receive a supplemental feeding permit every year, however the Department will continue effective communications and customer service related to the regulatory changes.

Biological

The Department recognizes that individuals and groups want to artificially feed to prevent deer from starving or for recreational viewing; however evidence suggests that feeding increases both the congregation of deer and the risk of disease transmission through increasing the probability of contact, food source contamination, and

environmental contamination. In addition, the longer the food is on the landscape, the greater the likelihood of increasing disease transmission.

Social

The Department has observed supplemental deer feeding permits and feeding sites to assess how prevalent deer feeding is on the landscape. The number of supplemental feeding permits has decreased (69 permits in 2014 to 21 permits in 2019) while the number of feeding sites has increased (~30 in 2018 to 350+ in 2019). This may be due to confusion of the two feeding types that leads to low regulatory compliance. Eliminating the permit and creating consistency between the two feeding types will result in more enforceable regulations and regulatory compliance.

There have also been some safety concerns associated with recreational and supplemental feeding. The Department has observed feeding sites to be hazardous in some situations, causing a public safety concern. For example, feeding sites that are near busy roads can be dangerous because they can cause deer/vehicle collisions, or feeding sites near public places can be dangerous because people can get too close to wildlife. The Department can avoid these dangerous situations with the authority to prohibit feeding if a location is deemed to be a hazard.

Economic

Feeding has an economic value as market for agricultural products.

Antlerless Option During Archery Deer Season

In May of 2020, the Department brought forward a recommendation to reinstate the antlerless option during archery deer season for hunters hunting on the deer license or deer combination license in the entire UP. At the July 2020 NRC meeting, the NRC approved two amendments that limit where antlerless deer can be taken during the archery deer season on those licenses. The two amendments were as follows:

1. Antlerless deer shall not be taken during archery deer season on the deer license or deer combination license in western UP DMUs 127, 066, 027, 131, 042, 036, and 031.
2. Antlerless deer shall not be taken during archery deer season on the deer license or deer combination license in DMUs where the Snow Data Accumulation System shows a snow depth of 12 inches or more for at least 100 nonconsecutive days during the previous open deer hunting season.

The Department concluded that the second amendment was unenforceable because it does not specify a certain time period to trigger the conditions contained in the amendment (i.e., winter months that correspond with the previous open deer hunting season). At the August NRC Meeting, the NRC voted unanimously on a resolution clarifying that the period would be between October and May that corresponds with the previous hunting season. With the intent clarified on the record, the NRC plans to revisit the regulation to formally adopt this provision with regulatory authority at a future date.

The Department has reviewed both amendments and with the expectation that the NRC will revisit the second amendment described above, the Department is recommending the NRC reconsider both amendments because they result in confusing and complicated regulations. The recommendations of this deer regulations package are intended to promote simplification, reduce confusion, and remove barriers to participation in deer hunting.

Amendment 1

The Department's recommendation to allow limited antlerless take with an antlerless license in DMUs 027, 036, 152, and 252 in the western UP along with this amendment is complicated and confusing. If both regulations are in place, antlerless take will be allowed during archery deer season in DMUs 027 and 036 with an antlerless license but not with a deer license or deer combination license. In addition, antlerless harvest with archery equipment in these DMUs from 2011 to 2014 was an average of 772, ranging from 466 to 934. With approximately 5,500 square miles of the UP affected by this amendment, this translates to an overall impact of one antlerless deer for every seven square miles. The Department maintains that the overall impact of allowing antlerless deer to be taken with archery equipment across these DMUs, even in areas with low densities, will not lead to exceedingly low deer densities that would impact the long term sustainability of the deer herd.

To simplify and create consistent regulations, the Department recommends removing the NRC amendment, approved in July 2020, that prohibits antlerless take during the archery deer season on the deer license and deer combination license in western UP DMUs 127, 066, 027, 131, 042, 036, and 031.

Amendment 2

The intent of previous year's snowfall impacting availability for antlerless deer to be taken with archery equipment the following year will lead to irregular and inconsistent regulations across the UP year to year. Snowfall data analyzed over the past six winters, specifically looking at 100 days with 12 inches of snow or more showed year to year variability with snowfall across the UP by region. Many DMUs would alternate year to year between allowing and prohibiting antlerless deer to be taken with archery. This variability does not reflect consistency with how the Department desires to manage its deer population and creates law enforcement challenges with continually changing regulations. Furthermore, the impact of snowfall is not only a function of how many days deer experience deep snow, but what time of the year deer experience deep snow. Situations where DMU's exceed 100 days of 12 inches of snowfall might not have impacts on winter mortality, but DMU's experiencing heavy snowfalls late in the spring may impact winter mortality despite being under 100 total days, necessitating revisiting recommendations anyway. The Department would prefer to evaluate deer population trends and management techniques based on current harvest data and the impacts of winter weather on the deer herd, rather than reaching a winter metric.

Also, with the Department's recommendation to allow antlerless take with an antlerless license in open UP DMUs along with this amendment is complicated and confusing. If

both regulations are in place, antlerless take will be allowed during the archery deer season with an antlerless license in various DMUs, but not with a deer license or deer combination license depending on snowfall data.

To simplify and create consistent regulations, the Department recommends that the NRC not adopt this snowfall-dependent regulation.

Lower Peninsula Recommendations:

Urban Deer Management Zone for Macomb, Oakland, and Wayne Counties

In 2017, the NRC and Department established an Urban Deer Management Zone for Macomb, Oakland, and Wayne Counties that allowed for an extension of the archery season until January 31. The Urban Deer Management Zone and expansion of the archery season was approved for three years with a 2020 sunset clause. In July 2020, the regulation was extended one more year for evaluation with a 2021 sunset clause. After review of the 2019 data, as well as further discussion with staff and stakeholders, the Department recommends removing the sunset and continuing the regulation.

Issues Pros and Cons

Macomb, Oakland, and Wayne are three of the most urbanized counties in Michigan and are experiencing human-deer conflicts at a high level of intensity. This includes high rates of deer-vehicle collisions and destruction of landscaping and natural areas on private and community owned properties. While the Department attempts to minimize deer-human conflicts by managing deer at appropriate levels through hunting, it is often difficult to recruit additional hunters to public areas within existing hunting seasons as many already have established hunting locations. Additionally, many public areas are designed for multi-use recreation, and the establishment of an active archery program in October and November often conflicts with the high volume of visitors experiencing other recreational pastimes in these urbanized areas during this time.

Biological

This season has provided an additive source of harvest to areas that are actively trying to reduce their deer population and limit deer conflicts.

Over the first three years, the late archery hunt was estimated to contribute to harvest levels of 530 in 2017, 322 in 2018, and 410 in 2019, with wide confidence intervals around each year given the small sample sizes of individuals hunters surveyed.

Social

According to the 2019 Deer Harvest Survey, 45 percent of statewide hunters supported continuing this opportunity compared to 16 percent that opposed it. Notably, 61 percent of Southeast LP hunters supported this late archery season in these three counties, while only 14 percent opposed it.

Economic

Damage to agricultural and horticultural crops, suppressed forest regeneration, deer-vehicle collisions, and destruction of landscaping and other property by deer in urban and suburban areas can result in significant costs to the landowner or automobile owner. There are no added costs to the Department.

Other Recommendations:

North Manitou Island Deer Management Unit

The National Park Service (NPS) at Sleeping Bear Dunes National Lakeshore has asked the Department to adjust the Wildlife Conservation Order regarding the North Manitou Island Deer Management Unit (DMU). The current regulations for North Manitou Island DMU are too restrictive in requiring that hunters have a valid, unused, deer license at the time of the hunt, which prevents the hunter from using that license until after the islands special hunt. The NPS has worked with local Department staff to revise the language to give hunters more flexibility, as well as allowing NPS staff to manage the North Manitou Island DMU.

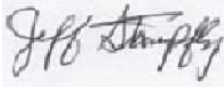
Deer Damage Shooting Permits

Deer damage shooting permits are issued to resolve agricultural or horticultural damage occurring on properties outside of deer hunting seasons. The permits are only valid outside of a deer hunting season and within a specified time determined by the Department. Recently, the Department has had requests for the use of archery equipment, however the Wildlife Conservation Order language states that a permittee or designee may not use a firearm other than a centerfire rifle or shotgun with slug load. The Department recommends adding language that allows the Department to determine what kind of equipment may be used for deer damage shooting permits. This revised language gives permittees more flexibility.

Relevant Divisions have contributed to the preparation of this order. This order was submitted for information on November 12, 2020, at the Natural Resources Commission meeting. This item appeared on the Department's October, November, December, and January calendars and may be eligible for approval on February 11, 2021.



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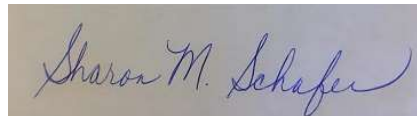
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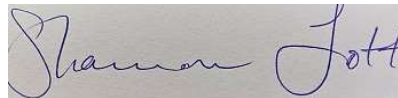
Gary Hagler, Chief
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Shannon Lott
Natural Resources Deputy

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



Daniel Eichinger, Director

February 23, 2021

Date

WILDLIFE CONSERVATION ORDER

Amendment No. 8 of 2020

By authority conferred on the Natural Resources Commission and the Director of the Department of Natural Resources by sections 40107 and 40113a of 1994 PA 451, MCL 324.40107 and 324.40113a, it is ordered that effective February 12, 2021, the following section(s) of the Wildlife Conservation Order shall read as follows:

2.1 Taking of animals; prohibited methods, devices, and weapons; exceptions.

Sec. 2.1 Unless otherwise specified in this order, a person shall not do any of the following:

(1) Make use of a pit, pitfall, deadfall, scaffold, raised platform, tree, cage, snare, trap, net, baited hook, or similar device, or a drug, poison, anti-coagulant, smoke, gas, explosive, weasel, ferret, fitchew, arbalest, spear, or mechanical device, for the purpose of taking an animal or driving an animal out of their hole or home. For the purpose of this order, a mechanical device shall not be construed to mean a firearm, crossbow, slingshot, or bow and arrow. When used in this order, "raised platform" means a horizontal surface constructed or manufactured by a person that increases the field of vision of a person using the horizontal surface beyond the field of vision that would normally be attained by that person standing on the ground.

(2) Use in taking an animal, or have in the persons possession in an area frequented by animals, a semiautomatic shotgun or rifle other than .22 caliber or smaller rimfire, capable of holding more than six shells at one time in the magazine and barrel combined, or use a cartridge containing a tracer bullet, or a cartridge containing an explosive bullet, or a firearm capable of firing more than one shot with a single pull or activation of the trigger.

(3) During the five days immediately preceding November 15, transport or possess in an area frequented by deer a rifle or shotgun with buckshot, slug load, ball load, or cut shell. A person may transport a rifle or shotgun to or from a hunting camp if the rifle or shotgun is unloaded and securely encased or carried in the trunk of a vehicle. This section shall not prohibit a resident who holds a fur harvesters license from carrying a rimfire firearm .22 caliber or smaller while hunting or checking a trap line during the open season for hunting or trapping fur-bearing animals.

(4) Use in hunting, or, subject to section 43510, 1994 PA 451, MCL 324.43510, possess afield in an area inhabited by wild birds and animals within the "limited firearms deer zone" from November 15 to November 30, or use to take a deer during any firearm deer season in the "limited firearms deer zone," a firearm other than:

(a) A shotgun with a smooth or rifled barrel.

(b) A .35 caliber or larger pistol capable of holding no more than nine shells at one time in the barrel and magazine combined and loaded with straight-walled cartridges.

(c) A muzzle-loading rifle or black-powder pistol loaded with black-powder or a commercially manufactured blackpowder substitute.

(d) A .35 caliber or larger rifle loaded with straight-walled cartridges with a minimum case length of 1.16 inches and a maximum case length of 1.80 inches.

(e) A .35 caliber or larger air rifle or pistol charged only from an external high-compression power source such as an external hand pump, air tank, or air compressor.

(5) Injure, destroy, or rob the eggs of birds protected by the laws of this state or this order, or molest, harass, or annoy those birds upon their nests.

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(6) Make use of a sink box or battery as these devices are defined by the United States fish and wildlife service.

(7) Set afire or assist in setting afire a marshland or other lands for the purpose of driving out wild birds or wild animals, or take or attempt to take a wild bird or wild animal so driven out of a marshland or other land.

(8) Take any animal at any time other than during the hunting hours and open seasons established in this order, except as may otherwise be provided in chapter VI.

(9) Take in 1 day more than the daily limit, or possess at one time more than the possession limit, or possess on the first day of the open season more than the daily limit, or possess more than the season limit of any animal.

(10) Destroy, disturb, or molest at any time any bear, beaver, muskrat, raccoon, squirrel, mink, badger, or rabbit house, hole, burrow, nest, dam, or den which may be used by such animals.

(11) Make use of a dog in hunting deer, except as noted in section 2.1a of this order.

(12) Affix any device to a bow, which aids in the cocking or holding of a bow string in a drawn position. This subsection shall not prohibit the use of a hand-held device to release the bow string. This subsection shall not apply to a permanently or temporarily disabled person who holds a special permit provided for in section 40101 to 40119 of 1994 PA 451, MCL 324.40101 to 324.40119, or section 5.95 of this order.

(13) Use aircraft to aid in the taking of a wild bird or wild animal.

(14) Take game with a crossbow unless the hunter possesses a valid license to take game and uses only arrows, bolts, and quarrels for taking deer, bear, elk, wolf, and turkey with a broadhead hunting type of point not less than 7/8 of an inch wide with a minimum of 14 inches in length.

(15) Take deer with a crossbow or a modified bow in zone 1 from December 1 to March 31, except in the core CWD surveillance area where an individual may take deer with a crossbow. This subsection shall not apply to a person who holds a special permit provided for in part 401, wildlife conservation, natural resources and environmental protection act, 1994 PA 451, as amended, MCL 324.40101 to 324.40119, or section 5.95 of this order.

(16) Subject to section 40116, 1994 PA 451, MCL 324.40116, take game during the established daylight shooting hours from August 15 through April 30 unless the individual wears a cap, hat, vest, jacket, or rain gear of hunter orange. Hunter orange includes camouflage that is not less than 50 percent hunter orange. The garments that are hunter orange must be the hunter's outermost garment and be visible from all sides of the hunter. This does not apply to an individual engaged in the taking of deer with a bow or crossbow during archery deer season, an individual taking bear with a bow or crossbow, an individual engaged in the taking of turkey or migratory birds other than woodcock, an individual engaged in the sport of falconry, or an individual who is stationary and in the act of hunting bobcat, coyote, or fox.

(17) Possess or use natural cervid urine-based lures or attractants not marked with the official archery trade association seal of participation stamp in an area frequented by game.

3.100 Take of deer; prohibited firearms, legal weapons, "bait" and "baiting" defined, conditions for baiting established in certain area(s); unlawful acts.

Sec. 3.100 (1) "Take" means the same as defined in section 40104, 1994 PA 451, MCL 324.40104.

(2) An individual must possess while hunting deer the unused kill tag issued with the deer license, pursuant to section 3.103, and provide it to a conservation officer, a law enforcement officer, or a tribal conservation officer upon request.

(3) Unless otherwise specified in this order, an individual shall not do any of the following:

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- (a) Take a deer without possessing a valid license with kill tag.
 - (b) Take a deer other than during the open seasons established in this order.
 - (c) Take a deer outside of lawful hunting hours.
 - (d) Take a deer by any method other than by firearm, bow and arrow, or crossbow.
 - (e) Take a deer with a rimfire firearm .22 caliber or smaller.
 - (f) Take a deer during any firearm deer season in the "limited firearms deer zone," with a firearm other than a shotgun with a smooth or rifled barrel, a .35 caliber or larger pistol capable of holding no more than nine shells at one time in the barrel and magazine combined and loaded with straight-walled cartridges, a .35 caliber or larger rifle loaded with straight-walled cartridges with a minimum case length of 1.16 inches and a maximum case length of 1.80 inches, a .35 caliber or larger air rifle or pistol charged only from an external high-compression power source, or a muzzleloading rifle or black-powder pistol loaded with black-powder or a commercially manufactured blackpowder substitute.
 - (g) Take a deer, or have in possession while hunting deer, a semiautomatic shotgun or rifle, capable of holding more than six shells in the magazine and barrel combined, or use a cartridge containing a tracer or explosive bullet, or a firearm capable of firing more than one shot with a single pull or activation of the trigger.
 - (h) Take a deer using an arrow, bolt, or quarrel with a broadhead hunting type of point less than 7/8 of an inch wide and/or a length less than 14 inches.
 - (i) Take a deer with a crossbow or a modified bow in zone 1 from December 1 to March 31 except for the core CWD surveillance area unless issued a disability crossbow permit by the department.
 - (j) Take a deer while the deer is swimming in a pond, lake, stream, or other body of water.
 - (k) Make use of a dog in hunting a deer, except as noted in section 2.1a of this order.
 - (l) Use aircraft to aid in the taking of a deer.
 - (m) Set afire or assist in setting afire any land for the purpose of driving out a deer, or take or attempt to take a deer so driven out of any land.
 - (n) Purchase a deer license unless the individual holds a current base license.
 - (o) Possess or use natural cervid urine-based lures or attractants not marked with the official archery trade association seal of participation stamp in an area frequented by deer.
- (4) For the purposes of this section and sections 3.100a, and 3.205, "bait" means a substance intended for consumption by deer composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured. "Bait" does not include scents – whether composed of natural or synthetic materials – made inaccessible for consumption by deer and placed in such a manner to prohibit any physical contact with deer, the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planting or harvesting practices, foods available to deer through normal agricultural practices of livestock feeding if the area is occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices. For the purposes of this section, "baiting" means to place, deposit, tend, distribute, or scatter bait to aid in the taking of a deer.
- (a) "Single bite bait" shall mean shelled corn, nuts, beet pulp, deer feed or pellets, or wheat or other grain.

(5) Except as otherwise provided in this subsection, it shall be unlawful for a person to make use of bait to aid in the taking of a deer within zone 2, zone 3, and the core CWD surveillance area.

(a) Eligible individuals participating in the Liberty Hunt described in section 3.101e, may make use of bait to aid in the taking of a deer if the baiting occurs only from five days prior to the second Saturday in September to the last day of the season and the provisions of subsection (6b), (6c), and (6d) are met. All bait shall be removed prior to any additional hunting during this season. This does not apply to youth hunters participating in the Liberty Hunt who only meet the eligibility requirements of section 3.101e (2a).

(b) Eligible individuals participating in the Independence Hunt as described in section 3.101g, may make use of bait to aid in the taking of a deer if the baiting occurs only from the first day of the season to the last day of the season and the provisions of subsection (6b), (6c), and (6d) are met. All bait shall be removed prior to any additional hunting during this season.

(6) In remaining portions of Michigan not described in subsection (5), a person may engage in baiting only if all of the following conditions apply:

(a) The baiting occurs only from September 15 to January 1, except that eligible participants participating in the Liberty Hunt may use bait five days prior to the second Saturday in September.

(b) The bait material may be of any food type.

(c) The bait is scattered directly on the ground by any means, including mechanical spin-cast feeders, provided that the spin-cast feeder does not distribute on the ground more than the maximum volume allowed as described in subdivision (d) of this subsection. "Scattered" means that the bait is dispersed or thrown over a minimum of a 10- foot by 10-foot or equivalent area so that individual pieces of bait are separated and not placed in piles. The purpose of scattering is to mimic natural feeding conditions.

(d) The volume of bait used at any 1 point in time shall not exceed 2 gallons at any 1 hunting site.

(e) Subsection (6) is subject to Section 3.100a (2) of this order.

(7) Except as otherwise provided by subsection 5, it shall be unlawful for a person to make use of bait to aid in the taking of a deer if the bait and baiting does not meet all of the conditions specified in subsection (6) unless specifically authorized.

3.100a Deer and elk feeding; prohibitions and conditions; words and phrases.

Sec 3.100a (1) A person shall not engage in deer and elk feeding, as defined by section 40102 of 1994 PA 451, MCL 324.40102, within zone 2, zone 3, and the core CWD surveillance area.

(2) Deer and elk feeding prohibited except for recreational viewing and supplemental feeding, conditions for baiting and feeding in certain areas. In remaining portions of Michigan not described in subsection (1), a person shall not engage in deer and elk feeding except for recreational viewing and supplemental feeding conducted as prescribed in this section. In the event CWD is documented within Michigan, outside of the areas described in subsection (1), within 10 miles of Michigan's border with another state or Canadian province, or as determined by the director, the director shall issue an interim order banning the use of bait and banning the feeding of deer and elk, at a minimum, within the relevant CWD management zone.

(3) Recreational feeding and supplemental feeding may be prohibited if a location is deemed by the Department to be a public safety issue.

(4) Recreational viewing in areas not closed to feeding, conditions. In remaining portions of Michigan not described in subsection (1) or identified by provisions of subsection (2), a person may engage in deer and elk feeding for recreational viewing only if all the following conditions are met:

(a) The feed is placed not more than 100 yards from a residence of the person and upon land owned or possessed by that person.

(b) The feed is placed, scattered, or dispersed at least 100 yards from any area accessible to cattle, goats, sheep, new world camelids, bison, swine, horses, or captive cervidae and no more than 100 yards from a residence.

(c) The feed is scattered directly on the ground by any means, including mechanical spin-cast feeders, provided that the spin-cast feeder does not distribute on the ground more than the maximum volume allowed as described in subdivision (d) of this subsection.

(d) The volume of feed placed, scattered, or distributed does not exceed 2 gallons per residence per calendar day and no more than 2 gallons present at any one time.

(e) The feed placed, scattered, or distributed may be of any food type.

(f) The feed shall not be placed or used as bait to take deer.

(g) A person shall not hunt or attempt to hunt over feed placed for deer.

(h) A landowner shall not allow an individual to hunt or attempt to hunt over feed placed for deer.

(5) Deer or elk feeding on property under a person's ownership or lease, prohibited conduct, "person" defined. A person shall not allow deer or elk feeding on property under their ownership or control in violation of this section. For the purposes of this subsection, "person" means an individual, partnership, corporation, association, or other nongovernmental legal entity except if the property is leased it shall mean the individual, partnership, corporation, association, or other non-governmental legal entity with control or authority over the property except it shall not include the owner of lands enrolled under the provisions of Part 511, Commercial Forests, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.51101 to 324.51120.

(6) Supplemental feeding of deer, counties listed, conditions. A person may engage in the supplemental feeding of deer in Ontonagon, Houghton, Keweenaw, Baraga, Alger, Luce, Gogebic, Marquette, Schoolcraft, Mackinac, Chippewa, Iron, Dickinson, Delta, and Menominee counties if all the following apply:

(a) The placement of feed shall not begin before January 1 and shall not extend beyond May 15.

(b) All conditions in section 3.100a (7) of this order are met.

(7) The following conditions must be met to engage in the supplemental feeding of deer in areas noted in section 3.100a (6) of this order:

(a) The supplemental deer feeding is conducted in compliance with all the following criteria:

(i) All feed shall be placed one-quarter mile or more from the nearest paved public highway.

(ii) All feed shall be placed at least 1 mile from cattle, goats, sheep, new world camelids, bison, swine, horses, or captive cervidae.

(iii) All feed shall be placed at least 1 mile from wheat fields, potato fields, commercial fruit orchards, commercial plantings of nursery stock or Christmas trees.

(iv) The feed shall consist solely of grains, second cut alfalfa and clover, and pelletized food materials containing no animal protein which is scattered or dispersed directly upon the ground to a depth which shall not exceed three inches.

- (v) The feed shall not be placed or used as bait to take deer.
- (b) A person shall not hunt or attempt to hunt over feed placed for deer.
- (c) A landowner shall not allow an individual to hunt or attempt to hunt over feed placed for deer.

3.101 Deer hunting open seasons; type of deer that may be taken; carrying of firearms, season limit.

Sec. 3.101. (1) The open firearm deer season shall be from November 15 to November 30.

(2) The open muzzle-loading and black-powder firearms deer season in zone 1, zone 2, and zone 3 shall be a total of 10 days from the first Friday in December to nine days thereafter.

(3) Subject to section 43510(2) and (3), 1994 PA 451 MCL 324.43510, except as provided in subsection (5), an individual hunting deer with a muzzleloading firearm during the muzzle-loading and black-powder firearms season shall only possess or carry afield, or take a deer with a muzzle-loading rifle, muzzle-loading shotgun, or black-powder pistol, loaded with black-powder or a commercially manufactured black-powder substitute, or a crossbow.

(a) Subject to section 43510(2) and (3), 1994 PA 451 MCL 324.43510, except as provided in subsection (5), an individual hunting deer in zone 3, including the entirety of Oceana, Newaygo, Mecosta, Isabella, Midland, and Bay counties, during the muzzle-loading and black-powder firearms season shall only possess or carry afield, or take a deer with a weapon that is legal to possess or carry afield, or to take a deer with during the open firearm deer season for that respective zone.

(4) The open bow and arrow season shall be from October 1 through November 14 and from December 1 through January 1.

(a) Subject to all other provisions of this order, in the urban deer management zone, as defined in chapter XII of this order, the open bow and arrow season shall be from October 1 through November 14 and from December 1 through January 31.

(5) Subject to section 43510(2) and (3), 1994 PA 451 MCL 324.43510, during the open bow and arrow season, as described in subsection (4), an individual hunting deer with a bow and arrow or a crossbow shall not possess or carry afield a pistol, revolver, or any other firearm unless:

(a) The individual is properly licensed to hunt deer with a firearm and is hunting in an area open to firearm deer hunting.

(b) The individual is properly licensed to hunt deer with a firearm and is hunting in an area open to the muzzleloading and black-powder firearms deer season in zone 2 and zone 3.

(c) An individual taking a deer under the terms and conditions of a disease control permit authorized under section 5.77 of this order may possess or carry a bow and arrow or crossbow, and a firearm, if applicable.

(6) An early antlerless firearm deer season shall be a two-day hunt starting the Saturday following September 15 upon privately owned lands within Alcona, Allegan, Alpena, Antrim, Arenac, Bay, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Cheboygan, Clare, Clinton, Crawford, Eaton, Emmet, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Lake, Lapeer, Lenawee, Livingston, Macomb, Manistee, Mason, Mecosta, Midland, Missaukee, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, St. Clair, St. Joseph, Saginaw, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, Wayne, Wexford counties, upon privately owned lands within that portion of Charlevoix county within deer management unit 015, and upon privately owned lands within that portion of Leelanau county within deer management unit 045. Only an individual

possessing a valid antlerless deer license, a mentored youth hunting license, a deer license, or a deer combination license may take a deer during this season. A deer kill tag issued under the mentored youth hunting license, deer license, or deer combination license shall be used to harvest an antlerless deer only.

(7) A late antlerless firearm deer season shall be from the Monday following the conclusion of the muzzle-loading and black-powder firearms deer season through January 1 upon privately owned lands within Alcona, Allegan, Antrim, Alpena, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Cheboygan, Clare, Clinton, Crawford, Eaton, Emmet, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Lake, Lapeer, Lenawee, Livingston, Macomb, Manistee, Mason, Mecosta, Midland, Missaukee, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, St. Clair, St. Joseph, Saginaw, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, Wayne, Wexford counties, upon privately-owned lands within that portion of Charlevoix county within deer management unit 015, and upon privately owned lands within that portion of Leelanau county within deer management unit 045. The late antlerless firearm season shall be open on public lands in zone 3 as provided for in subsection (b). Only an individual possessing a valid antlerless deer license, a mentored youth hunting license, a deer license, or a deer combination license may take a deer during this season. A deer kill tag issued under the mentored youth hunting license, deer license, or deer combination license shall be used to harvest an antlerless deer only.

(a) Subject to section 43510(2) and (3), 1994 PA 451 MCL 324.43510, except as provided in subsection (5), an individual hunting deer during the late antlerless firearm season on public lands in zone 3 shall only possess or carry afield, or take a deer with a muzzle-loading rifle, muzzle-loading shotgun, or black-powder pistol, loaded with black-powder or a commercially manufactured black-powder substitute. Only an individual possessing a valid antlerless deer license, a mentored youth hunting license, a deer license, or a deer combination license may take a deer. A deer kill tag issued under a mentored youth hunting license, a deer license, or a deer combination license shall be used to harvest any deer.

(8) The deer management assistance firearm hunt period shall be from the first Monday following the third Saturday in December through January 1 upon lands owned by federal, state, county, or local units of government, non-profit organizations, and other urban or suburban properties in zone 3. Only those areas with a wildlife division approved deer population management plan will be considered for issuance of these special deer management assistance permits. Only an individual possessing a valid deer management assistance permit issued for this hunt period may take a deer with a firearm or a crossbow during this season.

(9) The season limit shall be 1 deer per deer license.

(10) Except as provided by subsection (12) and sections 3.101a, 3.101c, 3.101i and 3.101j, the kind of deer which may be taken during the respective open seasons for each combination of season and deer license, except antlerless deer license, shall be as shown in table 2:

TABLE 2
License, Season, Deer to be Taken

Type of license	Season in which used	Kind of deer that may be taken
Deer license, deer combination regular license	Bow and arrow only seasons (zone 1)	Antlerless or an antlered deer, subject to the following: (a) Antlerless deer shall only be taken in DMUs open to antlerless licenses. (b) Antlerless deer shall not be taken in DMUs 127, 066, 131, 042, 031, 007, and 048. This does not apply to any DMU within a designated core CWD surveillance area. (c) Antler point restrictions apply as provided in sections 3.101a and 3.101c.

		(d) Antler point restrictions do not apply in the core CWD surveillance area.
Deer license, deer combination regular license	Bow and arrow only seasons (zones 2 and 3)	Antlerless or antlered deer. Antler point restrictions apply as provided in sections 3.101i and 3.101j.
Deer license, deer combination regular license	Firearm deer season, muzzleloading and black-powder firearms only season (zone 1)	Antlered deer. Antler point restrictions apply as provided in sections 3.101a and 3.101c. Antler point restrictions do not apply in the core CWD surveillance area.
Deer license, deer combination regular license	Liberty hunt and Independence hunt (zones 1, 2, and 3)	Antlerless or antlered deer.
Deer license, deer combination regular license	Firearm deer season, muzzleloading and black-powder firearms only season (zone 2 and 3)	Antlerless or antlered deer. Antler point restrictions apply as provided in sections 3.101i and 3.101j.
Deer combination restricted license	Bow and arrow only season (zone 1)	An antlerless deer or a deer which has at least 1 antler with 4 or more antler points 1 or more inches in length, subject to the following: (a) Antlerless deer shall only be taken in DMUs open to antlerless licenses. (b) Antlerless deer shall not be taken in DMUs 127, 066, 131, 042, 031, 007, and 048. This does not apply to any DMU within a designated core CWD surveillance area. (c) Antler point restrictions do not apply in the core CWD surveillance area.
Deer combination restricted license	Bow and arrow only (zones 2 and 3)	An antlerless deer or a deer which has at least 1 antler with 4 or more antler points 1 or more inches in length. Antler point restrictions do not apply in the CWD management zone except as provided in 3.101(j).
Deer combination restricted license	Firearm deer season or muzzleloading and black-powder firearms only season (zone 1)	A deer which has at least 1 antler with 4 or more antler points 1 or more inches in length. Antler point restrictions do not apply in the core CWD surveillance area.
Deer combination restricted license	Liberty hunt and Independence hunt (zones 1, 2, and 3)	Antlerless or antlered deer.
Deer combination restricted license	Firearm deer season or muzzleloading and black-powder firearms only season (zones 2 and 3)	An antlerless deer or a deer which has at least 1 antler with 4 or more antler points 1 or more inches in length. Antler point restrictions do not apply in the CWD management zone except as provided in 3.101(j).
Mentored youth deer license	Bow and arrow only seasons, firearm deer season, muzzleloading and black-powder firearms only season, or Liberty hunt	Antlerless or antlered deer. Antler point restrictions do not apply.

(11) The director may authorize a disease management hunt lasting no longer than nine days between January 2 and March 31 where additional harvest is deemed necessary to meet disease management objectives.

(12) Individuals possessing a deer license, deer combination regular license, or deer combination restricted license are exempt from antler point restrictions during all deer seasons as listed in table 2 if one of the following applies:

(a) The individual is a youth 16 years of age and younger. Individuals under the age of 10 must be licensed through the mentored youth hunting program.

(b) The individual is licensed under a base apprentice license.

3.101a Deer hunting in zone 1 season limit and, antler restriction.

Sec. 3.101a (1) Notwithstanding any other provisions of this order, except sections 3.101e and 3.101g, an individual possessing a deer combination regular license shall not take an antlered deer unless the deer has at least 1 antler with 3 or more antler points each 1 or more inches in length in zone 1.

3.101j Deer hunting in deer management units 034, 054, and 059, antler restriction, sunset.

Sec. 3.101j (1) Notwithstanding any other provisions of this order, except sections 3.101e and 3.101g, in deer management units 034, 054, and 059, an individual shall not take an antlered deer unless the deer has at least 1 antler with 4 or more antler points each 1 or more inches in length.

(2) This section shall be rescinded after the 2021 deer hunting season.

3.102 Antlerless deer license; validity; authority; types; restrictions; units.

Sec. 3.102. (1) Antlerless deer licenses are valid on public and private lands in all open deer management units when those units have a season open to the taking of deer, unless otherwise specified. Antlerless deer licenses do not grant permission to hunt on private property without the permission of the landowner.

(2) It shall be unlawful for an individual to purchase an antlerless deer license unless the individual holds a current base license or mentored youth license.

(3) Antlerless deer licenses shall only be valid for taking an antlerless deer.

(4) The deer management units, as defined in chapter XII, listed in section 3.105a are open to the taking of antlerless deer by a valid antlerless deer license.

(5) The director, in consultation with and concurrence of the natural resources commission, may require an application to obtain an antlerless deer license or may issue antlerless deer licenses through the retail sales system on a first-come, first-served basis for use in designated deer management units.

(6) The director in consultation with and concurrence of the natural resources commission may issue antlerless deer licenses through the retail sales system on a first-come, first-served basis for use in designated deer management units when the director determines that antlerless deer licenses remain unsold after the drawing, provided for in section 3.104, has been held or where such issuance is in the best interest of deer management. An application for the current year is not required to purchase an antlerless deer license that remains after the drawing, provided for in section 3.104, has been held.

(7) Requirements; restrictions for young hunters:

(a) A hunter under the age of 10 must be licensed through the mentored youth hunting program and accompanied by a qualified mentor. Youth under 10 years of age may hunt antlerless deer subject to the

mentored youth hunting program as described in section 2.14 of this order. A deer kill tag issued under the mentored youth hunting license shall be valid for any deer in any open deer management unit, except during antlerless-only seasons when only an antlerless deer may be taken. When used to harvest an antlered deer, antler point restrictions do not apply.

(b) A hunter 16 years of age or younger on or before the 4th Saturday in September may purchase 1 antlerless deer license, over the counter, on a first-come, first-served basis, during the application period for antlerless licenses for any deer management unit with antlerless licenses available, if applicable.

(8) An individual may purchase up to a season limit of 10 antlerless deer licenses statewide until the quota has been met.

3.104 Antlerless deer hunting license application procedures; qualifications; unlawful acts.

Sec. 3.104 (1) A person desiring to acquire an antlerless deer hunting license that is available by application must make application for a license through the retail sales system in accordance with instructions provided by the department. The fee for each antlerless deer license shall be established by the director. If the number of applications for a license in any unit exceeds the quota of licenses to be issued, a random drawing will determine the successful applicants.

(2) A person shall not make more than 1 application for an antlerless deer hunting license per license year.

(3) Applications must be submitted in accordance with instructions no later than August 15 of the year in which application was made to be eligible for the drawing.

3.105 Antlerless-only license quotas.

Sec. 3.105 (1) The director in consultation with and concurrence with the natural resources commission may make appropriate minor changes to antlerless deer quotas to meet disease control, population goal, or other management objectives.

(2) Notwithstanding any other provision of this section, an antlerless deer license is valid on public and private lands in all open deer management units when those units have a season open to the take of antlerless deer except for the following areas as noted in table 3:

TABLE 3
Deer Management Unit (DMU) License Quotas

DMU	DMU Name	Total licenses
145	North Manitou Island	*
174	St. Clair Flats	*
245	South Fox Island	*
273	Shiawassee Unit	*
351	Mideast Upper Peninsula	**
352	Midwest Upper Peninsula	**

*Antlerless deer licenses are managed locally on public land.

**An antlerless deer hunting access permit is required to hunt antlerless deer within these DMUs when using an antlerless deer license.

3.105a Deer management units open to antlerless license quotas.

Sec. 3.105a (1) Notwithstanding any other provision of this section the status of each deer management unit for antlerless deer licenses shall be as shown in table 4:

TABLE 4
Open and Closed DMU Status

DMU Number	DMU Name	Antlerless Deer License
003	Allegan County	Open
005	Antrim County	Open
006	Arenac County	Open
007	Big Bay Unit	Closed
008	Barry County	Open
009	Bay County	Open
010	Benzie County	Open
013	Calhoun County	Open
014	Cass County	Open
015	Charlevoix County	Open
016	Cheboygan County	Open
017	Sault Ste. Marie Unit	Open
018	Clare County	Open
019	Clinton County	Open
020	Crawford County	Open
021	Manistique Unit	Open
022	Crystal Falls Unit	Open
023	Eaton County	Open
024	Emmet County	Open
025	Genesee County	Open
026	Gladwin County	Open
027	Watersmeet Unit	Open
028	Grand Traverse County	Open
029	Gratiot County	Open
030	Hillsdale County	Open
031	Nissula Unit	Closed
032	Huron County	Open
033	Ingham County	Open
034	Ionia County	Open
036	Amasa/Michigamme Unit	Open
037	Isabella County	Open
038	Jackson County	Open
039	Kalamazoo County	Open
040	Kalkaska County	Open
041	Kent County	Open
042	Keweenaw Unit	Closed
043	Lake County	Open
044	Lapeer County	Open
045	Leelanau County	Open
046	Lenawee County	Open
047	Livingston County	Open
048	Newberry Unit	Closed
050	Macomb County	Open
051	Manistee County	Open
053	Mason County	Open
054	Mecosta County	Open
055	Menominee Unit	Open
056	Midland County	Open
057	Missaukee County	Open
058	Monroe County	Open

059	Montcalm County	Open
061	Muskegon County	Open
062	Newaygo County	Open
063	Oakland County	Open
064	Oceana County	Open
065	Ogemaw County	Open
066	Ontonagon County	Closed
067	Osceola County	Open
069	Otsego County	Open
070	Ottawa County	Open
072	Roscommon County	Open
073	Saginaw County	Open
074	St. Clair County	Open
075	St. Joseph County	Open
076	Sanilac County	Open
078	Shiawassee County	Open
079	Tuscola County	Open
080	Van Buren County	Open
081	Washtenaw County	Open
082	Wayne County	Open
083	Wexford County	Open
115	Beaver Island	Open
117	Drummond Island	Open
121	Bay De Noc	Open
122	Norway Unit	Open
127	Ironwood Unit	Closed
131	Twin Lakes Unit	Closed
145	North Manitou Island	Open
149	Round/Bois Blanc Island	Open
152	Gwinn Unit	Open
155	Gladstone Unit	Open
174	St. Clair Flats	Open
245	South Fox Island	Open
249	Trout Lake Unit	Open
252	Rock Unit	Open
255	La Branche Unit	Open
273	Shiawassee Unit	Open
311	Keeler Unit (Berrien - Cass - Van Buren)	Open
312	Sherwood Unit (Branch - Kalamazoo - St. Joseph)	Open
332	Greenleaf Unit (Huron - Sanilac - Tuscola)	Open
349	Engadine Unit	Open
452	TB Core Area	Open
487	NLP Multi-County Unit	Open
351	Mideast Upper Peninsula	Open
352	Midwest Upper Peninsula	Open

3.108 North Manitou island deer management unit, deer hunting regulations.

Sec. 3.108 (1) A special permit is required to hunt deer during the designated open firearms season within the North Manitou island deer management unit. The special permit shall be applied for by contacting the park superintendent, Sleeping Bear Dunes National Lakeshore. To establish hunting eligibility, a current State of Michigan deer hunting license must be purchased. Proof of hunting license purchase is required. In issuing these free permits, the park superintendent shall serve as the agent of the department to implement the open firearms deer hunt on North Manitou island as designated in section 3.110 of this order.

(2) A current deer license for the appropriate season shall be required to hunt deer during the designated open bow and arrow only deer hunting season on North Manitou island as designated in section 3.110 of this order. No special permit is required during the open bow and arrow only deer hunting season.

(3) An individual shall not sell, lend, or allow another person to use their North Manitou island special permit, nor shall an individual use or attempt to use another person's North Manitou Island special permit.

(4) The park superintendent or his agents shall affix a validation tag to each legally taken deer during the open firearms season for the North Manitou island deer management unit.

(5) The use of bait is prohibited on North Manitou island.

3.123 Mideast Deer Management Unit 351 and Midwest Deer Management Unit 352, deer hunting regulations, deer hunting access permits, application process, drawings, unlawful acts.

3.123 (1) A person hunting deer in the Mideast deer management unit 351 or Midwest deer management unit 352 shall comply with all existing laws and rules regarding the taking of deer.

(2) A person shall not hunt deer in the Mideast deer management unit 351 or Midwest deer management unit 352 without a deer hunting access permit.

(3) A person hunting deer in the Mideast deer management unit 351 or Midwest deer management unit 352 shall comply with all rules and regulations printed on their deer hunting access permit.

(4) Deer hunting access permits will be issued to persons chosen in a random drawing from applicants. Permits shall not be transferrable to other hunters. The department may limit the number of deer hunting access permits that are available for the drawing for each deer management unit.

(5) Applications must be submitted in accordance with instructions no later than August 15 of that year in which application was made to be eligible for the drawing.

(6) A person shall not make more than 1 application for a deer hunting access permit per license year.

(7) Any leftover hunting access permits may be issued to hunters after the drawing on a first-come, first-served basis until quotas are met.

(8) The Department may allow a hunter 16 years of age or younger on or before the 4th Saturday in September to purchase 1 antlerless deer hunting access permit for the Mideast deer management unit 351 or the Midwest deer management unit 352 over the counter during the application period for antlerless deer hunting access permits for the Mideast deer management unit 351 or the Midwest deer management unit 352.

5.42 Deer damage shooting permit, prohibited acts; failure to comply.

Sec. 5.42 (1) It shall be unlawful for a permittee to designate more than 15 authorized shooters to implement the provisions of the permit unless additional shooters are approved by the wildlife regional supervisor and district law enforcement supervisor.

(2) It shall be unlawful for a permittee or an authorized designee to: (a) Kill more than the number of deer authorized by the permit.

(b) Possess a deer killed under the authority of a permit without having a validated deer damage permit tag attached to the deer.

(c) Take or attempt to take a deer within the permit boundaries unless in possession of a valid unused deer damage permit tag. The tag shall be presented upon demand to a representative of the director.

(d) Use a firearm other than a centerfire rifle or shotgun with slugload, or as determined by a department representative.

(e) Subject to section 43510, subsections (2) and (3), of Part 435, as amended, hunting and fishing licensing, MCL 324.43510, possess an uncased or loaded firearm in the vehicles authorized by the permit unless approved by the wildlife regional supervisor and district law enforcement supervisor.

(f) Kill a deer with antlers extending three inches or more above the skull unless approved by the wildlife regional supervisor.

(g) Take or attempt to take a deer using an artificial light or from one-half hour after sunset to one-half hour before sunrise unless approved by the wildlife regional supervisor and district law enforcement supervisor.

(h) Take or attempt to take a deer in any area except that location described on the permit.

(3) It shall be unlawful for any person to buy or sell any deer killed under the authority of a deer damage control permit.

(4) It shall be unlawful for any person other than the permittee or an authorized designee to take or attempt to take deer under the authority of a valid permit.

(5) For failure to comply with this section or other requirements of the deer damage control program, the department shall deny a permittee to be eligible to participate in the next calendar year.

5.95 Permit to take game with a crossbow.

Sec. 5.95 (1) The department may issue a permit to an individual who is certified as being permanently or temporarily disabled by a licensed physician or physical/occupational therapist as provided in this section. That permit shall be issued without cost to the applicant and shall authorize that individual to take deer with a crossbow or modified bow per section 2.1 (16) of this order during the open season for that game if that individual possesses a current base license and deer license and complies with all other laws and rules for the taking of game.

(2) An applicant for a permit under this section shall submit to the department a signed certification from a licensed physician or physical/occupational therapist indicating the disability determined to be present in the permit applicant. The licensed physician or physical/occupational therapist may certify that the applicant is permanently or temporarily disabled as required by this section if the licensed physician or physical/occupational therapist finds that the permit applicant has a disability that renders them unable to use conventional archery equipment. In support of such a determination, the licensed physician or physical/occupational therapist shall utilize the following standards and criteria:

(a) A functional draw test to simulate the drawback posture and/or position with a weight equivalent to 35 pounds of resistance for a 4-second duration.

(b) Manual muscle testing: Shoulder flexion, shoulder extension, shoulder abduction (horizontal plane) elbow flexion and elbow extension are graded equal to or less than 3 of 5 using a standard manual muscle grading scale or an equivalent test.

(c) Impaired range of motion: Goniometric measurements using the "American medical association guide to evaluation and permanent impairment rating," or other guidelines accepted by the American medical association or an equivalent test. If shoulder flexion is equal to or less than 90 degrees or shoulder extension is equal to or less than 10 degrees or shoulder abduction is equal to or less than 70 degrees or elbow flexion is equal to or less than 90 degrees or elbow extension is equal to or less than negative 20 degrees, the permit may be granted.

(d) Amputations involving body extremities required for stable function to use conventional archery equipment do not require objective test findings. However, the applicant is required to present a physician's certification to be qualified for a permit.

(e) Any spinal cord injury resulting in permanent or temporary disability to the lower extremities, leaving the applicant permanently or temporarily non-ambulatory or other disability resulting in a permanent or temporary wheelchair (mobility device) restriction, as diagnosed by a physician, do not require objective test findings.

(f) Coordination assessment. Coordination is the ability to execute smooth, accurate, controlled movement. Incoordination or coordination deficit describes abnormal motor function characterized by awkward, extraneous, uneven, or inaccurate movements, caused by central nervous disorders, including, but not limited to, Parkinson's disease, cerebral palsy, hemiplegia, hemiparesis, and closed head trauma, or by progressive neuromuscular diseases, such as muscular dystrophy, multiple sclerosis, and amyotrophic lateral sclerosis. Purpose: to assess the ability of muscles or groups of muscles to work together to perform a task.

(3) Any other permanent or temporary disability that renders the applicant unable to use conventional archery equipment as diagnosed by a licensed physician shall be sufficient grounds for granting the permit. The licensed physician must note in general terms how the disability prevents the applicant from using conventional archery equipment other than a crossbow or modified bow.

(4) An individual shall not seek diagnosis from a licensed physician or physical/occupational therapist for purposes of meeting the requirements of this section on more than 2 occasions within a 6-month period.

(5) Crossbow and modified bow permits for permanent disabilities issued pursuant to this section are valid unless revoked pursuant to the administrative procedures act, 1969 PA 306, MCL 24.201 to 24.328.

(6) Arrows, bolts, and quarrels used for taking deer, bear, elk, and turkey with a crossbow or modified bow under a permit issued under this section or as provided in section 2.1 are required to have a broadhead hunting type of point not less than 7/8 of an inch wide and must be a minimum of 14 inches in length.

12.483 "Deer management unit 351 (Mideast Upper Peninsula)" defined.

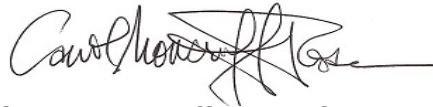
Sec. 12.483 "Deer management unit 351 (Mideast Upper Peninsula) means all of the following: deer management unit 021 as defined in section 12.21, deer management unit 349 as defined in section 12.49, deer management unit 249 as defined in section 12.49b, deer management unit 149 as defined in section 12.49a, deer management unit 017 as defined in section 12.17, and deer management unit 117 as defined in section 12.17a.

12.484 Deer management unit 352 (Midwest Upper Peninsula)" defined.

Sec. 12.484 "Deer management unit 352 (Midwest Upper Peninsula) means all of the following: deer management unit 027 as defined in section 12.27, deer management unit 036 as defined in section 12.36, deer management unit 152 as defined in section 12.52a, and deer management unit 252 as defined in section 12.52b.

Issued on this 11th day of February, 2021.

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

A handwritten signature in black ink, appearing to read 'Carol Moncrieff Rose', with a stylized flourish at the end.

Carol Moncrieff Rose, Chair
Natural Resources Commission

Approved as to matters over which the Director has authority.

A handwritten signature in blue ink, appearing to read 'Daniel Eichinger', with a stylized flourish at the end.

Daniel Eichinger
Director



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

SUBMITTED: February 10, 2021
LATE MEMO

TO: Daniel Eichinger, Director

Information: NATURAL RESOURCES COMMISSION

Subject: Fisheries Order 243.21A
State-Licensed Commercial Fishing

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, under MCL 324.46701 authorizes the Director to issue orders, when deemed necessary, to suspend, abridge, extend, or modify any statute or law of this state governing commercial fishing for the better protection, preservation, maintenance, and harvesting of the fish.

Discussion and Background:

State-licensed commercial fishing is an important component of our state's economic and cultural livelihoods. The department has been actively trying to address the need for regulatory updates to commercial fishing for nearly a decade. Fisheries Order 243 has been used to address issues impacting management of the state-licensed commercial fishery for the better protection, preservation, maintenance, and harvesting of the fish.

Fisheries Order 243 was originally planned to serve as a short-term solution while legislative action progressed to rewrite the outdated state-licensed commercial fishing statute.

Fisheries Order 243.21, which went into effect in January 2021, changed Fisheries Order 243 by removing provisions of the order in light of questions that had been raised regarding the various authorities that govern state-licensed commercial fishing. The department intends to utilize authority provided under MCL 324.46701 to issue Fisheries Order 243.21A to allow the continuation of state-licensed commercial fishing in the manner in which it was regulated in 2020, while the department continues to review its approach to regulating state-licensed commercial fishing.

Recommendation:

It is our recommendation to continue to utilize FO-243.21A to clarify commercial fishing law for the better protection, preservation, maintenance, and harvesting of the fish. Relevant Divisions have contributed to the preparation of this Order. This Order was submitted on February 11, at the Natural Resources Commission meeting.



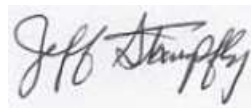
James Dexter, Chief
Fisheries Division



Gary Hagler, Chief
Law Enforcement Division



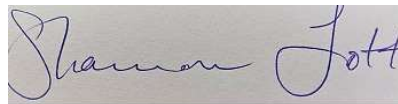
Jared Duquette, Chief
Wildlife Division



Jeff Stampfly, Chief




Ronald A. Olson, Chief
Parks and Recreation Division



Shannon Lott
Natural Resources Deputy

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



Daniel Eichinger, Director

February 11, 2021

Date

FISHERIES ORDER

State-Licensed Commercial Fishing Order 243.21A

Under the authority of Sections 46701 and 46702 of 1994 PA 451, as amended, MCL 324.46701 and MCL 324.46702, the Director of the Department of Natural Resources on February 11, 2021, ordered that the following state-licensed commercial fishing regulations shall take effect March 13, 2021:

1. State-licensed commercial trap net fishing is permitted in water depths of up to 150 feet in lakes Huron, Michigan, and Superior under licenses issued by the director.
2. The commercial harvest of chubs (*Coregonus hoyi*) is permitted in lake Michigan north of Grand Haven under licenses issued by the director.
3. Lake Erie is designated as rough fish grounds for commercial fishing as defined in MCL 324.47309(g).
4. The commercial harvest of Lake whitefish (*Coregonus clupeaformis*), 17 inches in length and greater, caught in Lake Erie in legally set trap nets, is permitted under licenses issued by the director.
5. The department or its properly permitted designee may take fish in any manner, in any of the waters mentioned in this part, at any and all seasons of the year, for the purpose of fish culture or scientific investigation; may have and hold ripe and unripe fish for scientific investigation or in order to take spawn from the fish; and may sell or direct to be sold all of those ripe and unripe fish. A permitted designee of the department shall comply with the conditions established in the permit.
6. State-licensed commercial fishers shall comply with all license conditions.
7. Whitefish in lakes Michigan, Huron, and Superior shall be closed to harvest from noon on November 1 to noon on November 30.
8. It shall be unlawful to market, have in possession, transport, or offer for sale at any time, whether caught within or without this state any catfish of a length less than 15 inches, except that catfish of a length not less than 14 inches may be taken from Lake Erie, but such fish shall not be sold or offered for sale except at a dock or docks along said lake.
9. Suckers may be commercially taken from all waters of the state open to commercial fishing without a size limit and without a closed season.

10. Imported commercial and game fish species of a size, weight, or species not prohibited by the laws of the state or country where caught that are not processed outside the state of Michigan and sold to the consumer in the same package as imported may be possessed, transported, offered for sale, and marketed as follows:
 - a. A wholesale fish dealer who directly or indirectly imports the fish shall:
 - i. Retain for 30 days following importation a commercial invoice or bill of sale or, if imported from Canada, the customs entry or customs broker's statement, which shall include the species of fish and formal entry number;
 - ii. Keep a record including the quantity and species of fish and the name and address of every retailer to whom such fish are sold or shipped; and
 - iii. Make the documents and records required by this section available for inspection by any law enforcement officer at any reasonable time.
 - b. A retail fish dealer shall retain a bill of sale or invoice indicating the quantity and species of fish and the name and address of the consignor for inspection by any law enforcement officer at any reasonable time until the fish are disposed of by sale or otherwise.
11. In addition to the requirement established in Section 10(a) of this Order, wholesale fish dealers licensed in Michigan, whether they are located within or outside the state, shall fill out and submit monthly purchase records on forms provided by the Department. Forms containing the monthly purchase records shall be submitted to the Department by the tenth day after the end of the month in which the fish were acquired. Reports not received by the Department by the tenth day after the end of the month in which the fish were acquired shall be considered delinquent and in violation of this Order.

This Order modifies conditions as set forth in MCL 324.47302, MCL 324.47309 (h and i), MCL 324.47311 (b and f), MCL 324.47315, MCL 324.47319 (Subsection 1. e and f and Subsection 2), and MCL 324.47333 of 1994, PA 451, and Administrative Rule R 299.1074(b, c, and e) and Administrative Rule R 299.1075(3).

This Order shall be assigned number FO-243.21A, and is titled "State-Licensed Commercial Fishing."

This Order supersedes the Order titled "State-Licensed Commercial Fishing," which became effective January 8, 2021 and was assigned number FO-243.21.

Per MCL 324.46702, this Order shall not take effect less than 30 days after being issued. This Order shall take effect March 13, 2021 and shall remain effective until rescinded.

Issued on this 11th day of February, 2021.



Daniel Eichinger
Director



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

SUBMITTED: December 14, 2020
RESUBMITTED: January 19, 2021

TO: Daniel Eichinger, Director
Information: NATURAL RESOURCES COMMISSION
Subject: Fisheries Order 245.21
Fish Disease Control

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, under MCL 324.48730(1) authorizes the Director to designate the lakes and streams and parts of lakes and streams from which minnows, wigglers, and crayfish may be taken for commercial purposes and make rules, regulations, and restrictions for taking, possessing, and transporting minnows, wigglers, and crayfish. Commercial purposes for the purpose of this authority is defined in MCL 324.48728.

Discussion and Background:

Fisheries Order 245 establishes fish disease regulations for the protection of aquatic resources in Michigan. This Order was established in 2008 in response to the discovery of Viral Hemorrhagic Septicemia (VHSV) in Michigan waters of the Great Lakes. The Order describes special regulations on the minnow trade, angler behaviors, and where baitfish may be used. The regulations enacted were aimed at curtailing the spread of VHSV and other fish pathogens by recreational anglers, wholesale fish dealers, state-licensed commercial fishermen, private aquaculturists, and retail bait outlets.

The regulations have been an effective management tool reducing the spread of fish diseases like VHSV. The commercial bait industry and the public have been accepting of fish health regulations and understand the importance of protecting Michigan's valuable fisheries. This Order has been modified several times over the years as new information has become available regarding VHSV pathways and transmission vectors and other fish pathogens. The current Order is set to expire after March 31, 2021 and after a thorough review the Department proposes the following amendments to add additional biosecurity measures:

- Require each harvester/wholesaler to complete disease testing for each lot of minnows collected between October and May, inclusive;
- Require disease testing for at least one lot of minnows collected from each of the following waters (baitfish testing zones) if baitfish will be harvested from these areas during the months June, July, August, and September: Saginaw Bay and connecting tributaries to the first fish passage barrier, Black River downstream of the first fish passage barrier (St. Clair Co.), Lake St. Clair and St. Clair River, Detroit River, Lake Erie, Budd Lake (Clare Co.), and Baseline Lake (Livingston and Washtenaw counties), and all other Great Lakes waters.
- Increase testing and labeling requirements for frozen bait.
 - Require species identification and location of harvest for all frozen bait being imported into Michigan.
 - Add labeling requirements to specify that frozen bait was tested for VHSV, if the species is susceptible to the VHSV.

- If testing is required, a VHSV testing certification number on the frozen bait package labeling will be needed.
- Revise the bait collection disease sampling and labeling requirements for fish susceptible to VHSV. Will need to specify that the bait was tested for VHSV including the requirement to add the VHSV testing certification number to the following:
 - All bait collected from the Great Lakes and tributary streams up to the first fish passage barrier;
 - All bait collected outside of Michigan, including frozen bait, must be labeled as indicated:
 - Species must be documented on the package;
 - Origin of collection must be listed on the package;
 - All bait collected from the following inland waters: Budd Lake (Clare County) and Baseline Lake (Livingston and Washtenaw Counties);
- Add anchovies, Atlantic herring, Atlantic menhaden, Eulachon, gizzard shad, and Pacific herring to the list of Viral hemorrhagic septicemia (VHSV) susceptible species in the Fish Health Inspection Guidance document;
- Link FO-245 to the Fish Health Inspection Guidance document; and
- Remove all Koi Herpes Virus (KHV) regulations.

The Department recommends a more proactive fish disease sampling process for bait collectors involving baitfish that are susceptible to VHSV. This includes requiring that each fish lot collected from October 1 – May 31 be tested according to the [Fish Health Inspection Guidance](#) document from the Great Lakes including tributaries to the first fish passage barrier, Budd Lake (Clare County) and Baseline Lake (Livingston and Washtenaw Counties). The Department also recommends adding a requirement for disease testing for at least one lot of minnows collected from each of the following waters (baitfish testing zones) if these waters are going to be harvested for baitfish during the months June, July, August, and September: Saginaw Bay and connecting tributaries to the first fish passage barrier, Black River downstream of the first fish passage barrier (St. Clair Co.), Lake St. Clair and St. Clair River, Detroit River, Lake Erie, Budd Lake (Clare Co.), and Baseline Lake (Livingston and Washtenaw counties), and all other Great Lakes waters (see Figure 1). These changes will add greater biosecurity to the bait supply used throughout Michigan. Advances in fish disease testing methodologies result in shorter turnaround times using qPCR analysis which has lowered the costs associated with it compared to full cell culture testing and greatly decreased the laboratory results turnaround time. Recent investigations by the Department have determined that the current baitfish disease testing regulations allowed VHSV positive fish to get into the bait supply. Therefore, given that disease testing now has shorter turnaround times and the process is no longer as costly, each lot of baitfish needs to be tested as indicated.

All baitfish (live or frozen) that are susceptible to VHSV shall be certified as disease free and be labelled with the testing certification number as described with the Fish Health Guidance Document. Other changes require that imported baitfish (live or frozen) be certified as disease free since frozen fish infected with VHSV have been found to transmit the disease. Imported baitfish (live or frozen) is recommended to be identified to their scientific name and common name according to the official American Fisheries Society publication and must be labeled with the location of capture. This information will be used to determine if the species is susceptible, if the capture location is known to be positive for VHSV, and whether VHSV testing will be required prior to importation into Michigan's bait markets. The recommended additions for the Order will result in the sale and distribution of fish certified as disease free for anglers as most baitfish are currently collected from waters where VHSV has been found.

A document called the Fish Health Guidance Document (dated March 2021) has been developed to inform people about the testing requirements enacted by this Order. The Fish Health Guidance Document will be tied to this Order and any updates will require an update to FO-245 in the future. This document will be where the VHSV susceptible species table will be referenced moving forward. The Department recommends adding anchovies (*Engraulidae* family), Atlantic herring (*Clupea harengus*), Atlantic menhaden (*Brevoortia tyrannu*), Eulachon (*Thaleichthys pacificus*), gizzard shad (*Dorosoma cepedianum*), and Pacific herring (*Clupea pallasii*) to the list of VHSV susceptible species in the Fish Health Guidance Document. The document is kept online at the following link [Fish Health Inspection Guidance](#).

Finally, the Department recommends removing Koi Herpes Virus (KHV) from the Order because the KHV virus has not been documented to infect native fish species that are found in Michigan. This virus is a herpesvirus which is only known at this time to infect Koi and Common Carp.

The Department has had open communications with the bait industry about these proposed changes to allow them to provide their comments and feedback. Following the request for feedback, the Department received comments from the commercial bait industry and their primary concern was the increased testing requirements in the spring and summer months. The Department's response to that concern has been reflected in the changes above concerning the spring and summer testing strategy intended to reduce the prevalence of VHSv and other pathogens in the bait supply. The existing Order only required testing in the fall, but under that regulation the Department did detect VHSv in the bait supply as part of a collaborative research project with Michigan State University. The changes recommended for this Order will result in a more robust testing protocol to reduce the chances of spreading fish diseases like VHSv in Michigan's waters.

Issue Pros and Cons

The changes recommended will result in greater biosecurity to Michigan's baitfish industry which will benefit every angler fishing in Michigan. The changes will result in disease testing for each fish lot collected from October 1 – May 31, all imported bait (live or frozen), plus require labelling which indicates testing status, testing certification numbers, genus, species, and common names, and location of capture. This information will allow for more targeted VHSv testing for susceptible species, and VHSv positive areas before being imported into Michigan's bait markets. The new labeling requirements will result in better tracking of testing and movement of bait should an issue arise. A con to this would be the increased cost associated with testing more fish lots.

Biological

These changes are based upon the best scientific disease testing information available and will result in greater biosecurity for live and frozen baitfish collected and imported into Michigan and used by anglers throughout the state.

Social

These regulations have been supported by anglers and the baitfish industry for over a decade. Adding the recommended changes will result in a more robust disease testing process which increases the protection of Michigan's natural resources.

Economic

The Department does not expect the proposed changes to have any significant budgetary or personnel implications.

Recommendation:

Relevant Divisions have contributed to the preparation of this Order. This Order was submitted for information on January 14, 2021, at the Natural Resources Commission meeting. This item appeared on the Department's January 5, 2021 calendar and may be eligible for approval on February 11, 2021.

Signature of Jim Dexter



James Dexter, Chief
Fisheries Division

Signature of Jared Duquette



Jared Duquette, Chief
Wildlife Division

Signature of Ron Olson



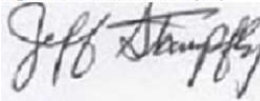
Ronald A. Olson, Chief
Parks and Recreation Division

Signature of Gary Hagler



Gary Hagler, Chief
Law Enforcement Division

Signature of Jeff Stampfly



Jeff Stampfly, Chief
Forest Resources Division

Signature of Shannon Lott



Shannon Lott
Natural Resources Deputy

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



Daniel Eichinger, Director

February 19, 2021

Date

FISHERIES ORDER

Fish Disease Control Order 245.21

Under the authority of Sections 48730(1) and 48728 of 1994 PA 451, as amended, MCL 324.48730(1) and MCL 324.48728, the Director of the Department of Natural Resources on February 11, 2021, ordered that the following fish disease control regulations shall take effect April 1, 2021:

The goals of the Department's actions under this Fish Disease Control Order are to protect the aquatic resources of the State, minimize the spread of pathogens and aquatic invasive species of concern to uninfected waters, and protect the Department's fish hatchery system. The Department will address the control of diseases of fish and aquatic invasive species through the development of regulations that are designed to contain or slow the spread of these threats. This Order acts in conjunction with PA 451, Part 413, Section 41325 to protect our waters from pathogens and aquatic invasive species.

1) Definitions

As used in this order:

- a) Baitfish: live or dead species of any fish, or parts of fish excluding fish eggs, used to harvest or attract fish.
- b) Certification process: a process used by the Department to grant or deny applications from individuals who want to conduct certain activities that are regulated by this order.
- c) Fish: includes live and dead fish of any species or parts other than baitfish and fish eggs as defined by this order.
- d) Fish eggs: eggs of a fish, also known as roe.
- e) Fish Health Guidance Document: Michigan Department of Natural Resources (DNR) Fish Health Testing Guidelines for Moving Game and Bait Fish into the State of Michigan, Stocking of Fish into Public Waters of Michigan, and Baitfish Certification for the State of Michigan, March 2021. See (https://www.michigan.gov/documents/dnr/DNR-fish-hlth-test-requirements_678479_7.pdf) for the referenced document.
- f) Fish Stocking Permit: an official document issued by the Department giving an individual authorization to conduct fish stocking activities.
- g) Approved Fish Species List: fish species that are approved for stocking, importation, or use as baitfish in Michigan Public Waters (as listed in the Fish Health Guidance Document).
- h) Pathogen: viruses, bacteria, fungi, and parasites that cause disease in living organisms.
- i) Purchase: to acquire for a consideration.
- j) Michigan public waters: waters within the jurisdiction of the state having public access, waters with permanent inflow or outflow, or waters that have been stocked using public resources.
- k) Sale or sell: an exchange or attempt or offer to exchange money, barter, or anything of value.
- l) State-licensed baitfish retail, State-licensed baitfish wholesale operations, and State-licensed catchers: those that are required to be licensed by the state of Michigan for these activities.

2) Bait Fish Exclusion Zones

The Department has identified locations vital to the protection of hatchery operations in an effort to control or contain pathogen movement and reduce disease risks to these facilities. In these critical areas restrictions on the possession and subsequent use of baitfish must be implemented. Therefore, baitfish shall not be possessed or used on the following waters of the State:

a) **Benzie County**

Brundage Creek and tributaries Kinney Creek and Stanley Creek, from its confluence with the Platte River (T26N, R13W, S7), to their headwaters, including Brundage Spring Pond.

b) **Chippewa County**

Pendills Lake (T47N, R4W, S25, 26) including tributary Pendills Creek downstream to its confluence with Lake Superior (T47N, R4W, S28).

Sullivan Creek from its headwaters (T46N, R4W, S32) downstream to its confluence with the North Branch of the Pine River (T45N, R4W, S23).

Viddian Creek from its headwaters (T47N, R4W, S32) downstream to its confluence with Pendills Creek (T47N, R4W, S28).

c) **Marquette County**

Cherry Creek from the location of the Cherry Creek Road (T47N, R24W, S18) to the headwaters at County Road 480 (T47N, R25W, S22).

d) **Wexford County**

Slagle Creek from M-37 upstream.

3) General statewide provisions:

- a) It shall be unlawful to place any live fish, live baitfish, or fish eggs into Michigan public waters without first obtaining a Fish Stocking Permit from the Department (https://www.michigan.gov/documents/dnr/Private_Fish_Stocking_Permit_Process_458281_7.pdf), except for fish reared within a facility registered under the Aquaculture Development Act (Public Act 199 of 1996) or otherwise allowed under this Fisheries Order. All fish stocked under a Fish Stocking Permit shall be certified disease-free as described within the Fish Health Guidance Document. Fish transported for stocking outside a facility registered under the Aquaculture Development Act require a Fish Stocking Permit from the Department. If an approved Fish Stocking Permit is issued by the Department, an applicant shall carry a copy of that Fish Stocking Permit when transporting or stocking those fish or eggs. This section does not include the practice of chumming with fish eggs by an angler in the act of recreational fishing.
- b) Baitfish shall only be used on a hook and may not be disposed of or otherwise released into Michigan public waters.
- c) It shall be unlawful to import into this State for use as baitfish any uncertified fish species as described within the Fish Health Guidance Document. This includes live, dead, preserved, frozen, and cut baitfish.
- d) It shall be unlawful to import into this State for use as baitfish any frozen baitfish that are not identified to their scientific (i.e., genus and species) and common name using the official American Fisheries Society publication (citation provided below). Additionally, all imported baitfish will need to be labeled with their location of capture. The scientific and common names along with the point of capture must be clearly shown on all packaging along with testing status of the fish including the testing certification number. The testing status must be documented as one of the following: 1) VHSv-free as determined by testing; or 2) VHSv testing not required in accordance with DNR Fish Health Guidance Document and status approved by DNR.
- e) All species of live fish maintained at a location by an owner of a State-licensed commercial fishing operation shall be considered uncertified if live fish have not been tested following the Fish Health Guidance Document.
- f) It shall be unlawful to purchase and use baitfish, crayfish, or other live organism from any location not licensed under Part 487 of 1994 PA 451 including, but not limited to, pet shops and live fish markets.

4) Commercial Bait

a) Importation from out of state

- i) Status of Fish Health - all persons importing baitfish shall have those baitfish tested as described in the Fish Health Guidance Document and shall submit all tests results to the Department. The Department will review the results for each application and respond with a certification letter that contains a transaction number and indicates whether the application is approved or denied along with the supporting rationale for the decision.

b) Harvest of baitfish from Michigan waters:

- i) Status of Fish Health - From October 1 – May 31 of each year, all persons holding a minnow catcher's license, including an owner of an aquaculture facility regulated and permitted by the Michigan Department of Agriculture and Rural Development, who harvest and wish to offer for sale or sell baitfish listed in the Fish Health Guidance Document shall have the fish tested in accordance with the Fish Health Guidance Document and submit the results to the Department. Baitfish shall be tested from the following waters: 1) all Great Lakes waters to include all tributary streams to the first fish passage barrier; 2) Budd Lake (Clare County); and 3) Baseline Lake (Livingston and Washtenaw Counties). The Department will review the results for each application and respond with a certification letter containing a transaction number and indicates whether the application is approved or denied along with the supporting rationale for the decision.

State-licensed baitfish catchers shall coordinate and collect a single 150 fish sample during June, July, August, and September from each of the 8 testing zones, if fish are to be harvested from these zones, including 1) Saginaw Bay and connecting tributaries to the first fish passage barrier, 2) Black River downstream of the first fish passage barrier (St. Clair County), 3) Lake St. Clair and St. Clair River, 4) Detroit River, 5) Lake Erie, 6) Budd Lake (Clare County), 7) Baseline Lake (Livingston and Washtenaw Counties), and 8) all other Great Lakes waters (Figure 1). Samples from each of the 8 testing zones shall be tested for each pathogen of concern by a certified laboratory approved by the State of Michigan. Sampling plans for each respective zone shall be communicated to Department before samples are collected.

If any baitfish test positive for any pathogen of concern during the June - September testing period from the 8 testing zones, then the Department shall take immediate emergency action to temporarily amend this Order and require additional testing certification of baitfish harvested June – September 30. The Department will notify all licensed bait harvesters of the testing results and any subsequent emergency regulatory actions. If emergency action is taken, additional testing requirements shall take immediate effect and shall remain in place until the Department determines that the pathogen threat has sufficiently diminished to lift the emergency order and reinstate the seasonal monthly testing requirement outlined in this Order.

c) General Regulations for Commercial Bait

- i) All Michigan baitfish wholesalers are required to be licensed by the state of Michigan and must complete the following certification process for their facility or business:
 - (1) Status of a Facility - If keeping and holding baitfish at a facility for prolonged distribution and sale, baitfish wholesalers shall have that facility reviewed by the Department to ensure that there is minimal risk to Michigan public waters and that appropriate biological security measures are effective for the facility. The Department will review the results for each application and respond with a certification letter for facility status that either grants or denies the application and includes the Department's rationale for the decision, as well as the actions necessary for achieving certification. Once certified and licensed, facility operators who wish to continue being licensed must inform the Department in writing by September 30th each year whether changes were made to the facility during the current license year. If the facility is unchanged, a new certification will be issued with the new license year. If changes were made to the facility, a new certification process must be initiated at that time. This part does not apply to an owner of an aquaculture facility regulated and permitted by the Michigan Department of Agriculture and Rural Development or an owner of a State-licensed baitfish retail operation.
 - (2) Statement of Direct Sale – If a wholesaler ships baitfish directly from the point of harvest or immediately after purchase from another licensed wholesale to licensed bait retailers in Michigan, that wholesaler shall notify the Department at the time of license application of their intent of direct sale only. The Department will respond with a letter of authorization for direct wholesale shipments to licensed retailers.
- ii) A person shall not offer for sale or sell any baitfish that are listed in the Fish Health Guidance Document that were imported from out-of-state or were harvested in Michigan without receiving a certification letter for fish health status from the Department permitting such activity.
- iii) If an approved certification for fish health status is issued by the Department, a copy shall be carried by the baitfish wholesaler or retailer when transporting, offering for sale, or selling baitfish that are listed in

the Fish Health Guidance Document and harvested in Michigan waters. That certification letter shall be shown upon request to any law enforcement officer or Fisheries Division representative.

- iv) An owner of a State-licensed baitfish wholesale operation shall provide to each wholesale and retail purchaser at the point of sale a copy of a receipt for their purchase that will include the date of purchase, the quantity of each species sold, the official common name of the species sold (as listed in the Fish Health Guidance Document) or the official American Fisheries Society publication (citation provided below), and the applicable certification number for fish health status for species harvested in Michigan's public waters that are listed in the Fish Health Guidance Document. All wholesale frozen bait transactions must provide to each wholesale and retail purchaser at the point of sale a copy of a receipt for their purchase including the location of capture, the scientific and common names using the official American Fisheries Society publication (citation provided below), and the testing status of the fish including the DNR testing certification number and certification letter.
- v) A State-licensed baitfish wholesaler must have a copy of the Fish Health Certification Status letter at their facility, as well as a receipt of purchase to accompany any baitfish they possess that was either imported into Michigan or harvested in Michigan. The letter and receipt shall be made available upon request of any law enforcement officer or a Fisheries Division representative.
- vi) A wholesale baitfish dealer shall retain copies of receipts for purchases and all accompanying testing paperwork for at least one year after the date of purchase.

5) Literature Cited:

- a) Page, L. M., H. Espinosa-Pérez, L. T. Findley, C. R. Gilbert, R. N. Lea, N. E. Mandrak, R. L. Mayden, and J. S. Nelson. 2013. Common and scientific names of fishes from the United States, Canada, and Mexico, 7th edition. American Fisheries Society, Special Publication 34, Bethesda, Maryland.

This Order shall be assigned number FO-245.21, and is entitled "Fish Disease Control." If a discrepancy occurs between this Fish Disease Control Order, FO-245.21, and other orders and laws currently in existence, the more restrictive regulation shall take precedence.

This Order supersedes the Order entitled "Fish Disease Control," which became effective April 14, 2016, and was assigned number FO-245.16.

Fisheries Order 245.21 shall take effect on April 1, 2021. This Order shall remain in effect through March 31, 2026, or until this Order is amended or rescinded, whichever comes first. Although this Order may be reviewed and amended on an annual basis, a review of this Order shall occur no later than August 1, 2025.

Issued on this 11th day of February, 2021.

Approved as to matters over which the Director has authority.

A handwritten signature in blue ink, appearing to read "Daniel Eichinger", with a stylized flourish at the end.

Daniel Eichinger
Director

