



# Mute Swan Management and Control Program Policy and Procedures

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The feral, free flying, mute swan (*Cygnus olor*) population is large and expanding in Michigan. The 2010 spring statewide population was estimated to be approximately 15,500 as compared to the estimate of 5,700 in 2000. Ecological impacts of the increasing population of this exotic species include disturbance and destruction of submerged aquatic vegetation, competition with native breeding waterfowl such as trumpeter swans, and competition with the threatened common loon. As the population has grown, so has the level of conflict with humans. Reported attacks on humans in boats and on shore have become more frequent. Implementation of management efforts will help to ensure protection of wetland habitats; ensure breeding success of the threatened trumpeter swan, the threatened loon, and other native waterfowl; and reduce the number of potentially dangerous conflicts with humans.

## *Policy*

The short-term (2011-2016) goals for management efforts are to 1) reduce the mute swan population to zero on Department of Natural Resources (DNR) administered lands, and 2) reduce the statewide mute swan population growth to zero on all other lands.

The long-term goal (2030) is to maintain a spring population less than 2,000 mute swans throughout Michigan.

This policy contains detailed procedures for the Wildlife Division (WLD) staff to manage mute swans, including issuance of permits to private landowners and other public agencies. Progress toward long- and short-term goals can be adequately assessed by the Michigan Spring Breeding Waterfowl Survey and trumpeter swan population estimates. The Wildlife Division Mute Swan Management and Control Program Policy and Procedures will be reviewed in 2016. However, the management program will be revised and updated as needed.

## **I. Authority**

### *Federal Authority*

On December 28, 2001 the United States Court of Appeals for the D.C. Circuit ruled that mute swans are migratory birds, which afforded them protection under the Migratory Bird Treaty Act (MBTA). Previously, mute swans were not protected under federal law, and their regulation was under the exclusive jurisdiction of the states. Protection of the mute swan was removed when the US Congress passed the Migratory Bird Treaty Reform Act in 2004. The act amends the original MBTA to state that it applies only to migratory bird species that are native to the United States or its territories. The Final List of Bird Species to Which the Migratory Bird Treaty Act Does Not Apply was published in the Federal Register March 15, 2005. **The federal government has no regulatory interest in mute swans.**

### *State Authority*

The Department, under Public Act 451 of 1994, is empowered to “protect and conserve the natural resources of this state” [MCL 324.503 (1)]. In addition, MCL 324.40105 states, “All animals found in this state, whether resident or migratory and whether native or introduced, are the property of the people of the state, and the taking of all animals shall be regulated by the Department, as provided by law.” Further, the Department has authority to issue orders determining the kinds of animals that may be taken and determining the animals or kinds of animals that are protected [MCL 324.40107 (1)].

The Department exercises its regulatory authority for mute swans through the Wildlife Conservation Order. The Wildlife Conservation Order specifically authorizes the following actions specifically for mute swans:

#### **9.1 Permitted acts; certain species.**

Sec. 9.1. (2) Mute swans and their eggs and nests may be taken by department personnel, and persons authorized by the department to control mute swans under one or more of the following situations:

- (a) To stabilize or reduce mute swan population levels or to prevent new populations of feral mute swans from being established in this state.
- (b) To prevent mute swans interference with the establishment, reestablishment, or reproductive success of native wildlife and with the establishment or reestablishment of native vegetation.
- (c) To prevent mute swans interference with the establishment, reestablishment, or reproductive success of endangered or threatened species.
- (d) To protect public health, safety, or welfare.

(3) Mute swans taken as provided in this section shall not be released back into the wild in this state.

Other, related, regulatory authority for mute swans is provided in Section 5.51 (Damage and nuisance animal control permit, issuance) and Section 5.74a (Animals of special concern, possession, transportation and disposal) of the Wildlife Conservation Order.

## **II. Procedures**

### **A. Public Health, Safety, or Welfare Considerations**

At any time, if mute swans are endangering or about to endanger public health, safety, or welfare, mute swans and their eggs and nests may be taken on public or private property:

- By DNR personnel,
- By local and state police agencies, or
- Under Department permit issued by the Wildlife Division (WLD) Regional Supervisor, their designee, or the Law Enforcement Division (LED) District Supervisor to local units of government, private citizens or a contracted nuisance animal control firm or agency.

### **B. Native and Endangered/Threatened Species Concerns**

1. At any time, if conflicts on public or private lands occur involving threatened, endangered, and native species, mute swans and their eggs and nests may be taken on public or private property:
  - By DNR personnel,
  - By local and state police agencies, or
  - Under a Department permit issued by the WLD Regional Supervisor, their designee, or the LED District Supervisor to local units of government, private citizens or a contracted nuisance animal control firm or agency.
2. The number of swans removed under the permit shall be determined by the WLD Regional Supervisor, their designee, or the LED District Supervisor. If the permit authorizes take on private lands, the landowner shall be engaged in the determination of the management actions specified under the permit. The protection and conservation of threatened, endangered, or native plant and animal species shall be given precedence in the decision-making process.
3. A written report of the number of mute swans removed, the nest locations, the number of eggs destroyed or removed, and the total hatch for the year shall be submitted to the issuing office of the Department within 15 days of management activities by the person(s) to whom the permit was issued. Failure to comply with the reporting requirement will invalidate the permit issued under this policy.

### C. Population Stabilization, Reduction, and Prevention on Public Land

To meet population goals and to prevent mute swan establishment and interference with the establishment, reestablishment or reproductive success of native wildlife and the establishment or reestablishment of native vegetation on public lands, mute swans may be removed (as outlined in [Section G](#)), nests destroyed, and eggs destroyed/removed (as outlined in [Section H](#)) under the following conditions:

#### 1. WLD Administered Properties, State Parks, Recreation Areas, and Forest Lands

Mute swans will be managed on all WLD administered properties, state parks, recreation areas, and forest lands by DNR personnel or by a permitted nuisance animal control firm or agency, or individual.

#### 2. Single County, Township and City Ownership, or National Park, Wildlife Refuge, and Forest Interest

Permit requests must be submitted in writing for mute swan removal by the land manager and illustrate alignment with area wildlife objectives. Permits will be issued by the WLD Regional Supervisor or their designee and will be valid for five years.

#### 3. Multiple Township and City Ownership

Permit requests must be submitted in writing for mute swan removal by the land manager, illustrate alignment with area wildlife objectives, and accompany resolutions of consent from the affected municipal governments. Permits will be issued by the WLD Regional Supervisor or their designee and will be valid for five years.

##### a. Resolution

i. When proposed control activities will affect more than one unit of municipal government with an interest in the waterbody, resolutions that approve mute swan management activities for the related areas must be obtained for each unit. Copies of the resolutions must be offered to the WLD Regional Supervisor with the application for a permit.

- If resolutions for approval cannot be obtained for each impacted municipal governmental unit, but control activities can be confined to areas related to the consenting unit(s) as supported by resolution(s), then activities may proceed.
- If the control activities cannot be confined to the areas related to the consenting city or township governmental unit(s), a resolution of support from the county commission can allow for control activities on the waterbody to take place.

ii. Resolutions will be considered valid for 5 years as defined in [Section E](#).

#### 4. Reporting

A written report of the number of mute swans removed, the nest locations, the number of eggs destroyed or removed, and the total hatch for the year shall be

submitted to the issuing office of the Department within 15 days of management activities by the person(s) to whom the permit was issued. Failure to comply with the reporting requirement will invalidate the permit issued under this policy.

#### D. Population Stabilization, Reduction, and Prevention on Private Land

To stabilize population levels, to prevent new populations, and to prevent mute swan establishment and interference with the establishment, reestablishment or reproductive success of native wildlife and the establishment or reestablishment of native vegetation on private lands, mute swans may be removed (as outlined in [Section G](#)), nests destroyed, and eggs destroyed/removed (as outlined in [Section H](#)) under the following conditions:

##### 1. Residential and Commercial Properties-Single Ownership/Sole Riparian Interest

When the lands encompassing a mute swan nest are owned by a single entity or when the waters utilized by mute swans are controlled by a single riparian, that owner or their designee may remove mute swans and their eggs and nests under permit issued by the WLD Regional Supervisor, their designee, or the LED District Supervisor.

##### 2. Multiple Lakeshore and Riparian Landowners

When lands encompassing a mute swan nest are owned by multiple entities or when the waters utilized by mute swans are controlled by multiple riparian interests, mute swans and their eggs and nests may be removed under permit issued by the WLD Regional Supervisor, their designee, or the LED District Supervisor pursuant to the following:

###### a. Petition

- i. The lakeshore landowners, or lake association representing lakeshore landowners, or other riparian landowners must document the extent of the problem and must concur through a petition offered to the WLD Regional Supervisor that population control is desirable.
- ii. This petition is approved by 70 percent of the lakeshore landowners.
- iii. The lake association, or other petition circulators, certifies that the list of names on the petition has been verified by the township or other local unit of government, and that the governmental unit has a list of all eligible property owners.
- iv. The lake association, or other petition circulators, certifies that a reasonable attempt to contact all lakeshore landowners was made, and must indicate when/where the petition is available for public review.
- v. The petition document(s) presented to the lakeshore landowners for signature and made available for public review, specifies what activities are proposed for population management.
- vi. Petitions will be considered valid for 5 years as defined in [Section E](#).

###### b. Resolution

- i. A local government official (township, city, etc.) representing the property owners on the subject lake, body of water, defined riparian area, and/or site may issue a resolution that approves mute swan management activities for that site. A copy of the resolution must be offered to the WLD Regional Supervisor with the application for a permit.
- ii. When proposed control activities will affect more than one unit of municipal government with an interest in the waterbody, resolutions that approve mute swan management activities for the related areas must be obtained for each unit. Copies of the resolutions must be offered to the WLD Regional Supervisor with the application for a permit.
  - If resolutions for approval cannot be obtained for each impacted municipal governmental unit, but control activities can be confined to areas related to the consenting unit(s) as supported by resolution(s), then activities may proceed.
  - If the control activities cannot be confined to the areas related to the consenting governmental unit(s), a resolution of support from the county commission can allow for control activities on the waterbody to take place.
- iii. Resolutions will be considered valid for 5 years as defined in [Section E](#).

### 3. Single Bottomland Ownership

- a. When the bottomlands of a water body are solely owned by a single entity, the owner or their designee may remove mute swans, eggs, or nests from their property with a written permit issued by the WLD Regional Supervisor or the LED District Supervisor. Bottomlands owned by multiple interests must apply for a permit utilizing the procedure described in [Section D. 2](#) of this policy.
- b. All removal of eggs, nests, and/or birds must occur on waters of the bottomland.
- c. The bottomland owner must notify all landowners adjacent to the water body of mute swan management activities planned before they commence and provide proof of notification to the WLD Regional Supervisor or the LED District Supervisor.

### 4. Reporting

A written report of the number of mute swans removed, the nest locations, the number of eggs destroyed or removed, and the total hatch for the year shall be submitted to the issuing office of the Department within 15 days of management activities by the person(s) to whom the permit was issued. Failure to comply with the reporting requirement will invalidate the permit issued under this policy.

## E. Issuance of Permits

Permits to control mute swans may be issued as authorized by the WCO Section 5.51. Permits may be issued by either the WLD Regional Supervisor, their designee, or the

LED District Supervisor. Permits shall be valid for five years or until the management needs identified in [WCO 9.1](#) are no longer applicable. Permits may be revoked prior to expiration date if the guidelines in this policy are not followed or if management activities result in a threat to public health or safety. Permits shall be issued to landowners, lessees, or land managers and shall contain the following:

1. Name of landowner, land manager, or lessee,
2. Name of designated agent or licensed nuisance animal control firm or agency (when required) to conduct the control of the mute swans.
3. Authorized swan capture, euthanasia, and/or removal methods. Methods of capture, euthanasia, and/or removal must be as outlined in [Section G](#) of this document unless otherwise authorized by the veterinarian-in-charge at the WLD Wildlife Disease Lab,
4. Authorized carcass disposal methods as outlined in [Section I](#) of this document,
5. Authorized methods of nest and egg destruction or removal as outlined in [Section H](#) of this document.

F. Nuisance Animal Control Firms and Agencies

Nuisance animal control firms and agencies conducting mute swan removal must be permitted by the WLD. Equipment used to capture, euthanize, and/or remove mute swans must be consistent with [Section G](#) of this document.

G. Approved Methods of Capture, Euthanasia, and/or Removal

Rehabilitation of mute swans is not allowed and under no condition will captured mute swans be released back into the wild in Michigan. With the exception of an individual that is in imminent danger or being attacked by a mute swan, only DNR personnel, local, state, and federal law enforcement, permitted nuisance animal control firms or agencies, permitted individuals, or permitted landowners (or their designee) may destroy mute swans. The method of capture, euthanasia, and/or removal will be indicated in the permit issued to the individual or landowner.

1. Swans will be euthanized by one of the following methods approved by the American Veterinary Medical Association:
  - a. Live capture and euthanized by a veterinarian at the WLD Wildlife Disease Lab,
  - b. Live capture and inhalation of carbon dioxide,
  - c. Live capture and injection of approved euthanasia drugs,
  - d. Live capture and cervical dislocation,
  - e. Capture with Alpha Chloralose: Alpha Chloralose may be used only by USDA/Wildlife Services personnel to capture mute swans. Pursuant to FDA restrictions, waterfowl captured with Alpha Chloralose for subsequent euthanasia must be killed and buried or incinerated, or
  - f. Single shot to the head with approved firearm as indicated in the permit.

2. If lethal shooting of free swimming mute swans is allowed on the permit, the permit holder must follow all safety protocols. Where feasible, firearms should be restricted to those lawfully allowed during the regular waterfowl season. Shot must be restricted to nontoxic varieties.
3. Department personnel do not require a permit to capture, euthanize, and/or kill mute swans. Department personnel and local and state police agencies may use firearms and ammunition consistent with those used in their day-to-day operations or those deemed appropriate by the WLD Regional Supervisor or the LED District Supervisor.
4. If another swan species is incidentally shot by a permit holder, it must be reported immediately and its carcass must be turned over to the WLD Regional Supervisor or the LED District Supervisor.

#### H. Egg and Nest Destruction

Mute swan eggs and nests may be destroyed only in the following manner:

1. Eggs may be sprayed with or submerged in 100% food-grade corn oil. The entire surface of the egg must be coated. Eggs that are destroyed should be placed back in the nest to prevent re-nesting,
2. Eggs may be shaken and placed back in the nest to prevent re-nesting,
3. Eggs may be chilled,
4. Eggs may be removed and disposed of according to local ordinances and applicable state laws,
5. Nest material may be physically removed or altered to deter nesting and/or re-nesting, and/or
6. If nesting mute swans are removed as outlined in [Section G](#), nests and eggs may be destroyed and removed to deter nesting and/or re-nesting by other mute swans.

#### I. Carcass Disposal

Mute swans euthanized or removed by approved methods, as outlined in [Section G](#), must be incinerated, buried, or placed in landfill according to federal, state, and local regulations.

#### J. Notification of Management Activities

Prior to undertaking an approved method of capture, euthanasia, and/or removal as outlined in [Section G](#) or egg and nest destruction as outlined in [Section H](#), the permit holder must call 1 800-292-7800 and render any information requested by the Report All Poaching (RAP) office of the DNR, including but not limited to:

1. Location of control activity
2. Date and approximate time of control activity
3. Description and count of individuals involved in the control activity



4. Description of the equipment (boats, etc.) used in the control activity.

K. Captive Mute Swans

Mute swans are currently held in Michigan by persons with a [Permit to Hold Wildlife in Captivity](#). Some birds (including progeny produced) escape from persons with permits and contribute to the feral population problem.

1. Pinioning and Banding Requirements

To prevent and control escape of mute swans to the wild from captive facilities, all progeny produced in captivity must have one wing pinioned within five days after hatch and fitted with numbered leg bands provided by the WLD Regional Supervisor or their designee.

2. Importation

The importation of mute swans or the eggs of mute swans is prohibited.

[Note exception for commercial re-importation across state lines by a licensed facility in Section K.3.a].

3. Commercial Use of Mute Swans

- a. Some banded adult mute swans are shipped out-of-state each spring by Michigan licensed breeders to supply show ponds in neighboring states. These birds are then imported back into Michigan for the winter period. The importation back into Michigan of banded Michigan birds is lawful, provided interstate shipping regulations of the Michigan Department of Agriculture and Rural Development are complied with and the facility engaging in the activity has a Permit to Hold Wildlife in Captivity. This importation is permitted under provisions of the interstate commerce clause. Birds not originating in Michigan may not be imported.
- b. Some captive mute swans are moved within the state from one location to another. This is lawful provided the locations are licensed under the Permit to Hold Wildlife in Captivity, and the birds are transported and held in accordance with all permit requirements.
- c. Captive mute swans may be exported to other states only with written permission from the State agency responsible for wildlife management in the receiving state.

L. Public Contact Record

All mute swan contacts from the public shall be systematically recorded at all Department Operations Service Centers and field offices on the Mute Swan Public Contact Record form (Attachment 1). An annual summary by each WLD Region shall be forwarded to the Waterfowl and Wetland Specialist by December 1 each year.

M. Record of Management Activity

DNR personnel will submit a report of the number of mute swans removed, the nest locations, the number of eggs destroyed or removed, and the total hatch for the year on state managed properties to the Waterfowl Specialist by December 31 of each year.

WLD Regional Supervisors and LED District Supervisors will submit a report of the number of permits issued, the number of mute swans removed, and the number of eggs destroyed or removed per site to the Waterfowl Specialist by December 31 of each year.

N. Monitoring-Population Surveys

1. Mute swans will be counted statewide in conjunction with the annual Michigan Spring Breeding Waterfowl Survey, as outlined in an annual accomplishment directive issued by the Waterfowl and Wetland Specialist and the Wildlife Research and Management Section Supervisor. The count data will be used to track the status and distribution of the resident mute swan population in Michigan.