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GOVERNOR

STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES

LANSING

REBECCA A. HUMPHRIES
DIRECTOR

SUBMITTED: September 14, 2009
RESUBMITTED: October 12, 2009

Memorandum to the Natural Resources Commission

SUBJECT: Authority for Supplemental Feeding Deer
Wildlife Conservation Order Amendment No. 20 of 2009
FOR INFORMATION ONLY

Authority:

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

Discussion and Background:

Legislation granting the Natural Resource Commission (NRC) the authority to regulate the feeding of deer and elk was originally passed in 1999 with a sunset clause. The legislation was renewed in 2004 with a new sunset of January 1, 2010. It is anticipated that the Legislature will act by the end of 2009 to extend the authority of the NRC to regulate the feeding of deer and elk. This authority provides the NRC with the ability to address needs of deer and elk related to disease issues that have become increasingly important in recent years.

Supplemental feeding of deer has been allowed in Ontonagon, Houghton, Keweenaw, Baraga, Alger, Luce, and those portions of Marquette and Chippewa counties north of the T43N-T44N boundary line under Department of Natural Resources (DNR) permit since 2003. Feeding has been allowed from the Monday following January 1 and not to extend beyond May 15 of each year. Permits have been issued by the DNR so long as the applicant has permission from the landowner or the land administrator, and the feed is placed at least one mile away from livestock, specific agricultural crops, and at least one-quarter mile from paved public roads. Feed is limited to grains or pelletized food that is scattered or dispersed on the ground. Permittees are required to report to the DNR on their feeding activities by May 30 of each year.

The DNR and the NRC plan to maintain the same regulations in 2010 regarding deer and elk feeding as in the past two years, if authority is extended by the Legislature. This amendment continues the requirement for a permit for supplemental feeding of deer in the above listed counties and all the restrictions and allowances that were in effect in 2008 and 2009.

NATURAL RESOURCES COMMISSION
Keith J. Charters, Chair ● Mary Brown ● Hurley J. Coleman, Jr. ● John Madigan ● Timothy L. Nichols ● J. R. Richardson ● Frank Wheatlake

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The legislation granting the NRC the authority to regulate the feeding of deer and elk is presently scheduled to sunset on January 1, 2010.

Recommendation:

This order is being submitted for information and consideration at the October 8, 2009, and November 5, 2009, Natural Resources Commission meetings. This item appeared on the Department's October and November 2009 calendars and may be eligible for approval on December 3, 2009.

Russ Mason, Ph.D., Chief
Wildlife Division

Ronald A. Olson, Chief
Parks and Recreation Division

Lynne M. Boyd, Chief
Forest, Mineral, and Fire Management

Gary Hagler, Chief
Law Enforcement Division

Arminda S. Koch
Resource Management Deputy

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

Rebecca A. Humphries
Director

WILDLIFE CONSERVATION ORDER

Amendment No. 20 of 2009

Under the authority of sections 40107, 40111a, and 40113a, Act No. 451 of the Public Acts of 1994, as amended, being sections 324.40107, 324.40111a, and 324.40113a of the Michigan Compiled Laws, the Natural Resources Commission and the Director of the Department of Natural Resources ordered that effective December 4, 2009, the following section of the Wildlife Conservation Order shall read as follows:

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 within the Lower Peninsula.

Deer and elk feeding prohibited except for recreational viewing and supplemental feeding, conditions for baiting and feeding in certain areas.

(2) In the Upper Peninsula 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 chronic wasting disease (CWD) is documented within the Upper Peninsula or within 50 miles of the Upper Peninsula's border with another state or Canadian province, the director shall issue an interim order banning the use of bait and banning the feeding of deer and elk within the Upper Peninsula.

Recreational viewing in areas not closed to feeding, conditions.

(3) In the Upper Peninsula a person may engage in deer and elk feeding for recreational viewing only if all of 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 at any 1 point in time.

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

Deer or elk feeding on property under a person's ownership or lease, prohibited conduct, "person" defined.

(4) 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 non-governmental 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, Act 451 of the Public Acts of 1994, being sections 51101 to 51120 of the Michigan Compiled Laws.

Meaning of words and phrases.

(5) For the purposes of this section:

(a) "Deer and elk feeding" shall have the same meaning as defined by section 40102 of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, being section 40102 of the Michigan Compiled Laws.

(b) "Feed" shall have the same meaning as defined by section 40102 of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, being section 40102 of the Michigan Compiled Laws.

(c) "New world camelids" means animals belonging to the genus llama and vicuna of the family camelidae of the order artiodactyla including, but not limited to, the llama, alpaca, vicuna, and guanaco.

(d) "Residence" shall have the same meaning as defined by section 40103 of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, being section 40103 of the Michigan Compiled Laws.

Supplemental feeding of deer, counties listed, conditions.

(6) A person may engage in the supplemental feeding of deer in Ontonagon, Houghton, Keweenaw, Baraga, Alger, Luce, and those portions of Marquette and Chippewa counties north of the T43N-T44N boundary line if all of the following conditions are met:

(a) Prior to placing any feed, the person first acquires permission of the respective public land administrator and private property owner and a supplemental deer feeding permit issued by a department wildlife biologist. A person engaged in supplemental deer feeding shall possess a copy of the supplemental deer feeding permit and shall produce the permit upon the request of a conservation officer.

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

(i) The placement of feed shall not begin prior to the Monday following January 1 and shall not extend beyond May 15 unless otherwise specified in the supplemental deer feeding permit.

(ii) All feed shall be placed ¼ mile or more from the nearest paved public highway unless otherwise specified in the supplemental deer feeding permit.

(iii) All feed shall be placed at least 1 mile from cattle, goats, sheep, new world camelids, bison, swine, horses, or captive cervidae unless otherwise specified in the supplemental deer feeding permit.

(iv) 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, unless otherwise specified in the supplemental deer feeding permit.

(v) The feed shall consist solely of grains and pelletized food materials containing no animal protein which is scattered or dispersed directly upon the ground to a depth which shall not exceed 3 inches.

(c) A person issued a supplemental deer feeding permit shall agree to assist the department in the collection of deer tissue samples for disease surveillance.

(d) A person issued a supplemental deer feeding permit shall report by May 30 the quantity and type of feed used, dates and duration of feeding, and other information as may be specified in the supplemental feeding permit. The department shall report to the commission the number of permits issued, quantity of feed used, and other relevant supplemental deer feeding information.

(e) Failure to comply with all provisions of a supplemental deer feeding permit shall make the permittee ineligible for any future supplemental deer feeding permits.

Issued this 3rd day of December 2009.

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

Keith J. Charters, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

Rebecca A. Humphries
Director