STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

REBECCA A. HUMPHRIES
DIRECTOR

SUBMITTED: June 7, 2010
RESUBMITTED: July 12, 2010

APPROVED
_____, 20____
MICHIGAN NATURAL RESOURCES COMMISSION
_____
(ASSISTANT TO THE COMMISSION)

Memorandum to the Natural Resources Commission

SUBJECT: Supplemental Feeding of Deer
Wildlife Conservation Order Amendment No. 14 of 2010

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 and again in 2009, with a new sunset of January 1, 2016. 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.

The Department recognizes that some individuals and groups want to feed deer with private funds on private lands. Feeding concentrates animals and close animal-to-animal contact and stress facilitates the transmission of diseases. The biological issues associated with supplemental feeding have increased in recent years based on the existence of bovine tuberculosis in northeast Michigan, the existence of chronic wasting disease (CWD) in wild deer in an adjacent state, and the discovery of CWD in a captive deer in southern Michigan.

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 has been allowed under Department permit since 2003. Feeding in these areas is allowed from the Monday following January 1 and shall not extend beyond May 15 of each year. Permits will be issued by the Department so long as the applicant has permission from the landowner or the land administrator, and the feed is placed away from livestock, specific agricultural crops, and at least one-quarter mile from paved public roads. Feed has been limited to grains or pelletized food that is scattered or dispersed on the ground. This amendment proposes to add second cut alfalfa and clover as an acceptable food. Permittees are required to report to the Department on their feeding activities by May 30 of each year.

This amendment proposes to add Gogebic County to the locations that may supplementally feed deer under the restrictions in place since 2003. The annual lake-effect snow quantity seen in Gogebic County is similar to that experienced in much of the area presently open to supplemental feeding of deer.

This proposal also opens the southern tier of the Upper Peninsula (UP) to supplemental feeding of deer based on a predictive model of winter severity using accumulated snow depth measurements. Snow depths are measured weekly at several sites throughout the UP beginning the Monday nearest to November 7. When the average snow accumulation at the Crystal Falls and Escanaba stations reaches 48 inches by the Monday nearest January 15, supplemental feeding of deer will be allowed in Iron, Dickinson, Delta, Menominee, and that portion of Marquette County south of the T43-44N boundary line. When the average snow accumulation at the Manistique and Naubinway stations reaches 60 inches by the Monday nearest January 15, supplemental feeding of deer will be allowed in Schoolcraft, Mackinac, and that portion of Chippewa County south of the T43-44N boundary line. All of the feeding restrictions and conditions that presently exist in the northern UP will also exist in the proposed areas.

These proposed criteria for supplemental deer feeding in the southern UP would have qualified the western and eastern portions of the UP for supplemental feeding in eight and seven years, respectively, out of the past 18 years. Only one winter in each region that had significant negative effects on deer survival in the past 18 years would not have qualified for supplemental feeding under the proposed criteria. Different snow accumulation thresholds are being used for the western and eastern regions of the UP as snow persistence differences in response to the regional characteristics of deer habitat and climate. The effect on deer survivability is heavily dependant on snow persistence as well as depth.

All restrictions and criteria on supplemental feeding permits which currently exist in the northern UP will also apply to the proposed expanded areas. These restrictions assist in reducing vehicle-deer accidents, separating deer from livestock, decreasing the susceptibility of cultivated crops to deer damage, and assuring that feed is both properly nutritious and digestible. These restrictions also allow proper monitoring and evaluation of the quantity of feed being distributed and the number of deer being affected.

This liberalization of supplemental feeding has been actively sought by many individuals and groups in the UP. This proposal is the result of several meetings between Wildlife Division biologists and the UP Sportsman Alliance.

Recommendation:

This order was submitted for information on July 8, 2010, at the Natural Resources Commission Meeting. This item appeared on the Department's June 2010 calendar and may be eligible for approval on August 12, 2010.

Russ Mason, Ph.D., Chief
Wildlife Division

Ronald A. Olson, Chief
Recreation Division

Lynne M. Boyd, Chief
Forest Management Division

Gary Hagler, Chief
Law Enforcement Division

Arminda S. Koch, Deputy Director
Resource Management

Frank Ruswick, Deputy Director
Stewardship

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. 14 of 2010

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 and Environment ordered that effective August 13, 2010, 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, 1994 PA 451, MCL 324.51101 to 324.51120.

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, 1994 PA 451, MCL 324.40102.

(b) "Feed" shall have the same meaning as defined by section 40102 of the Natural Resources and Environmental Protection Act, Act No. 1994 PA 451, MCL 324.40102.

(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, 1994 PA 451, MCL 324.40103.

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, Gogebic, and those portions of Marquette and Chippewa counties north of the T43N-T44N boundary line if all of the following conditions are met:

(a) 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.

(b) All conditions in section 3.100a (9) of this order are met.

(7) A person may engage in the supplemental feeding of deer in Iron, Dickinson, Delta, Menominee, and that portion of Marquette county south of T43N-44N boundary line if all the following apply:

(a) The average snow accumulation reported by the Crystal falls and Escanaba department field offices reaches 48 inches by the Monday nearest January 15.

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

(c)All conditions in section 3.100a (9) of this order are met.

(8) A person may engage in the supplemental feeding of deer in Schoolcraft, Mackinac and that portion of Chippewa county south of T43N-44N boundary line if all the following apply:

(a) The average snow accumulation reported by the Manistique and Naubinway department field offices reaches 60 inches by the Monday nearest January 15.

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

(c) All conditions in section 3.100a (9) of this order are met.

(9) The following conditions must be met to engage in the supplemental feeding of deer in areas noted in section 3.100a (6) TO (8) of this order:

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

(ii) 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.

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

(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 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 12th day of August 2010.

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

Timothy L. Nichols, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

Rebecca A. Humphries
Director