



STATE OF MICHIGAN



JENNIFER M. GRANHOLM
GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

LANSING

REBECCA A. HUMPHRIES
DIRECTOR

SUBMITTED: August 29, 2008
RESUBMITTED: September 15, 2008

<p>A P P R O V E D</p> <p>_____, 20____</p> <p>MICHIGAN NATURAL RESOURCES COMMISSION</p> <p>_____ (ASSISTANT TO THE COMMISSION)</p>
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MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

SUBJECT: Ban on Baiting and Feeding of Deer and Elk in the Lower Peninsula
Wildlife Conservation Order Amendment No. 15 of 2008

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:

The Natural Resources Commission (NRC) amended Section 3.100a of the Wildlife Conservation Order (WCO) on June 8, 2002, based on the draft Michigan Surveillance and Response Plan for Chronic Wasting Disease of Free-Ranging and Privately-Owned Cervids (CWD Plan). The final CWD Plan was signed by the Directors of the Departments of Natural Resources and Agriculture on August 26, 2002. The CWD Plan requires a ban on all feeding and baiting of cervids within the peninsula where CWD is documented. Subsection (2) of section 3.100a of the WCO requires the Director to implement this ban on baiting and feeding in the affected peninsula.

On August 25, 2008, the National Veterinary Services Laboratory in Ames, Iowa, confirmed CWD in a deer from a privately-owned facility in Kent County. The confirmation from Ames, Iowa, initiated WCO 3.100a(2). An interim order by the Director was issued on August 26, 2008, implementing a ban on feeding and baiting in the Lower Peninsula. The interim order expires on February 26, 2009.

This amendment replaces the Director's Interim Order which banned feeding and baiting of deer and elk in the Lower Peninsula.

NATURAL RESOURCES COMMISSION
Keith J. Charters, Chair • Mary Brown • Hurley J. Coleman, Jr. • Darnell Earley • John Madigan • J. R. Richardson • Frank Wheatlake

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Page 2

September 15, 2008

Recommendation:

This order was submitted for information on September 11, 2008, at the Natural Resources Commission Meeting. This item appeared on the Department's September 2, 2008, calendar and may be eligible for approval on October 9, 2008.

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. 15

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 October 10, 2008, the following section(s) of the Wildlife Conservation Order shall read as follows:

3.100 Taking of deer, prohibited firearms, "bait" and "baiting" defined, conditions for baiting established in certain area; unlawful acts.

Sec. 3.100. (1) A person shall not use a rimfire firearm .22 caliber or smaller for the taking of deer.

(2) A person shall not pursue, capture, shoot, kill, chase, follow, harass, or harm a deer while the deer is swimming in a pond, lake, stream, or other body of water.

(3) For the purposes of this section, "bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, which may lure, entice or attract deer. "Bait" does not include 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.

(4) It shall be unlawful for a person to make use of bait to aid in the taking of a deer within the Lower Peninsula.

(5) In the Upper Peninsula a person may engage in baiting only if all of the following conditions apply:

(a) The baiting occurs only from October 1 to January 1.

(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.

(6) 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 (5) unless specifically authorized in the minimum quantity and for the minimum time required under the conditions of a permit issued pursuant to chapter V for a scientific research project or for the control of deer by a governmental agency.

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 $\frac{1}{4}$ 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 9th day of October, 2008.

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