

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, AMENDING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.07(1)(g); amend NR 10.001(2) and (14); and to create NR 10.001 (7e), (23e), 10.07(2), 19.001(4) and (15m), and 19.60 relating to the regulation of baiting and feeding to control and manage chronic wasting disease.

WM-09-03

Analysis Prepared by Department of Natural Resources

Statutory Authority: § 29.014 , 29.063, 29.335, and 227.11, Stats.

Statutes Interpreted: § 29.063 and 29.335, Stats.

Sections 1 Amends the definition of bait.

Section 2. Defines decoy.

Section 3. Amends the definition of liquid scent.

Section 4. Defines scent.

Sections 5 and 6. Prohibits the use of bait statewide for hunting and provides exceptions for landowners in the eradication zone and for bear hunting by imposing bait site, permit and date restrictions, and also allows the use of liquid scents for deer hunting.

Section 7. Defines bird feeding devices and structures.

Section 8. Defines small mammals.

Section 9. Prohibits feeding of wildlife and outlines exceptions for birds and small mammals.

Section 1. NR 10.001(2) is amended to read.

NR 10.001(2) For the purposes of this chapter, "bait" means ~~honey and any solid or nonliquid~~ any material attractive used to attract wildlife including liquid scent.

Section 2. NR 10.001(7e) is created to read.

NR 10.001(7e) "Decoy" means the replica of an animal used to attract wild animals for the purpose of hunting, but does not include any food materials that can be consumed by any wild animal.

Section 3. NR 10.001(14) is amended to read.

NR 10.001(14) "Liquid scent" means any ~~nonsolid liquid~~ liquid material except honey used to attract wild animals solely by its odor.

Section 4. NR 10.001(23e) is created to read.

NR 10.001(23e) "Scent" means any material except honey, used to attract wild animals solely by its odor.

Section 5. NR 10.07(1)(g) is repealed.

Section 6. NR 10.07(2) is created to read.

NR 10.07(2) BAITING. (a) *General prohibition.* 1. Except as provided in par. (b) or as authorized by a permit issued under s. NR 12.06(11), no person may hunt with the aid of bait, or place or use bait for the purpose of hunting wild animals or training dogs. Any bait placed or used under the authorization of this section or s. NR 12.06(11) may not contain parts of any animal.

2. No person may hunt or pursue animals in an area baited in violation of this subsection or in violation of the feeding prohibitions of s. NR 19.60, unless the area is completely free of bait or feed material for at least 10 consecutive days prior to hunting, pursuing animals or dog training.

Note: Removal of unlawfully placed bait or other feeding material does not preclude the issuance of a citation for the original placement of the unlawful baiting or feeding material.

(b) *Exceptions.* A person may hunt with the aid of bait or place or use bait in any of the following circumstances:

1. Bait may be placed in compliance with par. (c) between April 15 and the close of the bear season for hunting bear or training bear dogs during the open seasons for these activities, provided that when the bait is placed and when the bait site is checked or re-baited, the bait is totally enclosed in a hollow log, a hole in the ground or stump which is capped with logs, rocks or other naturally occurring and unprocessed substances which prevents deer from accessing the material.

2. Liquid scent used for hunting of bear or training bear dogs from April 15 to the end of bear season does not need to be enclosed in a hollow log, a hole in the ground or stump.

3. This subsection does not prohibit hunting with the aid of material deposited by natural vegetation or material found solely as a result of normal agricultural or gardening practices.

4. This subsection does not prohibit hunting over crops planted and left standing as wildlife food plots.

5. Scent may be used for hunting deer or elk provided the scent is not placed or deposited in a manner that it is accessible for consumption by deer or elk and non-liquid scents shall be removed daily at the end of hunting hours for deer established in s. NR 10.06(5). Two ounces or less of liquid scent may be placed or deposited in any manner for hunting game.

6. This subsection does not prohibit hunting in accordance with s. 29.337, Stats., with the aid of feed material placed in compliance with s. NR 19.60.

Note: Baiting for purposes of trapping is regulated by ss. NR 10.13(1)(b), 19.27, 19.275 and not this subsection, baiting for waterfowl is regulated by s. NR 10.12(1)(h) and not this section. This subsection does not prohibit hunting with the use of decoys except as already prohibited under ss. NR 10.12(1)(f) and (g) and 10.25(4)(d).

(c) *Additional prohibitions for bear hunting and bear dog training.* No person may when hunting bear or bear dog training:

1. Place, use or hunt with the aid of bait material, in excess of 10 gallons for attracting wild animals or containing honey, bones, fish, meat, solid animal fat or parts of animal carcasses.

2. Except as allowed by par. (b) 1. and 5., place, use or hunt with the aid of bait material, other than scent, which is contained within or containing metal, paper, plastic, glass, wood or other similar processed materials.

3. Place, use or hunt with the aid of bait material within 50 yards of any trail, road or a campsite used by the public.

4. Hunt with the aid of bait material, other than scent, without possessing a valid unused class A or a class B bear license under s. 29.184, Stats.

Section 7. NR 19.001(4) is created to read.

NR 19.001(4) "Bird feeding devices and structures" means any device or structure that has the primary purpose of attracting or feeding birds or small mammals.

Section 8. NR 19.001(15m) is created to read.

NR 19.001(15m) "Small mammals" mean all mammals other than bear, deer and elk.

Section 9. NR 19.60 is created to read.

NR 19.60 Feeding of wild animals. (1) PROHIBITIONS. (a) Except as provided in this section or by permit issued under s. NR 12.06(11), no person may place, deposit or allow the placement of any material to feed or attract wild animals.

[Drafter's Note: NR 12.06(11) is created in Clearinghouse Rule No. 03-016]

(b) Any person placing material or feed to attract wild animals in violation of this section shall remove all food or other material illegally placed or deposited when ordered by the department to do so.

(c) Landowners, lessees or occupants of any property where feeding in violation of this section occurs shall remove all food or other material illegally placed or deposited upon notification by the department of the illegal activity.

(d) Elevated feeders that are designed to deposit food on the ground are prohibited .

(2) EXCEPTIONS. This paragraph does not prohibit any of the following activities:

(a) Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy. If the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.

(b) Feeding of wild animals, other than deer, elk or bear, by hand is allowed if:

1. Feed is placed not more than 30 feet away from the person feeding, and

2. The person feeding makes all reasonable attempts to clean up the unconsumed food before moving a distance greater than 30 feet from the deposited food.

(c) Food deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.

(d) Standing crops planted and left standing as wildlife food plots that may be used by wild animals.

(e) Food material placed for bear hunting or bear dog training as specified in s. NR 10.07(2).

(f) Food material placed for trapping as specified in s. NR 10.13.

(g) The use of decoys for non-hunting purposes.

(h) The placement of plain water for drinking or for bird baths.

(i) The use of scents provided the material is not accessible for consumption by deer or elk.

(j) Food or bait material placed or used for fish, reptiles, amphibians or arthropods provided the material is not accessible to bear, deer or elk.

Note: These feeding rules do not apply to captive wild animals held and licensed under ch. 169, Stats.

Section 10. Finding. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses.

Section 11. Review. The Department of Natural Resources will conduct a review and evaluation of this rule order two years following the effective date of these rules. The review will utilize the best available science to analyze the effectiveness of these rules to control and eradicate Chronic Wasting Disease in Wisconsin's free-ranging white-tailed deer herd. This results of this review and evaluation will be presented to the Natural Resources Board.

Section 12. Effective date. The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 13. Board adoption. The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 23, 2003 and June 25, 2003.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)