

1NYCRR PART 68. CAPTIVE CERVID HEALTH REQUIREMENTS

Effective April 15, 2014

* Section 68.1.* Definitions.

For the purposes of this Part:

(a) CWD susceptible cervid means any captive cervid of the genera Alces, Odocoileus or Cervus or any hybrid of such genera.

(b) CWD exposed cervid means a cervid that is, or has been part of a CWD positive herd within five years.

(c) CWD positive cervid means a cervid that has had a diagnosis of CWD confirmed by means of an official CWD test conducted by a laboratory certified by USDA/APHIS.

(d) CWD negative cervid means a cervid that has had an official CWD test conducted by a laboratory certified by USDA/APHIS that resulted in a "not detected" or negative classification.

(e) CWD suspect cervid means a cervid for which inconclusive laboratory evidence suggests a diagnosis of CWD.

(f) CWD infected zone means:

(1) any state which has had a diagnosed case of CWD in captive or wild cervids within the past 60 months;

(2) any part of a state which is within 50 miles of a site in another state where CWD has been diagnosed in captive or wild cervids within the past 60 months; or

(3) any area designated by the commissioner as having a high risk of CWD contamination.

(g) Captive cervids means cervids that are privately or publicly maintained or held for economic or other purposes within a confined space by a perimeter fence, facility or other barrier. Wild white-tailed deer held in captivity under license or permit issued by the New York State Department of Environmental Conservation pursuant to Environmental Conservation Law section 11-0515 (licenses to collect, possess or sell for scientific or exhibition purposes) are not considered captive cervids for the purposes of this Part.

(h) Cervid means any member of the cervidae family.

(i) Chronic wasting disease ("CWD") means a transmissible spongiform encephalopathy (TSE) of cervids.

(j) Commingling means cervids that have direct contact with each other or have less than 30 feet of physical separation or that share management equipment, pasture, or water sources. Cervids are considered to have commingled if they have had such contact within the last five years.

(k) Department means the New York State Department of Agriculture and Markets.

(l) Herd means one or more cervids that are under common ownership or supervision and are grouped on one or more parts of any single premises (lot, farm or ranch), and all cervids under common ownership or supervision on two or more premises which are geographically separated but on which cervids have been commingled or had direct or indirect contact with one another.

(m) CWD herd plan means a written herd management agreement developed by the herd owner, State and Federal veterinarians, and others, and that has been approved by the respective Federal, State and Tribal officials. A herd plan sets out

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the steps to be taken to eradicate CWD in a CWD positive, exposed, or suspect herd.

(n) CWD positive herd means a herd in which a CWD positive cervid resided at the time it was diagnosed and which has not been depopulated and released from quarantine.

(o) CWD suspect herd means a herd in which one or more CWD suspect cervids are present.

(p) Special purpose herd means a captive herd managed and maintained in such a manner that no live cervid is removed, or allowed to be removed, from the designated premises except for immediate slaughter at an approved CWD slaughter facility.

(q) CWD exposed herd means a herd in which an epidemiological link between the herd and another positive or exposed herd or animal is established to have occurred within the previous five years.

(r) Official identification means a unique form of individual animal identification approved by USDA/APHIS and the department. Cervids in a herd under the Herd Certification Plan must have at least one eartag as one of two means of animal identification.

(s) CWD monitored herd means a program of surveillance, monitoring, testing and related actions designed to identify CWD infection in special purpose CWD susceptible cervid herds.

(t) Owner means an individual, partnership, company, corporation or other legal entity that has legal title to an animal or herd of animals.

(u) Premises means the ground, area, buildings, water sources and equipment commonly shared by a herd of animals.

(v) CWD premises plan means the section of a herd plan which outlines the actions to be taken with regard to possible environmental contamination due to a CWD positive or exposed herd.

(w) Quarantine means an order issued by a State or Federal official prohibiting the movement of animals to and from a designated premises.

(x) State animal health official means the official of a state or country responsible for livestock and poultry disease control and eradication programs.

(y) Official test means a CWD test approved by USDA/APHIS which is performed at a USDA approved laboratory.

(z) USDA/APHIS means the United States Department of Agriculture Animal and Plant Health Inspection Service.

(aa) Certificate of Veterinary Inspection (CVI) means a document which:

(1) Is issued by a veterinarian accredited by USDA/APHIS or a similar agency in the country of origin and is approved and counter-signed by the chief livestock health official of the state or country of origin.

(2) The CVI shall include:

(i) a movement permit number issued by the department;

(ii) the full name and address including a Federal premises number of both the consignor and consignee, the destination of each animal, the date of veterinary inspection, and the anticipated date of entry into New York;

(iii) the Chronic Wasting Disease and Tuberculosis status of each herd that the animal(s) resided in;

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(iv) the identification of each animal including the species, breed, age, sex, all eartags, tattoos, brands, radio frequency identifiers, and registration number, if any;

(v) all test results required for movement by all State and Federal agencies;

(vi) a statement that the animal(s) have been inspected by the veterinarian issuing the CVI and the animal(s) is(are) not showing signs of infectious, contagious, or communicable disease except as noted.

(3) The CVI is valid for movement up to and including the 30th day following the date of inspection.

(ab) Immediate slaughter means slaughter within 10 days (240 hours) at a State or federally inspected facility which will retain and make available to USDA/APHIS or department personnel records of all identification from the animal(s) and samples as required by the USDA/APHIS or the department to test for Chronic Wasting Disease and Tuberculosis.

(ac) Movement permit means a document issued by the department which shall identify the source and destination of the shipment, the number of animals involved and the required individual identification of each cervid in the shipment, and shall accompany the cervids imported or moved into or within the State.

* Section 68.2.* General health requirements for captive cervids.

(a) Applicability. The requirements of this Part apply to all captive cervid operations.

(b) Mandatory reporting. Any person having knowledge of a suspected or confirmed case of chronic wasting disease or tuberculosis in captive cervids shall report the event to the department within 24 hours.

(c) Movement of captive cervids. No person shall import, move or hold captive cervids into or within New York State except in compliance with the requirements of this Part. A valid certificate of veterinary inspection shall accompany all cervids imported into New York State, with the exception of those moving directly to slaughter. In addition, no person shall import or move captive cervids into the State or within the State for any purpose, including slaughter unless a movement permit authorizing such movement has been obtained from the department prior to such movement. An application for a movement permit may be obtained by calling the department during normal business hours. The department will consult with the New York State Department of Environmental Conservation prior to the issuance of a movement permit. Except for cervids moving directly to slaughter, movement permits shall be issued only for captive cervids that meet the New York State animal health requirements for captive cervids of this Part. All cervids to be moved, other than cervids moving directly to slaughter, must have approved, unique and tamper evident identification prior to movement. The removal or alteration of any official form of animal identification without the prior permission of the department is prohibited.

(d) Enforcement. Violations of the provisions of this Part are subject to the enforcement actions authorized by the Agriculture and Markets Law, including, but not limited to, monetary penalties and injunctive action.

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(e) Facilities. All captive cervid operations and all cervid slaughter facilities shall provide appropriate refrigeration and storage facilities to contain and preserve CWD and tuberculosis samples obtained from harvested slaughtered and deceased cervids for at least 72 hours following slaughter notification, as required by the CWD Certified or Monitored Herd Program and the Tuberculosis Surveillance Program. All captive cervid operations, with the exception of special purpose herds, shall have proper restraining facilities, chutes, gates and corrals to capture and restrain the cervids for diagnostic testing and inventory purposes. Capture and restraint of captive cervids shall be the responsibility of the owner.

(f) Fencing. All captive cervid operations shall establish a continuous barrier fence designed and constructed to prevent the escape of captive cervids and the entry of free ranging cervids. The perimeter fence shall be constructed of industry standard materials and a size suitable for this purpose.

(g) Herd integrity. Separate herd inventories, biosecurity, records, working facilities, watering facilities, equipment and land use shall be maintained for each distinct herd for which an individual CWD or tuberculosis status is sought, irrespective of ownership. No commingling of animals shall occur between distinct herds with individual disease status unless program movement requirements for herd status are met. Movement of animals between such herds shall be recorded as if they were separately owned herds.

(h) Sample collection. Individuals who have passed State or USDA approved sample collection training may collect and submit samples to support tuberculosis and CWD program requirements.

(i) Premises location. All captive cervid locations shall be identified by a Federal premises identification number issued by the department and USDA/APHIS. The owner of the cervids must provide an adequate geographic location description and contact information to receive a Federal premises identification number.

* Section 68.3.* Special provisions for captive cervids susceptible to chronic wasting disease.

(a) The requirements of this section apply to all captive CWD susceptible cervid operations harboring any CWD susceptible captive cervids.

(b) All movements of CWD susceptible cervids into New York State are prohibited until August 1, 2018, except movements to a zoo accredited by the Association of Zoos and Aquariums, 8403 Colesville Road, Suite 710, Silver Spring, MD 20910-3314. No such movements shall be made unless approved prior to the movement by the commissioner or his/her designee in consultation with the New York Department of Environmental Conservation. Prior to August 1, 2018, the commissioner shall hold public hearings to reevaluate the risks and impacts of allowing limited movement of CWD susceptible cervids into New York from other states and propose amendments to this Part if needed to prevent the introduction of Chronic Wasting Disease into New York.

(c) Prohibition. No person shall hold CWD susceptible cervids in captivity in New York unless they are enrolled in the CWD Certified Herd Program, or the CWD Monitored Herd Program.

(d) Fencing. The perimeter fence for all herds that contain one or more CWD susceptible cervids shall comply with the standards set forth in section 68.2(f) of

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this Part. In addition, such fence shall present a continuous barrier at least eight feet high. Breaks in fencing shall be identified within 48 hours of occurrence and repaired immediately. In those areas of the State which have been designated as a CWD containment area by the New York State Department of Environmental Conservation, either a solid barrier or a second fence must be constructed which will prevent any contact between wild white-tailed deer and captive CWD susceptible species.

(e) Premises inspection required. All captive cervid facilities and perimeter fencing shall be inspected and approved by a State or Federal regulatory representative. The initial inspection shall be conducted prior to the addition of any cervids. Cervids may not be added to the premises prior to inspection and approval. For herds which are being enrolled in the CWD Herd Certification Program, physical restraint equipment adequate for the number of cervids to be held in the enclosure shall be in place before the herd is enrolled in the program. Facilities and fencing shall be subject to inspection by State and Federal regulatory officials periodically thereafter in order to maintain program participant status.

(f) Recordkeeping. Accurate records documenting purchases, sales, interstate shipments, intrastate shipments, escaped cervids and deaths (including harvested cervids) shall be established and maintained for at least 72 months for all captive CWD susceptible cervid operations. Documentation shall be made available to State or Federal regulatory officials during normal business hours. Information provided in the records shall include individual animal identification, carcass/sample identification tag, sex, species and age. In addition, the owners of all CWD susceptible cervid herds enrolled in the CWD Certified Herd Program, shall establish and maintain accurate records that document the results of the annual herd inventory. Inventory records must be reconciled with previous inventory. All lost individual identification must be noted and replaced by a unique official identification. Such replacement shall be noted in the record. These records shall be maintained for six years.

(g) No person shall serve, sell, expose for sale, give away or donate the carcass, or any part thereof, including the head, of any CWD susceptible cervid that has been sampled for testing for CWD unless and until it has been determined that the test is "not detected" or negative for CWD.

* Section 68.4.* CWD Certified Herd Program.

(a) For purposes of enforcement of article 5 of the Agriculture and Markets Law, and except where in conflict with the statutes of this State or with rules and regulations promulgated by the commissioner, the commissioner hereby adopts the current Federal regulation in sections 55.21 through 55.25 in subpart b of part b of title 9 of the Code of Federal Regulations (revised January 1, 2013; U.S. Government Printing Office, Washington, DC 20402) at pages 197 through 202 entitled Chronic Wasting Disease Herd Certification Program.

(b) Copies of this regulation, as published in the Code of Federal Regulations are maintained in a file at the Department of Agriculture and Markets, Division of Animal Industry, 10B Airline Drive, Albany, NY 12235, and are available for public inspection and copying during regular business hours.

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* Section 68.5.* CWD Monitored Herd Program.

(a) CWD monitored herd. All special purpose herds consisting of one or more CWD susceptible cervids shall participate in the CWD Monitored Herd Program if they are not participating in the CWD Certified Herd Program. No live cervid sales or movements may be made from CWD monitored herds except as provided in this section. Live cervids may not be removed from the premises of a CWD monitored herd except for animals being shipped with a movement permit.

(b) CWD monitored herd requirements. Herds enrolled in the CWD Monitored Herd Program shall meet the following requirements:

(1) sampling and testing:

(i) submit for test appropriate CWD samples from all natural deaths of CWD susceptible cervids over 12 months of age;

(ii) submit for test all appropriate CWD diagnostic samples from all clinical CWD suspect cervids; and

(iii) submit for test appropriate CWD samples from slaughter and/or harvested cervids so that the total number of cervids sampled on an annual basis (January 1st to December 31st) represents 10 percent or 30, whichever is less, of the total number of susceptible cervids over 12 months within the herd as of March 31st. In no case shall the combined number of cervids sampled on an annual basis represent less than 10 percent (rounded down to the next whole number) or 30, whichever is less, of the estimated susceptible test eligible herd population.

Notwithstanding this Part, all natural deaths must be submitted for CWD diagnosis.

(c) Additions to CWD monitored herds.

(1) Movement of CWD susceptible cervids is prohibited from any herd located within a CWD infected zone.

(2) Additions to CWD monitored herds shall be permitted only if they originate from herds that have achieved CWD certified herd status or as provided in subdivision (f) of this section.

(d) Animal identification.

(1) Each herd addition, other than natural additions, shall have a minimum of two official/approved unique identifiers affixed to the animal. At least one of these identification systems shall include visible identification.

(2) Carcass and sample identification tags, provided by the State of New York, shall be affixed to all unidentified harvested captive cervids, natural deaths, and clinical suspects. Tag numbers shall be entered into the CWD monitored herd record along with the corresponding information that identifies the disposition of the carcass.

(e) Permitted movement to an approved CWD cervid slaughter facility.

(1) Notwithstanding the provisions of this section, live cervid sales or movements may be made from CWD monitored herds if they are moved directly to an approved CWD susceptible cervid slaughter facility under the following conditions:

(i) a permit is obtained from the department prior to movement;

(ii) all animals moved are individually identified with an approved identification tag; and

(iii) animals are slaughtered within six days of the time the animals leave the premises of the CWD monitored herd.

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(f) Permitted removal of all susceptible species from a CWD monitored herd. Notwithstanding the provisions of this section, live cervid sales or movements may be made from CWD monitored herds if the owner has signed a herd dispersal agreement containing the following conditions:

- (1) the owner agrees to remove all susceptible species from the property;
- (2) a number of cervids as determined by the commissioner shall be tested prior to the removal of live animals;
- (3) a permit is obtained from the department prior to any movement;
- (4) all animals moved are individually identified with an approved identification tag;
- (5) the receiving premises must be in a Monitored Herd Program and the owner must agree to provide samples from the cervids within a timeframe as prescribed by the commissioner; and
- (6) the commissioner may add any other conditions to the herd dispersal agreement as required to control CWD.

* Section 68.6.* Approved CWD susceptible cervid slaughter facility.

An approved CWD susceptible cervid slaughter facility shall comply with the following requirements:

- (a) holding pens shall be constructed to prevent contact with captive or free-ranging cervid populations;
- (b) sample retention and holding facilities shall be adequate to preserve and store appropriate tuberculosis and CWD diagnostic tissues for 72 hours post slaughter;
- (c) a CWD susceptible cervid offal disposal plan must be developed, approved by the department in consultation with the Department of Environmental Conservation, and implemented; and
- (d) the facility must be inspected and approved annually by the department.

* Section 68.7.* Management of CWD positive, exposed or suspect herds.

(a) Premises quarantine. If a CWD positive, exposed or suspect susceptible cervid is identified in a herd, it shall be subject to immediate quarantine by a department or USDA/APHIS official. Epidemiologic investigations shall be initiated to determine possible sources and potential contacts. All contact premises shall be evaluated for CWD status. All herds epidemiologically linked to the positive herd shall be subject to quarantine and management as CWD exposed herds.

(b) Establishment of a CWD herd plan. CWD herd plans shall be developed for any CWD positive, exposed or suspect herd. Such plans shall be developed by department and USDA/APHIS officials in conjunction with the herd owner and shall be subject to final approval by the department. Such plans shall contain the following procedures for positive or trace herds, which shall be implemented within 60 days of diagnosis of CWD.

- (1) CWD positive herds. Captive cervid herds in which one or more of the cervids are classified as CWD positive shall be subject to:
 - (i) depopulation of the whole herd; and
 - (ii) development of a CWD herd plan for each CWD positive herd diagnosed. Such plan shall include a CWD premises plan addressing possible environmental

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contamination and other long-term considerations. A CWD premises plan shall include provisions for:

- (a) cleaning and disinfection;
- (b) future land use restrictions;
- (c) restocking constraints and timeframes; and
- (d) fencing requirements to prevent contact with wildlife.

(2) CWD exposed or suspect herds. A department or USDA/APHIS epidemiologist shall conduct a risk analysis of all CWD exposed or suspect herds. High risk herds shall be subject to depopulation. Lower risk herds shall be subject to quarantine under the following conditions:

(i) Official herd quarantine. CWD exposed or suspect herds in which the risk is undeveloped or undefined shall remain under quarantine for 60 months. No off-premises sales or movement shall occur for the duration of the quarantine period. Discovery of any CWD infected cervid during the quarantine period shall result in conversion to CWD infected herd status.

(ii) Elimination of high-risk cervids within the herd. Herds that have received herd additions from source herds subsequently found to be CWD infected shall have their CWD herd certification status suspended. The suspect herd additions shall be euthanized and appropriate samples shall be submitted for CWD testing. If there is no evidence of CWD following official testing, the herd status shall be restored. If the cervid is CWD positive, the herd shall be classified as a CWD positive herd and managed in accordance with this Part.

(iii) Special fencing requirements. Perimeter fencing adequate to prevent fence line contact with captive and free-ranging cervids shall be established for all CWD positive herds and positive premises. Fencing requirements and biosecurity provisions shall be specified in the herd and premises plan.

(3) Disposal. The carcasses of CWD positive cervids that are depopulated shall be disposed of in accordance with disposal plans approved by the department and USDA/APHIS. Such plans shall be developed to prevent contamination of the environment and exposure of live cervids.

* Section 68.8.* Repealed