



## **ACTION ALERT!**

### **Submit Comments for Proposed CWD Program Standards to USDA APHIS by May 30!**

#### **Instructions to Comment:**

You may submit comments at the Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0011>

**American Cervid Alliance Outlines Concerns of Proposed Federal Chronic Wasting Disease Program Standards. These concerns were unanimously approved by the ACA Member Associations on April 17, 2018.**

**NOTE: It is important to remember that if people within cervid industry have different interpretations of the proposed language and possible impacts, this will surely result in different interpretations by state animal health, state wildlife and federal animal health officials. Ambiguity has been a problem for many state industries of the last several years.**

**Please send an email on behalf of your ranch listing your exact concern(s). Please note your location in the email. Cite exact language and page number, if possible.**

April 19, 2018

The long-anticipated proposed revision of the USDA APHIS Chronic Wasting Disease CWD Program Standards has been released. Cervid industry leaders have closely reviewed the proposed document for positive and harmful changes. A public comment period is open until May 30. The American Cervid Alliance is asking all industry stakeholders to review this summary document and submit a public comment. It is essential to have a robust grassroots response from the industry, identifying problematic language.

To be clear, there are several positive changes and the industry is grateful for the progress. However, there are also several harmful suggestions that should not be in this document and must be removed. As a reminder, the USDA CWD Program Standards is a policy document that accompanies the Federal CWD Rule. The Federal CWD Rule is the law of the land for interstate movement requirements. In contrast, the Program Standards are suggested guidelines of how to better explain the federal rule. Since 2012, the American Cervid Alliance has lamented the Program Standards have policy suggestions that are in excess of the Federal CWD Rule. This proposed version is no different. Even though many State Animal Health officials do not have to follow the Program Standards for this reason, many states use them as a guide, particularly states new to Chronic Wasting Disease discovery.

It is very important all state and national cervid associations motivate their directors and active members to post comments by April 30. Comments below highlight major concerns with the document. Some may be more or less important to you, based on your species, state or type of operation. It is important to take in consideration how both your current and future state program administrators could interpret the language. Likewise, make no mistake, even this language does not impact you today, its existence will be used against your neighbor and become a template for opponents of the cervid industry to use in future rule making processes.

## Harmful Language in this Proposed Document

**Mention of Double Fencing:** The USDA APHIS Chronic Wasting Disease Federal Rule does not mention double fencing at all. However, in this proposed Program Standards document, a reminder is made for states they can use double fencing requirements. Deer and elk operations do not want to be required to double fence their ranch. State wildlife agencies and other opponents of the cervid industry use these USDA approved suggestions against the industry in propaganda and the ruling making processes.

**Part A, Section 4 (page 23)** *“State representatives have the discretion to require the use of additional barriers and/or other biosecurity measures deemed necessary to mitigate the risks of CWD transmission.”*

**Definition of CWD-Susceptible Cervid Species Authorizes APHIS to Regulate, not only by Natural Infection, but also by Experimental Inoculation.** The proposed Program Standards add a new definition for CWD-Susceptible Cervid Species. The USDA APHIS Chronic Wasting Disease Federal Rule only applies to cervid species known to naturally contract the disease. USDA APHIS Chronic Wasting Disease Federal Rule lists only three genera: *Odocoileus* (Whitetail Deer, Mule Deer, Blacktail Deer), *Cervus* (Elk, Red Deer, Sika Deer) and *Alces* (Moose). Numerous attempts have been made by regulators to arbitrarily add additional cervid species. The USDA APHIS Chronic Wasting Disease Federal Rule implemented in 2012 states in its background notes that APHIS *“have not expanded coverage to genera in which no species has demonstrated susceptibility via natural routes of transmission. To do so would extend the requirements of this rule without a sound basis, unnecessarily increasing the burden on regulated parties, especially zoos with large and varied animal collections. We are prepared to extend the definition in the future if new research demonstrates additional species in other genera are susceptible to CWD by natural routes of transmission.”* Traditionally, APHIS focuses most of its attention on whitetail and elk and are largely unfamiliar with exotic deer species and corresponding regulatory impacts. This has been clearly illustrated in conversations with APHIS team leaders. They are unaware how any vibrant ranches exist that breed exotic deer species. There is not a known “lethal dose” for Chronic Wasting Disease. Experimental inoculation is supernatural, not natural. Moreover, the genus *Muntiacus* (Muntjac Deer) has not ever been discovered with CWD by natural route transmission. This new definition is in excess of the federal rule and should be removed. This wording is especially damaging to the reindeer owners because of the restrictions on interstate commerce of CWD susceptible species. This is a slippery slope as other research can use used in involved experiments on other species. This may be the most egregious addition to the Program Standards document.

**“CWD-Susceptible Cervid Species: (page 7).** *APHIS identifies CWD-susceptible species based on scientific evidence of natural infection or **experimental infections through intranasal and/or oral routes.** This includes animals in the genera *Odocoileus*, *Cervus*, and *Alces* and their hybrids, i.e. deer, elk, and moose. Specifically, the following are considered to be susceptible to CWD: White-tailed deer (*Odocoileus virginianus*), mule deer (*Odocoileus hemionus*), black-tailed deer (*Odocoileus hemionus columbianus*), and any associated subspecies. It also includes North American elk or wapiti (*Cervus ipponsis*), red deer (*Cervus**

*elaphus*), and Sika deer (*Cervus ippon*). NOTE: APHIS proposes to amend the definition of “cervid” in the CFR in the near future by removing the list of susceptible species from the definition. To accommodate this future change, we are adding the definition of “CWD susceptible cervid species” to this revision of the Program Standards. **In the future, APHIS anticipates adding the genera Rangifer and Muntiacus to the list of CWD-susceptible species when the CFR is amended.**

**Requirement to Test Hunter Harvested Animals for CWD.** The proposed document makes the comment that herds enrolled in the HCP are required to submit samples on “all animals under their ownership sent to hunting ranches.” This also becomes problematic for owners of both trophy ranches and breeding facilities that are owned by the same person, whether they are different premises or not.

**Part A, Section 5.2 Mortality Reporting and Routine Surveillance.** (Page 25). *To achieve and maintain herd certification status, enrolled herd owners are required to conduct CWD testing as described in 9 CFR 55.23(b)(3).*

*Herd owners must report and make the following animals available for sample collection and CWD testing:*

- 1) All on-farm deaths of farmed or captive deer, elk, and moose aged 12 months or older.*
- 2) All animals 12 months or older that are slaughtered on the farm.*
- 3) **All animals under their ownership that are sent to hunting operations and/or slaughter facilities***

**Requirement to Test Slaughtered Animals for CWD.** The proposed document makes the comment that herds enrolled in the HCP are required to submit to submit samples on “all animals under their ownership sent to hunting ranches and/or slaughtered.

**Part A, Section 5.2 Mortality Reporting and Routine Surveillance.** (Page 25). *To achieve and maintain herd certification status, enrolled herd owners are required to conduct CWD testing as described in 9 CFR 55.23(b)(3).*

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- 2) All animals 12 months or older that are slaughtered on the farm.*
- 3) **All animals under their ownership that are sent to hunting operations and/or slaughter facilities.***

**Elk Industry Overlooked for Ante-Mortem Testing of Herds that Contain or Contained CWD-Exposed Animals.** It is a historic change for the Program Standards to use ante-mortem testing as a management tool. However, the proposed document only applies to whitetail deer. The door is not open to elk, or other species, as science becomes available. This means a new re-write of the Program Standards would have to take place, including clearing process, comment period, before elk or other species can be added. This is a minimum two year process from start to finish. (For reference, the current revision process has already exceeded 29 months as of March 2018). Moreover, CWD researches already dispute APHIS omitting ante-mortem testing in elk. The ACA recommends submitting comments requesting APHIS to include wording in the revised Program Standards that would allow ante-mortem testing to be approved for use in other species at such time that research validates ante mortem in each of the different susceptible species.

**Appendix II: Guidelines for Use of Whole Herd Ante-Mortem Testing of Herds that Contain or Contained CWD-Exposed Animals (page 49):** *“Biopsy of the medial retropharyngeal lymph node (MRPLN) or the rectal anal mucosal associated lymphoid tissue (RAMALT) for the detection of the abnormal prion protein (protease resistant misfolded prion) associated with CWD is an official test only in white-tailed deer, and only when: 1) Genotype at codon 96 is established; 2) Used with herd plans for trace back, CWD-exposed herds, and epidemiologically linked herds as described in Part B. , and 3) When performed at NVSL.”*

**Invitation for Draconian Polices.** There is no reason to remind states they can add more strict requirements. Some states, like North Carolina, have used this as precedent for draconian polices.

**Introduction (page 4).** *“The methods in these Program Standards have been approved by the APHIS Administrator. Alternatively, States may propose other methods/approaches to meet the regulatory requirements. These alternative proposals should be submitted in writing to APHIS for approval. States may also have additional or stricter requirements that exceed the minimum requirements described in the CWD regulations.”*

**Unlawful Taking of Property:** The proposed document recommends mandatory surrender of animals, regardless if indemnity is available. This statement is a “taking” of property without compensation. Taking of property without compensation is not allowed under federal law.

**Appendix II: Guidelines for Use of Whole Herd Ante-Mortem Testing of Herds that Contain or Contained CWD-Exposed Animals (page 51).** *“10) If a positive result is found on rectal biopsy, the animal must be surrendered for further testing. There will be no compensation to the owner unless indemnity funds are available. The herd will remain under quarantine and will be designated a CWD-positive herd.”*

**Definition on “Annual Removal” Needs to be Clarified so Herd Owners are Not Responsible for Testing All Animals that Leave Herd Inventories.** New language regarding missing samples has created a definition of “annual removals” that includes ANY animal removed from inventory. This definition needs additional clarity to ensure this excludes animals moved by change of ownership.

**Definitions (page 5).** *“Annual Removals: All adults (12 months or older) removed or lost from inventory for any reason since the previous annual inventory.”*

**5.4 Consequences of Poor Quality and Missing Samples (page 27).** *“The following tables are provided as examples of adjustments that could be made to CWD herd status to account for poor quality, incomplete, or missing samples. This example considers the current status of the enrolled herd, the number of poor quality/missing samples, and the percentage of annual removals from the herd. Annual Removals are defined as all adult animals (12 months or older) that were removed or lost from inventory for any reason since the previous annual inventory. When animals are removed from a herd, they are lost to surveillance testing. In this example, status reduction may be avoided if the owner elects to remove and perform post-mortem CWD testing on an animal of the same sex and species that has resided in the herd for at least as long as the untested animal with the poor quality or missing sample.”*

**Cleaning Requirements for Sale Barns:** This requirement is very harmful to livestock markets, such as

Lolli Bros in Missouri and Huntsville Livestock Auctions in Texas. These suggestions are not included in the USDA APHIS Chronic Wasting Disease Federal Rule.

**Definition of “Limited Contact” on page 9** *“ Limited Contact: Any brief, incidental contact between cervids from different herds such as occurs in sale or show rings and alleyways at fairs, livestock auctions, sales, shows, and exhibitions. Limited contact does not include penned animals having less than 10 feet of physical separation or contact through a fence; or any activity where uninhibited contact occurs such as sharing an enclosure, a section of a transport vehicle, sharing equipment, food, or water sources; or contact with bodily fluids or excrement. Pens at fairs, livestock auctions, sales, shows, and exhibitions should be thoroughly cleaned and all organic material removed after use and before holding another animal.”*

**Top Soil Requirements:** This is very burdensome protocol in the event a deer or elk farmer discovers Chronic Wasting Disease. The language of “close confinement” is very vague and is up for interpretation. Moreover, it would be incredibly expensive. There is no mention of this in the USDA APHIS Chronic Wasting Disease Federal Rule.

**Appendix IV: Biosecurity and Decontamination Procedures for Farmed Cervid Facilities. Section B (Page 63):** *“B. Dry Lot Where CWD-positive animals have been held in close confinement (this includes but is not limited to corrals, pens, stalls, and alleyways or pathways) may be treated as follows: 1. Remove organic materials (manure, feed, bedding, and other organic material). This material may be buried deeply onsite in areas not accessed by farmed or wild animals, incinerated, or digested by alkaline hydrolysis. Composting may be used to reduce the volume of organic materials. Composted material should be buried deeply, incinerated, or digested by alkaline hydrolysis after composting is complete. Composting alone does not inactivate prions. 2. In addition, removal of the top 1 to 2 inches of soil may help to reduce surface contamination. The soil removed may be buried deeply or incinerated.”*

**Ambiguity on CWD Sample Collectors.** Many states allow herd owners to collect CWD samples on mortalities. States have different procedures of how they allow this. The proposed Program Standards language of “certified CWD sample collectors” is ambiguous for states that do not give herd owners the label of “certified collector.” Clarification is needed to ensure misinterpretation by an agency does not prohibit a herd owner collecting samples.

**Part A, Section 5.3- Sample Collection and Submission Procedures (page 25).** *“It is the owner’s responsibility to ensure complete, good quality tissue samples are collected and all required samples are submitted. Failure to comply with the surveillance requirements in this section may result in loss of program status or other actions applicable under Approved State or Federal regulation. Tissue samples may only be collected by State officials, APHIS employees, accredited veterinarians, or certified CWD sample collectors. Alternatively, owners may remove and submit the entire head with all attached identification devices to an approved CWD laboratory for tissue collection. Samples should be submitted to an approved laboratory within 7 days of collection.”*

**Automatic 5 Year Trace-outs Instead of Epi Investigation.** The options for responding to a trace back, CWD exposed herd do not use the all of the science that is currently available in order to eliminate the unnecessary automatic 5-year quarantines. The epidemiological investigation should use the science and include,

but not be limited to, the following: The genotype of the CWD positive animal- The most susceptible genotypes should not be traced back 5 years.

The tissues of the animal that tested positive for CWD- Depending upon the genotype, animals that test positive in the lymph node only should not be traced back 5 years.

Determine the status of the trace back herd- How many years has the herd been certified? Has the herd tested all eligible deaths? Has the herd tested a sufficient number of animals each year?

If a CWD positive animal passed through a trace back herd 2 or more years previously, one whole herd test of the trace back herd should be considered depending upon the genotype of the positive animal, the tissues that tested positive, and the genotype of the trace back herd.

**3.2 Trace Back, CWD-Exposed Herd(s)** (Page 39). *“The herd should be quarantined for 5 years since the exposure to a CWD exposed animal, with or without selective culling of animals.”*

**Severe Consequences for Poor Quality and Missed Samples:** Language has been added that will have consequences for herds that did not test 100% of their eligible mortalities due to poor quality, incomplete, or missed samples. No agricultural industry should have a mandate to kill healthy animals. This is an example of “guilty” until proven “innocent”. Option #3 is unrealistic and unfair treatment especially considering there is no consideration given to the number of good quality samples submitted during the year or the submission history of the subject herd. Option #3 should be removed as a possible option.

**5.4 Consequences of Poor Quality and Missing Samples (page 27).** *“(3) A direct suspension of herd status for some period of time.”*

In this example, status reduction may be avoided if the owner elects to remove and perform post-mortem CWD testing on an animal of the same sex and species that has resided in the herd for at least as long as the untested animal with the poor quality or missing sample.

**5.4 Consequences of Poor Quality and Missing Samples- (Page 28).** *“Herds with Certified Status 4) A non-certified herd with a 15 percent annual removal rate fails to test 2 animals that died in the herd. They also decline to euthanize and test comparable animals from the herd as replacements for the missed samples. In this case, the herd would be reduced in status by 2 years. 5) A non-certified herd with a 15 percent annual removal rate fails to test 2 animals that died in the herd. They agree to euthanize and test 2 comparable animals from the herd as replacements for the missed samples. In this case, the herd would retain their status as long as the test results are “not detected”.*

APHIS should not have authority over non-certified herds. Non-certified herd language should be changed to “herds enrolled in the HCP and have not yet achieved certified status”.

**DNA Protocol Needed:** The industry suggests adding DNA protocol to protect breeders who sell their animals to hunting ranches or other breeding facilities and no longer have access to tissue samples to comply with the current protocol. Breeders need to have access to DNA verification when an animal they have sold tests positive for CWD.

**5.6 Tissue for DNA Testing – (Page 29).**

**APHIS Uses Genotypes Against Herds in Trace outs:** As the industry breeds towards CWD resistant

animals, there will be negative consequences for resistant herds when linked to a CWD positive animal/herd. Given the success of sheep industry's use of Scrapie resistant animals, USDA APHIS should not punish the cervid industry for moving in this direction.

**Appendix II: Guidelines for Use of Whole Herd Ante-Mortem Testing (Page 50).** *"C. Herds with fewer than 50 percent GG animals will not be permitted to use ante-mortem RAMALT testing."*

**Unnecessarily Reducing Certification Anniversary Date:** Owners of certified herds may add animals from other herds with the same or a greater status in the Chronic Wasting Disease program with no negative impact on the status of the receiving herd. If animals are acquired from a herd with a lesser status, the receiving herd reverts to the lower status. If both herds have more than 5 years of CWD status, there should be no reduction in herd status. This wording is a paperwork nightmare for states requiring them to keep track of each transaction and each farm's herd status.

**Section 2 .3 Additions of Animals to a Herd: Effects on Status- (Page 18).** *"2.3 Additions of Animals to a Herd: Effects on Status A herd may add animals from herds with the same or a greater status in the national CWD HCP with no negative impact on the status of the receiving herd. If animals are acquired from a herd with a lesser status, the receiving herd reverts to the lower status. If a herd participating in the program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new status date listed as the date of acquisition of the animal. The enrollment date in the national CWD HCP would remain unchanged but the herd status level would be modified (and modification date recorded). If a herd acquires animals from herds with a lower or nonparticipating status, the owner must notify a State representative or APHIS employee within 5 business days of such acquisition. New herds assembled from multiple sources will be assigned the status date of the lowest status herd. Other sources of equivalent or higher status animals may include cervid herds enrolled and at an appropriate level in a CWD HCP in another country where APHIS recognizes the HCP to be at least equivalent to the APHIS national CWD HCP."*

**Program Standards Will No Longer Be Reviewed Annually.** The current Program Standards states "These Program Standards will be reviewed at least annually by representatives of the cervid industry and appropriate State and Federal agencies." This has now been changed.

**Introduction (page 4).** *These Program Standards will be reviewed regularly by APHIS and, as appropriate, representatives of the cervid industry and State and Federal agencies.*

## Positive Changes from the Current Program Standards in Effect

**Deletion of Appendix II: Fencing Requirements and References,** on page 46 of the current Program Standards, relating to secondary barriers. There is no mention of this in the USDA APHIS Chronic Wasting Disease Federal Rule

**Removal of Ten Foot Fencing References:** The USDA APHIS Chronic Wasting Disease Federal Rule does

not require or suggest ten-foot fencing, APHIS has deleted the references in the previous Program Standards language.

**Removal of Notifying Every State Travel Through Transporting Deer and Elk:** There is no requirement to notify every state in the USDA APHIS Chronic Wasting Disease Federal Rule, therefore it is unreasonable to suggest people call every state they travel through. In many cases, this idea would mean people calling at least six separate states. This has now been removed.

**Removal of Sanitary Precautions for Vehicles:** Part B (pg 42) listed details that are in addition to requirements listed in the USDA APHIS Chronic Wasting Disease Federal Rule. This has been removed.

**Approved Use for Ante-Mortem Testing in Whitetail Deer:** (page 31). The proposed changes include naming Immunohistochemistry (IHC) test, Medial retropharyngeal lymph node (MRPLN) and rectoanal-associated mucosa-associated lymphoid tissue (RAMALT) as official tests in specified situations.

**Clarification to Avoid “Spider Web Trace outs”.** The industry appreciates the diagram to assist state agencies from exceeding the trace out windows for exposed animals.

**Appendix VI: Diagram for Response to a CWD Positive Case. (page 79).** “The following diagram may be used to assist in response to a CWD-positive animal. All CWD-exposed cervids should be traced forward and back to include the 5 years since the exposure to the CWD-positive animal occurred.”

**APHIS suggests State representatives permit CWD positive animals to be moved to hunting facilities for depopulation.**

**Part B. Guidance on Responding to CWD (Page 39 & 42).** “2. *Quarantine - State representatives may also modify a quarantine to permit cervid movement onto a CWD positive quarantined premises, such as a hunting facility, where all cervids harvested must be tested for CWD.*”

**3.1 CWD Positive Herd** “1) *Depopulation may include hunter harvesting and/or slaughter with movements under permit.*”

**5. Herd Plans** “1) *Depopulation also may be accomplished by moving animals from CWD positive, suspect, and exposed herds (by permit and under seal) to a slaughter facility or to an appropriate hunt facility at the discretion of the State officials.*”