

Document: Proposed Rule, **Register Page Number:** 25 IR 2774

Source: June 1, 2002, Indiana Register, Volume 25, Number 9

Disclaimer: This document was created from the files used to produce the official (printed) Indiana Register. However, this document is unofficial.

**TITLE 345 INDIANA STATE BOARD OF
ANIMAL HEALTH**

Proposed Rule
LSA Document #01-413

DIGEST

Amends 345 IAC 1-3 to impose restrictions on the movement of cervids into Indiana. Amends 345 IAC 2-7 to require cervid owners to register locations housing cervids with the state veterinarian and participate in a chronic wasting disease certification program that includes record keeping, identification, death loss reporting, and perimeter fencing requirements. Amends 345 IAC 2-7 to establish requirements for chronic wasting disease positive, suspect, and exposed herds. Makes other changes in the law of animal disease control. *NOTE: This document was previously printed at 25 IR 1996 and has been revised.* Effective 30 days after filing with the secretary of state.

345 IAC 1-3-30 **345 IAC 2-7-4**
345 IAC 2-7-1 **345 IAC 2-7-5**
345 IAC 2-7-3

SECTION 1. 345 IAC 1-3-30 IS AMENDED TO READ AS FOLLOWS:

345 IAC 1-3-30 Chronic wasting disease

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-21-6

Sec. 30. (a) **Chronic wasting disease (CWD) is not known to exist in the state. CWD has been diagnosed in captive and wild cervids in other states and Canadian provinces. CWD presents a health hazard to the animals of the state that could result in substantial damage to the domestic cervid industry in the state and the state's wild cervid population. Preventing the spread of CWD from cervids in other states is the best currently available method for addressing the CWD threat to animals in the state. The state veterinarian shall continue to evaluate the risks associated with CWD and the available methods for protecting animals in the state from CWD. The state veterinarian shall update the board on his findings. In the interim, because of the current CWD threat, the following provisions apply until May 1, 2003:**

(1) **Notwithstanding any other provision of this rule, a person may not move a cervid into the state. A person may not move cervid semen or cervid embryos into the state.**

(2) **Notwithstanding subdivision (1), the following apply:**

(A) **A person may transport a cervid, cervid semen, and cervid embryos directly through the state without stopping and unloading the animal, semen, or embryos in the state.**

(B) **Cervid semen and cervid embryos sent out of the state for processing and storage may be brought back into the state if the following conditions are met:**

(i) **The person must first apply to the state veterinarian for a pre-entry permit to bring the cervid semen or embryos into the state. The state veterinarian may require from the applicant any information that is relevant to evaluating the disease risk associated with the movement. The state veterinarian may require that the application for a permit be in writing and be submitted not less than forty-eight (48) hours prior to the movement date.**

(ii) **The cervid semen or embryos may not be moved into the state unless the state veterinarian issues a pre-entry permit for the movement.**

(iii) **The state veterinarian may issue a pre-entry permit to move cervid semen and cervid embryos into the state if the epidemiology as it relates to CWD indicates that the proposed movement is consistent with**

reasonable animal health precautions.

(C) The state veterinarian may permit the movement of any animal, semen, or embryo into the state for the purpose of research or to facilitate the diagnosis, treatment, prevention, or control of disease.

(b) After May 1, 2003, a person may not transport into Indiana a cervid that originates from a herd that is located in a state where ~~chronic wasting disease~~ **CWD** has been diagnosed within the sixty (60) months immediately prior to the date of transportation into Indiana unless one (1) of the following sets of conditions are met:

(1) The animal originates from a herd that meets the following criteria:

(A) No animal in the herd and no animal that originated from the herd has tested positive for ~~chronic wasting disease~~ **CWD** within the sixty (60) months immediately prior to the date of transportation into Indiana.

(B) The herd has been enrolled in or subject to an official state or federal surveillance program whereby the herd has been monitored for ~~chronic wasting disease~~ **CWD** for not less than sixty (60) consecutive months and the owner of the herd is in compliance with the surveillance program requirements.

(2) The state veterinarian issues a permit to transport the animal into Indiana for the purpose of slaughter, research, or to facilitate the diagnosis, treatment, prevention, or control of disease.

The state veterinarian shall maintain a list of states where ~~chronic wasting disease~~ **CWD** has been diagnosed. (*Indiana State Board of Animal Health; 345 IAC 1-3-30; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1338; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895*)

SECTION 2. 345 IAC 2-7-1 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-1 Definitions

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-2; IC 15-2.1-3-13; IC 15-2.1-4

Sec. 1. The following definitions and the definitions in IC 15-2.1-2 apply throughout this rule:

(1) "Board" means the Indiana state board of animal health appointed under IC 15-2.1-3.

(2) "Certification program" means the CWD certification program in sections 3 and 4 of this rule.

~~(2)~~ **(3) "Cervidae" or "cervid" means all members of the cervidae family and hybrids, including deer, elk, moose, caribou, reindeer, and related species. and hybrids thereof.**

~~(3)~~ **(4) "Chronic wasting disease" or "CWD" means a transmissible spongiform encephalopathy of cervids.**

~~(4)~~ **(5) "CWD affected" and "affected" exposed animal" means a cervid an animal that is, or has been, diagnosed as having chronic wasting disease based on laboratory test results, clinical signs, in the last five (5) years, part of a CWD positive or CWD exposed herd.**

(6) "CWD exposed herd" means a herd in which a CWD positive or exposed animal has resided within sixty (60) months prior to the diagnosis of CWD.

(7) "CWD negative animal" means an animal that has been subjected to an official CWD test that resulted in a negative classification.

(8) "CWD positive animal" means an animal that has been diagnosed as having CWD based on official laboratory test results.

(9) "CWD positive herd" means a herd in which a CWD positive animal resided at the time it was diagnosed and epidemiologic investigation: that has not been released from quarantine.

~~(5)~~ **(10) "CWD affected herd" suspect" and "affected herd" "suspect" means laboratory evidence or clinical signs suggest a herd from which any animal has been diagnosed with diagnosis of CWD, but laboratory results are not yet available or have been inconclusive.**

~~(6)~~ **"CWD exposed" and "exposed" (11) "Herd" means an animal or a designation applied to cervids group of animals that have had contact with CWD affected animals are under common ownership or supervision and that are grouped on one (1) or more parts of a single premises, or on two (2) or more separate premises but on which animals have been interchanged or had direct or indirect contact with animals from a CWD affected herd: one another.**

(12) "Herd plan" means a written herd management agreement developed by the herd owner, the herd owner's veterinarian, and the state veterinarian, and approved by the state veterinarian, that states the steps that will be taken to eradicate CWD from a CWD positive, CWD exposed, or CWD suspect herd.

~~(7)~~ **(13) "High risk animal" means a cervid that may have been exposed to CWD. The state veterinarian shall determine**

which animals are high risk animals based on an epidemiological investigation that includes evaluation of animal movements, housing, location, and probable contacts with affected CWD positive, CWD exposed, or CWD suspect animals.

~~(8) “Monitoring program” means the CWD monitoring program created in sections 3 and 4 of this rule.~~

~~(9) (14) “Official test” means a disease CWD detection test approved by the state veterinarian conducted in a laboratory approved by the state veterinarian.~~

(15) “Owner” means a person who legally owns an animal. The state veterinarian may include as an owner a person who possesses an animal under a permit issued by the United States government or the Indiana department of natural resources, whether or not the permit holder actually has ownership rights in the animal, if it furthers the purposes of this rule.

~~(10) (16) “Quarantine” means an order restricting the movement of animals onto or off of a premises.~~

~~(11) (17) “State veterinarian” means the state veterinarian appointed under IC 15-2.1-4 or his authorized agent.~~

(Indiana State Board of Animal Health; 345 IAC 2-7-1; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1339; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895)

SECTION 3. 345 IAC 2-7-3 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-3 Herd registration

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-18-11

Sec. 3. (a) The owner of ~~an elk~~ **a cervid** located in Indiana must meet the following requirements:

(1) ~~Each elk herd must be registered~~ **The owner shall register** with the state veterinarian **each location where his or her cervids are kept.**

(2) Every animal in the herd must be uniquely identified. ~~in a manner prescribed by~~ The state veterinarian **shall prescribe the methods by which cervids shall be identified.**

(3) The owner must keep a **complete, accurate, and current herd inventory. A herd inventory shall include the following:**

(A) A record of each animal that is part of the herd including and its identification.

(B) A record of each animal that is added to the herd, including the date the animal is added and the source of the animal. If the source of the animal is from outside the owner’s herd, the name and address of the source.

(C) A record of each animal that is removed from the herd, including the date removed and the name and address of the animal’s destination.

(4) Upon request of the state veterinarian, the owner or custodian of the animals must do the following:

(A) Provide the state veterinarian access to or a copy of the written herd inventory, including each animal’s identification.

~~(4) The owner must~~ **(B) Present each animal in the herd to the state veterinarian for inspection and verification of identification. upon registration and annually thereafter. The herd inventory provided to the state veterinarian shall be updated not less than annually.**

(C) Provide access to any animal in the herd for testing, identification, or evaluation.

(5) Upon the death of any animal in the herd for any reason the owner shall immediately notify the state veterinarian. The state veterinarian ~~will may~~ inspect any dead cervid ~~that is eighteen (18) months of age or older and take tissues or other material necessary or helpful for a laboratory test for chronic wasting disease: detecting CWD.~~ The owner shall dispose of the remaining carcass as directed by the state veterinarian.

(6) The herd must be enclosed in a perimeter fence that is made from materials that will prevent cervids from entering or leaving through the structure, has no openings that will allow ingress or egress, and measures at least eight (8) feet from the ground to the top of the fence at all parts of the structure. The state veterinarian may approve a perimeter fence enclosing smaller cervids that is lower than eight (8) feet if the fence is likely to contain the animals.

(b) The state veterinarian may ~~grant a waiver from the requirement in subsection (a)(5) if~~ **conduct** an epidemiologic evaluation of ~~the any cervid herd, indicates that including testing the deceased any animal would not further if it furthers~~ the goal of ~~chronic wasting animal disease surveillance and control.~~ The state veterinarian ~~shall may~~ consider **all relevant factors, including** the length of time the herd has been under a CWD surveillance program, the herd’s health history, the potential effects of any additions to the herd, and the potential effect of wild cervids on the herd when

considering waivers evaluating herds under this subsection.

(c) The requirements in this section do not apply to a person possessing a dead wild cervid taken pursuant to a hunting permit issued by the Indiana department of natural resources. (*Indiana State Board of Animal Health; 345 IAC 2-7-3; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1339; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895*)

SECTION 4. 345 IAC 2-7-4 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-4 Chronic wasting disease certified herd status

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 4. (a) An owner of a cervid herd located in Indiana ~~may~~ **shall** obtain a ~~chronic wasting disease monitored CWD certified~~ status for the herd from the ~~board state veterinarian~~ by complying with the following requirements **in this section and section 3 of this rule.**

- (1) The owner of the herd must submit an application for participation in the monitoring program to the state veterinarian.
- (2) Every animal in the applicant's herd must be uniquely identified in a manner prescribed by the state veterinarian.
- (3) The owner must keep a record of each animal that is part of the herd, including a record of each animal that is added to the herd and each animal that is removed from the herd. The owner must provide the state veterinarian a written herd inventory including each animal's identification.
- (4) The owner must present each animal in the herd to the state veterinarian for inspection and verification of identification upon beginning the monitoring program and annually thereafter. The herd inventory provided to the state veterinarian shall be updated not less than annually.
- (5) Upon the death of any animal in the herd for any reason, the owner shall immediately notify the state veterinarian. The state veterinarian will inspect any dead cervid that is eighteen (18) months of age or older and take tissues necessary for a laboratory test for chronic wasting disease. The owner shall dispose of the remaining carcass as directed by the state veterinarian.
- (6) The owner shall pay for any fees associated with testing an animal other than elk from his or her herd for chronic wasting disease, including any fees necessary for tissue collection and laboratory diagnostic costs. The state veterinarian may allow the owner to utilize state or federal funds, if available, to pay for the costs of testing for CWD in lieu of the herd owner paying for testing.

(b) The state veterinarian may grant a waiver from the requirement in subsection (a)(5) if an epidemiologic evaluation of the herd indicates that testing the deceased animal would not further the goal of chronic wasting disease surveillance and control. When considering waivers under this subsection, the state veterinarian shall consider the following:

- (1) The length of time the herd has been in the surveillance program.
- (2) The herd's health history.
- (3) The potential effects of any additions to the herd.
- (4) The potential effect of wild cervids on the herd.

~~(c)~~ **(b) The state veterinarian may award** a cervid owner ~~may receive~~ the following chronic wasting disease CWD herd statuses ~~while participating in the chronic wasting disease monitoring CWD certification program: described in this section:~~

- (1) Level One status after one (1) year of ~~participation: compliance.~~
- (2) Level Two status after two (2) years of ~~participation: compliance.~~
- (3) Level Three status after three (3) years of ~~participation: compliance.~~
- (4) Level Four status after four (4) years of ~~participation: compliance.~~
- (5) Level Five **or "certified"** status after five (5) or more years of ~~participation: compliance.~~
- (6) Unknown status prior to the first complete year of ~~participation: compliance or if a herd is not in compliance.~~
- (7) Status pending status if the herd has been identified as a CWD affected **positive, CWD suspect, or CWD exposed** herd.

~~(d)~~ **(c)** If an animal is added to a herd, the ~~chronic wasting disease monitored CWD certification~~ status of a herd will be altered as follows:

- (1) The ~~chronic wasting disease~~ **CWD** status will not change if the animal that is added to the herd originated from a herd that has a ~~chronic wasting disease monitored status equal to or greater than~~ **been in an equivalent CWD certification program for at least as long as** the recipient herd.
- (2) If the animal that is added to the herd originated from a herd that has ~~been in a chronic wasting disease monitored status lower~~ **CWD certification program for less time** than the recipient herd, the recipient herd's **certification** status will be lowered to the status of the lowest status cervid added.
- (3) A new herd that is assembled on a premises where ~~chronic wasting disease~~ **CWD** has never been diagnosed retains the **certification** status of the lowest status animal brought into the new herd.

~~(e)~~ **(d)** The state veterinarian may suspend, revoke, or lower the ~~monitoring~~ **certification** program status of a herd ~~if~~ **for the following reasons:**

- (1) A herd is found to be CWD positive, CWD suspect, or CWD exposed.**
- (2) The herd owner does not meet the requirements under this section.** ~~or~~
- (3) The herd owner violates the requirements for moving cervids into Indiana in 345 IAC 1-3 or any provision of this rule.**

(Indiana State Board of Animal Health; 345 IAC 2-7-4; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1340; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895)

SECTION 5. 345 IAC 2-7-5 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-5 CWD positive, CWD suspect, and CWD exposed animals

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-18

Sec. 5. (a) Whenever an animal is determined to be ~~CWD affected,~~ **positive**, the state veterinarian shall **take steps to prevent, detect, contain, and eradicate CWD and may do the following:**

- (1) Quarantine animals, carcasses, and feed or other material.**
- (2) Condemn animals, carcasses, and feed or other material.**
- (3) Specify the means of disposal for condemned items.**
- (4) Conduct a complete epidemiologic investigation to determine the specific cause and source of the disease and to determine the population infected with and exposed to the disease.**
- (5) Take steps that are necessary or helpful to prevent, detect, contain, and eradicate CWD.**

(b) Whenever a cervid is determined to be ~~affected with chronic wasting disease~~ **CWD positive**, a herd plan shall **be developed. The herd plan shall include** the following: ~~apply:~~

- (1) The affected animal or its carcass shall be ~~condemned~~ **specific conditions of the quarantine imposed** by the state veterinarian **under subsection (a).**
- (2) The affected herd shall be ~~quarantined by specific conditions for the state veterinarian disposal of condemned items and death loss from the herd.~~
- (3) ~~The affected~~ **A plan for cleaning and disinfecting the CWD positive** herd premises shall be ~~cleaned and disinfected~~ according to directions prescribed by the state veterinarian. ~~that are~~ **The plan shall be** designed to minimize the likelihood that ~~chronic wasting disease~~ **CWD** is spread.
- (4) ~~The affected herd owner shall enroll in~~ **A plan for assessing** the monitoring program in section 4 of this rule. ~~health of animals in the affected herd. owner~~ **The plan shall participate in the monitoring program until such time as Level Five status is achieved.**
- (5) The state veterinarian may release the affected herd from quarantine upon the owner completing one ~~(+) address each of the following: requirements:~~
 - ~~(A) Obtaining Level Five status in the monitoring program:~~
 - ~~(B) Isolating all high risk (A) Testing some or all of the animals from any other animal and testing the high risk animals for CWD. If all animals test negative for CWD, the quarantine may be released upon completion of Level Three status in the monitoring program:~~
 - ~~(C) (B) Depopulating some or all of the animals in the herd.~~
 - ~~(C) Inspections by state or federal officials and other surveillance measures.~~
 - ~~(D) Animal identification requirements.~~

(E) Herd inventory requirements.

- (5) If necessary, parameters for separation of animals, captive and wild.**
- (6) Parameters for restocking or adding to the herd.**
- (7) Any other measures necessary to prevent, detect, and eradicate CWD.**

(c) The following apply to CWD exposed and CWD suspect herds:

- (1) The state veterinarian may quarantine a CWD exposed or CWD suspect herd.**
- (2) The state veterinarian may: order a premises that contains or that contained exposed animals cleaned and disinfected according to directions prescribed by**

(A) condemn animals in the state veterinarian that are designed to minimize the likelihood that chronic wasting disease is spread: The owner of a CWD exposed herd; and

(B) order testing of any animal in the herd.

- (3) A herd plan shall enter be developed for the herd. in The monitoring program until such time as Level Three status in herd plan shall meet the monitoring program is obtained. The state veterinarian may allow an owner of an exposed herd to leave the monitoring program prior to achieving Level Three status if an epidemiological investigation indicates that the likelihood of CWD transmission to, within, or from the herd is remote: requirements in subsection (b).**

(d) A cervid owner shall follow and implement the provisions of a herd plan developed for the owner's herd under this section.

(e) The state veterinarian may release a quarantine imposed on a CWD positive, CWD suspect, or CWD exposed herd after the provisions of the herd plan developed under this section have been completed. (Indiana State Board of Animal Health; 345 IAC 2-7-5; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1340; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 2, 2002 at 9:50 a.m., at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50, Indianapolis,, Indiana the Indiana State Board of Animal Health will hold a public hearing on proposed amendments to rules concerning restrictions on the movement of cervids into Indiana and regulation of cervids in Indiana to control chronic wasting disease. Copies of these rules are now on file at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bret D. Marsh, D.V.M.
Indiana State Veterinarian
Indiana State Board of Animal Health