

GENERAL GOVERNMENT
Department of Agriculture
Office of the State Veterinarian
(Amended After Comments)

302 KAR 22:150. Cervids.

RELATES TO: KRS 150.730-150.735, 246.030(4), 257.020, 257.030, 257.080, 257.990, Chapter 321, 9 C.F.R. 55, 81.4, 161.1-161.4

STATUTORY AUTHORITY: KRS 150.720(1), 246.295(1), 257.550, 257.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.720(1), 246.295(1), and 257.550 require the Department of Agriculture, in cooperation with the Department of Fish and Wildlife Resources, to promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned and farm-raised cervids maintained for the production of meat and other products. This administrative regulation establishes criteria and health requirements necessary to prevent the introduction of chronic wasting disease into Kentucky and develop a herd monitoring system, and establishes requirements for intrastate and interstate movement of farmed cervids.

Section 1. Definitions.

(1) "Adjacent herd" means: A herd of cervids occupying premises that shares a border or boundary line with premises occupied by a chronic wasting disease positive herd, including herd separated by a road or stream; and

(2) "Animal identification number" or "AIN" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of fifteen (15) digits, with the first three (3) being the country code (either 840 for the United States at large or a unique code for any U.S. territory that elects to use it in place of the 840 code).

(3) "APHIS" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

(4) "Approved laboratory" means the National Veterinary Service Laboratory in Ames, Iowa, or any other laboratory approved by the APHIS.

(5) "Certificate of Veterinary Inspection" or "CVI" means an official document, on a form approved by the chief animal health official of the state of origin or by USDA APHIS Veterinary Services for verification of veterinary inspection that is issued by a licensed and accredited veterinarian.

(6) "Certified" means the status achieved by a herd that has met the standards of the Chronic Wasting Disease Herd Certification Program continuously for at least five (5) years.

(7) "Certified Chronic Wasting Disease (CWD) Herd" or "herd" means a group of cervids under common ownership or supervision that has achieved "certified" status in the Kentucky Herd Certification Program, the federal Chronic Wasting Disease Herd Certification Program, or a state Chronic Wasting Disease Certification Program approved by APHIS or the State Veterinarian.

(8) "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the Cervidae family and hybrids thereof.

(9) "Cervid Chronic Wasting Disease Surveillance and Identification" or "CCWDSI" means the:

(a) Chronic Wasting Disease HCP; and

(b) Chronic Wasting Disease HMP.

(10) "Cervid Herd Plan" means a written herd management agreement or premises management agreement:

- (a) Developed by OSV in collaboration with the herd owner to address compliance issues within ~~an~~^a HCP or HMP herd; or
 - (b) That establishes the steps needed to eradicate CWD from a CWD positive herd, to control the risk of CWD in a CWD exposed or CWD-suspect herd, or to prevent introduction of CWD into that herd or any other herd.
- (11) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy of cervids.
- (12) "Farmed cervid":
- (a) Means cervid livestock that are enrolled in a CCWDSI program and are maintained for propagation, selling, trade, or barter or for taking by any harvest or slaughter method; and
 - (b) Does not mean any cervid that has not originated from and been continuously maintained within a herd that is enrolled in and complies with ~~an~~^a HCP or HMP.
- (13) "Exposed" means a cervid that is part of a CWD positive herd, or that has been exposed to a CWD-positive cervid or contaminated premises within the previous five (5) years.
- (14) "Harvest" means to slaughter or take by hunting farmed cervids for meat and other products.
- (15) "Herd Certification Program" or "HCP" means a program established by this administrative regulation to determine the CWD status of farmed cervid herds.
- (16) "Herd Monitoring Program" or "HMP" means a program established by this administrative regulation to monitor farmed cervids in harvesting facilities for CWD.
- (17) "Identification" means a device or means of identification approved for use under this administrative regulation by the State Veterinarian.
- (18) "Interstate movement" means movement from another state into or out of Kentucky.
- (19) "Intrastate movement" means movement solely within the boundaries of Kentucky.
- (20) "Move" means to carry, enter, import, ship, or transport; to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive in order to carry, enter, import, mail, ship, or transport; or to allow any of these activities.
- (21) "National Uniform Eartagging System" or "NUES" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal that is USDA approved.
- (22) "Office of State Veterinarian" or "OSV" means that office within the Kentucky Department of Agriculture as established in KRS 246.030(4).
- (23) "Official Chronic Wasting Disease test" or "CWD test" means any test for the diagnosis of Chronic Wasting Disease approved by APHIS and conducted in a laboratory approved by APHIS in accordance with 9 C.F.R. Part 55.
- (24) "Official eartag" means an identification tag approved by APHIS that bears an official identification number for individual animals. Beginning March 11, 2014, all official eartags manufactured bear an official eartag shield. Beginning March 11, 2015, all official eartags applied to animals bear an official eartag shield. The design, size, shape, color, and other characteristics of the official eartag depend on the needs of the users, subject to the approval of the USDA Administrator. The official eartag is tamper-resistant and has a high retention rate in the animal.
- (25) "Official identification number" means a nationally unique number that is permanently associated with a cervid and complies with:
- (a) National Uniform Eartagging System (NUES);
 - (b) Animal Identification Number (AIN); or
 - (c) Any other numbering system approved by the Administrator for the official identification of animals, including a group identification number.
- (26) "Owner" is defined by KRS 257.010(14).

- (27) "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.
- (28) "Physical inventory" means an inventory that confirms individual identification of each cervid by hands on observation to include physical or chemical restraint as needed.
- (29) "Positive" means a cervid has had a diagnosis of CWD confirmed by means of two (2) official CWD tests.
- (30) "Premises identification number" or "PIN" means a nationally unique number allocated to a premises by a state or federal animal health official and:
- (a) Is used in conjunction with a producer's own livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal; and
 - (b) Is the number system permitted by the state of origin specifically as a CWD program site.
- (31) "Quarantine" means an imposed restriction prohibiting movement of live or dead cervids, or parts thereof, to any location without specific written approval of the State Veterinarian.
- (32) "Radio Frequency Identification Device" or "RFID" means a device electronically encoded with a unique identification and that complies with the applicable International Standards Organization (ISO) standards and that bears the visual number.
- (33) "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam.
- (34) "USDA" means the United States Department of Agriculture.
- (35) "USDA-accredited veterinarian" means a veterinarian accredited by the USDA as category II in accordance with the provisions of 9 C.F.R. 161.1 to 161.4, and licensed to practice veterinary medicine in their home state.
- (36) "Visual inventory" means an inventory done when distance observation of identification of identification devices is possible.

Section 2. All Farmed Cervids Shall Be in a Program. Every farmed cervid in Kentucky shall be enrolled in either the Chronic Wasting Disease Herd Certification Program or the Chronic Wasting Disease Herd Monitoring Program.

Section 3. Required CWD program Training.

- (1) Prior to initial enrollment in a CWD program, a minimum of one (1) hour initial educational training provided by the OSV shall be completed.
- (2) Supplemental trainings provided by OSV shall be required when there is a change in Chronic Wasting Disease prevalence, change in Kentucky program administrative regulations, or a change in USDA CWD program standards, or any other time deemed necessary by the State Veterinarian to prevent the spread of disease. Notice for any additional training shall be provided at least thirty (30) days in advance of the date.
- ~~[(3)] [All persons with a HCP or HMP permit at the date this administrative regulation becomes effective shall complete an educational training for one (1) hour prior to their renewal for the following year.]~~

Section 4. Chronic Wasting Disease Herd Certification Program (HCP).

- (1) An ~~[A]~~ HCP permit shall be required to participate in the HCP program. An~~[A]~~ HCP permit shall be valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.
- (a) The applicant for the HCP shall submit:
 - 1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;

2. A written statement by a Kentucky-licensed and USDA accredited veterinarian certifying that the veterinarian and the herd owner have a valid veterinarian-client-patient relationship; and

3. An initial fee of \$150. Renewal fees the next year are described in subsection (2) of this section.

(b) The OSV shall grant ~~an~~^a HCP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall be returned to the applicant without approval. The OSV shall not approve any application if the applicant owes fees or fines to the KDA.

(c) ~~An~~ ^A HCP participant whose permit expires prior to renewal shall be subject to the penalties established in Section 19 of this administrative regulation.

(2) Annual HCP permit renewal required. Fees shall be based on the officially tagged inventory submitted in paragraph (e) of this subsection. Renewal applicants shall:

(a) Submit a complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year;

(b) Pay a fee of \$135 for herds up to fifty (50) cervids, \$250 for herds between fifty-one (51) and 100, or \$450 for herds containing more than 101 cervids, for applications submitted prior to December 1, preceding the applicable permit year;

(c) Pay a fee of \$150 for herds up to fifty (50) cervids, \$275 for herds between fifty-one (51) and 100, or \$500 for herds containing more than 101 cervids, for applications submitted between December 1 and December 31, preceding the applicable permit year;

(d) Pay a fee of \$250 for herds up to fifty (50) cervids, \$375 for herds between fifty-one (51) and 100, or \$600 for herds containing more than 101 cervids, for applications submitted late, January 1 and after of the applicable permit year; and

(e) Submit a current herd inventory as of the time of application submission, and the most recent reporting documents due to the OSV as required in subsection (3)(c) of this section if not already on file with the OSV.

(f) Permits not renewed by February 15 of the applicable program year will be terminated from the program effective February 16 and not be eligible for renewal. Section 20 of this administrative regulation shall apply as those cervids would be not continuously enrolled and shall not be deemed farmed cervids.

(3) HCP Requirements.

(a) Herds enrolled in this program shall comply with the requirements established in this section and 9 C.F.R. Part 55, Subpart B, and shall follow the USDA Chronic Wasting Disease Standards, and the RFID official identification requirements of Section 8.

1. After an initial permit is issued, the participant shall enroll the herd into the HCP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.

2. After the first year in the HCP, the participant shall:

a. Conduct the physical inventory and continuously identify cervids as required;

b. Provide any records required by this administrative regulation to the OSV for the cervids; and

c. Maintain and complete the provisions of this administrative regulation and a Cervid Herd Plan, if developed.

(b) Cervid identification requirement.

1. Each cervid shall have at least two (2) forms of cervid identification prior to or at the time of the annual herd inventory, one (1) of which shall be a RFID official

identification and one (1) form shall be a visual type of identification, both of which shall be unique to that cervid within the herd.

2. A cervid of any age shall have official identification before being moved from the premises for any purpose.

(c) Cervid inventory.

1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.

2.

a. An annual herd inventory shall be conducted that reviews all records and includes observation of all cervids in an enclosed area, including physical restraint if necessary, to reconcile all visible identification devices with available records. This required inventory shall be conducted in January, February, March, or April.

b. Beginning May 1, the herd shall be placed in quarantine and no movement shall be permitted until the physical or visual inventory is completed for those herds not completing a visual~~physical~~ inventory January, February, March, or April. The OSV shall determine what style of inventory is required for those not completed by OSV staff prior to May 1.

3. The state veterinarian or an APHIS representative may request additional physical inventories to verify herd compliance with program standards. A physical inventory shall be conducted at least once in any three (3) year time period, but may occur at any time of the calendar year so that it may be completed at a time when the owner deems appropriate.

4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for visual or physical inspection.

5. Additional herd inventory record inspections and reviews shall be conducted quarterly at the cervid premises or at another location mutually agreed to by the owner and the OSV.

(d) Herd Additions.

1. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP, or from a herd in a state, approved by the OSV, with an USDA-approved CWD Certification Program in which CWD has never been confirmed.

2. New cervids shall not be introduced into the herd unless it has been approved by the State Veterinarian.

3. If cervids are introduced from a herd of lower status, the receiving herd status shall revert to the lower status.

(e) HCP Reporting requirements. The owner shall report to OSV any cervids that escape or disappear and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. The reporting time frame shall be:

a. For cervids that escape or disappear, a report shall be made within forty-eight (48) hours;

b. For cervids taken by harvest, a report shall be submitted within seven (7) days; and

c. For cervids that die from illness or any other reason, a report shall be submitted within seven (7) days.

2. The report shall include all applicable identification numbers, including the visual tag and the date of the death, disappearance, or escape.

3. Cervids that die or are harvested shall have the required tissue specimens collected and submitted for Chronic Wasting Disease testing except if exempted in writing by request to, and approval of, the OSV. Exemptions shall only be granted in extenuating circumstances, such as natural disaster or a disease event.

4. An APHIS or OSV representative shall investigate herds that fail to comply with testing requirements and shall evaluate the herd's status.
5. Cervid escapes return protocol.
 - a. Cervids that escape may be returned to the herd only if:
 - (i) Within seventy-two (72) hours, the cervids are re-captured and the fence is repaired and secured to prevent further escape and meet the requirements established by Kentucky Department of Fish and Wildlife Resources in 301 KAR 2:083. Any cervid recaptured after seventy-two (72) hours shall be introduced back into the herd only with written permission of the OSV; and
 - (ii) Within seven (7) days of initial escape, an updated inventory is provided to the OSV representative in writing.
 - b. An OSV representative may require physical inspection of cervids to confirm inventory.
- (f) Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.
- (g) An owner maintaining separate herds shall comply with the separate-herd requirements established in 9 C.F.R. 55.23.
- (h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established in KRS 150.730 through 150.735.
- (i) The owner shall maintain and provide to the OSV representative upon request the following herd records:
 1. Complete inventory of cervids including the official identification and any other identification, and the age and sex of each cervid;
 2. A record for each purchased or natural addition to the herd including:
 - a. The official identification, species, age, and sex of the cervid;
 - b. The name and address of the person from whom the cervid was purchased;
 - c. The address of the herd from which the cervid was purchased;
 - d. A copy of the CVI that accompanied the cervid for intrastate or interstate movement;
 - e. Date the purchased addition entered the herd; and
 - f. Approximate date of birth, if a natural addition;
 3. A record of each cervid leaving the herd, including:
 - a. The date of movement, the name of the person to whom it was shipped, the place to which it was shipped, and a copy of the Certificate of Veterinary Inspection related to the shipment; and
 - b. A cervid's death or harvest on the premises, including the date of death, the apparent cause of death; the cervid's age, sex, and state-federal official individual cervid identification; date and laboratory submitted for CWD testing, if required; and the disposition of the cervid's carcass. If the carcass was removed from the premises, the record shall identify the carcass' destination and recipient;
 4. A record of all individual CWD tests that were conducted on cervids in the herd;
 5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and
 6. All individual identification numbers (from, for example, tags and electronic implants) associated with each cervid.
- (j) Herd status levels.
 1. Upon a herd being first enrolled in the Herd Certification Program, the herd shall be placed in first-year status, except that if the herd is comprised solely of cervids obtained from herds already enrolled in the Herd Certification Program, the newly

enrolled herd shall have the same status as the lowest status of any herd that provided cervids for the herd.

2. If a herd continues to comply with the requirements of the Herd Certification Program, the herd status shall be upgraded by one (1) year on the anniversary of the program enrollment date.

3. One (1) year after the date a herd was placed in fifth-year status, the herd status shall be changed to "certified". The herd shall remain in "certified" status as long as the herd remains enrolled in the program, if its status is not revoked or suspended in accordance with this administrative regulation or 9 C.F.R. 55.24.

4. A herd owner shall be issued a certificate of "Certified" status upon completing the Herd Certification Program requirements established in this administrative regulation.

5. Renewal of a Certified Cervid Herd. A herd shall be certified for twelve (12) months. For continuous certification, adherence to the provisions in this administrative regulation and all other state laws and administrative regulations pertaining to holding cervids shall be required.

6. The herd enrollment date shall be the latter date of:

a. The physical inventory being completed in accordance with paragraph (c) of this subsection; or

b. The initial cervid delivery.

(k) Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection by an OSV certified CWD sample collector, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within seven (7) days of death and collection. If incidents of mass casualty or mortality events are confirmed by the OSV, the OSV may waive the testing requirements for all cervids and instead only require testing based on risk.

(l) USDA Chronic Wasting Disease Program Standards deficiencies may, based on the nature of the deficiencies, require a Cervid Herd Plan in lieu of, or in addition to, administrative penalties. Deficiencies in required testing, from poor sample quality or for failure to submit a sample, may result in an order from the OSV requiring a similar living cervid be euthanized for CWD testing.

Section 5. Chronic Wasting Disease Herd Monitoring Program (HMP).

(1) ~~An [A]~~ HMP permit shall be required to participate in the HMP program. ~~An[A]~~ HMP permit shall be valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.

(a) The applicant for the HMP program shall submit:

1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;

2. A written statement by a Kentucky-licensed and USDA accredited veterinarian, certifying that the veterinarian and the herd owner have a valid veterinarian-client relationship; and

3. A fee of \$500.

(b) OSV shall grant the HMP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall be returned to the applicant without approval. The OSV shall not approve any application if the applicant owes any fees or fines to the KDA.

(c) HMP participants whose permit expires prior to renewal shall be subject to the penalties in Section 19 of this administrative regulation.

- (2) Annual HMP permit renewal required. Renewal applicants shall:
- (a) Submit a completed Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year.
 - (b) Pay a fee of \$500.
 - (c) Submit a current herd inventory as of the moment of application, and the most recent reporting documents due to the OSV as required in subsection (4)(c) of this section if not already on file with the OSV.
 - (d) The permit shall be effective January 1 through December 31 of each year.
- (3) Restrictions and limitations on HMP-enrolled cervids and herds.
- (a) A cervid shall not leave an HMP-enrolled herd alive.
 - (b) A cervid shall not be moved to another HMP-enrolled herd.
 - (c) An ~~A~~ HMP herd, or any cervid within an~~a~~ HMP-enrolled herd shall not be eligible to enter the HCP.
- (4) HMP Requirements.
- (a) Herds enrolled in this program shall comply with the requirements established in this section.
 1. After an initial permit is issued, the participant shall enroll the herd into the HMP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.
 2. After the first year in the HMP, the participant shall:
 - a. Conduct the inventory and continuously identify cervids as required;
 - b. Submit records to the OSV for the cervids that are required in this administrative regulation; and
 - c. Maintain and complete the provisions of this administrative regulation and a herd-specific Cervid Herd Plan, if developed.
 - (b) Cervid identification requirement.
 1. Each cervid twelve (12) months of age or older shall have at least two (2) forms of cervid identification, one (1) of which shall be a RFID official identification and one (1) form shall be a visual type of identification, which shall be unique to that cervid within the herd.
 2. Any untagged cervid that dies or is harvested shall be officially identified and shall be CWD tested.
 - (c) Cervid inventory.
 1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.
 2. An annual herd inventory shall be conducted and submitted to the OSV that reviews all records and documents that would change the baseline herd inventory.
 3. The state veterinarian or an APHIS representative may request a visual or physical inventory **conducted by OSV staff** to verify herd compliance with program standards. **A herd plan may be created to allow images or other data in lieu of a visual inventory.**
 4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for inspection.
 5. **Cervids that have been in inventory for four (4) years without a visual confirmation shall be presumed dead by the permit holder and written notice be provided to the OSV via mail or email. If the presumed dead cervid is later found alive it shall be added back to the inventory.**
 - (d) Herd Additions. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP, or from a herd in a state, approved by the OSV, with an USDA-approved CWD Certification Program in which CWD has never been

confirmed. All female cervid additions in an HMP shall be spayed or otherwise confirmed by a veterinarian to be incapable of reproduction aft March 31, 2024.

(e) If evidence of natural additions are found, a Cervid Herd Plan shall be developed to eliminate future breeding. Intentional breeding shall not be allowed.

(f) HMP Participant Reporting requirements. The owner shall report to the OSV any cervids that escape or disappear, and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. This report shall be submitted to the OSV by the close of business on the first business day of each month for the activities of the previous calendar month.

2. The report shall include applicable cervid identification numbers, including the visual tag; the date of the death, disappearance, escape; and the dates the CWD tests were submitted for testing.

3. All cervids that die or are harvested shall have the required tissue specimens collected and submitted for CWD testing.

4. In accordance with 9 C.F.R. 55.23, an APHIS or OSV representative shall investigate herds that fail to comply with testing requirements, which shall be considered noncompliance.

5. Cervid escapes return protocol.

a. Cervids that escape may be returned to the herd only if:

(i) Within seventy-two (72) hours, the cervids are re-captured and the fence is repaired and secured to prevent further escape and meet the requirements established by Kentucky Department of Fish and Wildlife Resources in 301 KAR 2:083. Any cervid recaptured after seventy-two (72) hours shall be introduced back into the herd only with written permission of the OSV; and

(ii) Within seven (7) days of initial escape, an updated inventory is provided to the OSV representative in writing.

b. An OSV representative may require physical inspection of cervids to confirm inventory.

(g) Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.

(h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established in KRS 150.730 through 150.735.

(i) The owner shall maintain and provide to the OSV representative upon request the following herd records:

1. Complete inventory of cervids, including the official identification, and any other identification, and the age and sex of each cervid;

2. A record for each purchased or natural addition to the herd, including:

a. The official identification, species, age, and sex of the cervid;

b. The name and address of the person from whom the cervid was purchased;

c. The address of the herd from which the cervid was purchased;

d. A copy of the CVI that accompanied the cervid for intra- or interstate movement;

e. Date the purchased addition entered the herd; and

f. Approximate date of birth, if a natural addition;

3. A record of each cervid leaving the herd including a record of each cervid that died or was harvested on the premises including:

a. The date of death;

b. The apparent cause of death;

c. The cervid's age and sex;

- d. State-federal official individual cervid identification, date, and laboratory submitted for CWD testing, if required; and
 - e. The disposition of the cervid's carcass. If the carcass left the premises, the record shall identify the carcass destination and recipient;
 - 4. A record of all individual CWD tests that were conducted on cervids in the herd;
 - 5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and
 - 6. All individual identification numbers (from, for example, tags and electronic implants) associated with each cervid.
- (j) Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within thirty (30) days of collection. Deficiencies in required testing, from poor sample quality or for failure to submit a sample, may result in an order from the OSV requiring a similar living cervid be euthanized for CWD testing.

Section 6. Testing, Investigation, and Quarantine.

- (1) Surveillance testing procedures.
 - (a) CWD testing shall be in accordance with the procedures established in 9 C.F.R. 55.8.
 - (b) A positive or non-negative of CWD by an approved laboratory shall be sent to the National Veterinary Service Laboratory for confirmation.
 - (c) If required tissues from test eligible cervids are not submitted for laboratory diagnosis by the cervid owner, the state veterinarian shall revoke the permit or implement a mutually agreed upon Cervid Herd Plan.
- (2) Investigation of CWD-positive cervids.
 - (a) An epidemiological investigation in accordance with 9 C.F.R. 55.23 shall be conducted by OSV or APHIS VS for all cervids diagnosed at an approved laboratory CWD positive or suspect.
 - (b) All CWD-positive herds and all source, exposed, and adjacent herds and the premises where these herds are located shall be investigated epidemiologically by OSV.
- (3) Duration of Quarantine. Quarantines issued by the State Veterinarian for CWD in accordance with this administrative regulation shall be removed as established in paragraphs (a) and (b) of this subsection.
 - (a) A premises shall not be removed from quarantine until after completion of the cervid herd plan and five (5) years of compliance with all provisions of 9 C.F.R. Part 55.
 - (b) An adjacent or exposed herd or premises may be removed from quarantine only after an epidemiological investigation and by order of the OSV.

Section 7. CWD Sample Collection Training.

- (1) Required CWD samples shall be collected by a licensed accredited veterinarian or an individual certified by the OSV.
- (2) To become certified, an individual shall:
 - (a) Submit a request for certification to the OSV at Statevet@ky.gov or contact the OSV; and
 - (b) Attend a training course offered by the OSV.
- (3) Certification is valid for five (5) years from the date of training course or until new sample collection protocols have been mandated by OSV or USDA. Renewal certification shall require completion of a renewal form.

(4) Certified individuals shall comply with CWD collection and submission protocols. Failure to submit quality samples may result in revocation of certification status.

(5) Certified individual shall maintain record of sample collections for ten (10) years. Records shall include a copy of the laboratory submission form or a generated report which contains the following:

- (a) Date of sample collection;
- (b) Premises Name and City where sample collection occurred;
- (c) List of official identification devices of each sample;
- (d) Number of samples collected; and
- (e) Name of Laboratory where samples were submitted.

Section 8. Certificate of Veterinary Inspection.

(1) A Certificate of Veterinary Inspection shall remain valid for thirty (30) days after date of inspection.

(2) A CVI shall contain:

- (a) Identification of each animal recorded on the certificate;
- (b) A RFID and visual identification for each cervid;
- (c) The species, breed, sex, and age of each cervid;
- (d) The name and address of the owner, cosigner, or agent shipping the cervid, and phone number of each;
- (e) The location from which the animal is loaded for movement;
- (f) The name and address of the consignee or person receiving the cervid;
- (g) The location at which the animal will be received;
- (h) The purpose of the movement and the total number of cervids;
- (i) All non-applicable data fields crossed out by the USDA-accredited Veterinarian prior to signing;
- (j) The movement permit number issued by the OSV;
- (k) The following statement or one substantially similar: "I certify as an accredited veterinarian that the above described animals have been inspected by me on this date and that they are not showing signs of infection or communicable disease. The vaccinations and results of tests are as indicated on the certificate. The animals listed on this certificate meet the state of destination requirements and federal interstate requirements"; and
- (l) The signature, USDA category II accreditation number, and phone number of the veterinarian.

(3) Paper submitted Certificate of Veterinary Inspection.

- (a) The first physical page shall be mailed or otherwise delivered to the office of the state veterinarian in the origin state within seven (7) days of the date it is written.
- (b) An exact replica image (a scan in a PDF) of the first page may be submitted in lieu of the first physical page required in paragraph (a) of this subsection by submitting via electronic mail within seven (7) days of the date it is written to Statevet@ky.gov.
- (c) The second page shall physically accompany the cervid being moved and be readily accessible during the movement.
- (d) The third page shall be sent to the Animal Health Official in the state of destination within seven (7) days of the date it is written.
- (e) The fourth page shall be retained by the issuing veterinarian for at least five (5) years from the date of issuance.
- (f) A legible copy of any supplemental pages shall be stapled to the original and each copy of the CVI.

(4) Electronically submitted CVIs.

- (a) Certificate of Veterinary Inspection and Permit may be submitted via an importable format as approved by the OSV.

(b) Cervids moving with an electronically submitted Certificate of Veterinary Inspection shall be accompanied by a paper copy or have the electronic material stored on a device that may be read immediately upon request.

(5) A person shall not issue a CVI bearing the seal of the Commonwealth of Kentucky unless that person is a Kentucky licensed and USDA category II accredited veterinarian.

Section 9. Movement Permit.

(1) A person shall not move a cervid within or into Kentucky without first obtaining a permit from the OSV at least forty-eight (48) hours prior to the movement, unless approved in writing by the OSV after consideration of the risks involved.

(2) Proof of required vaccinations or other applicable health practices to ensure disease prevention based on place or origin, as found on the Web site at www.kyagr.gov, shall be completed prior to permit issuance. Instructions for a permit may be obtained on the Web site.

(3) Movement permit instructions may be obtained by calling OSV at 502-573-0282, Monday through Friday, 8 a.m. EST to 4:30 p.m. EST.

(4) Required testing or vaccination. Required tests and vaccinations shall be performed or verified by a:

(a) Licensed and USDA category II accredited veterinarian;

(b) Designee of the State Veterinarian; or

(c) Designee of the federal government.

(5) Required tests shall be conducted at no expense to the Commonwealth of Kentucky.

(6) Required laboratory tests shall be conducted in a state-federal approved laboratory.

Section 10. Official Identification and Other Required Identification.

(1) Beginning July 1, 2020, RFID official identification shall be applied in any initial tagging event, retagging event, or anytime a cervid is restrained by any method, including permitted movements. All imported cervids shall require an RFID at the time of importation beginning July 1, 2020. This RFID shall be cross referenced with any other existing official identification at the time of application. Existing official identification shall not be removed without the prior written approval of the OSV.

(2) Methods of official identification. An official individual identification shall consist of a set of alphanumeric characters or physical characteristics that are uniquely associated with an individual cervid and that constitute:

(a) Official USDA NUES that was applied prior to June 30, 2020; and

(b) An RFID that:

1. The RFID uniquely identifies the animal and is USDA approved;

2. The RFID is attached to the animal;

3. The RFID is registered to a PIN or to a person; and

4. Only one (1) official RFID is placed on an animal.

(3) Use of more than one (1) official eartag.

(a) Any person applying the additional official eartag shall record the following information about the event, and submit to the OSV within seven (7) days the required information, and maintain the record for at least ten (10) years:

1. The date the additional official eartag is added;

2. The reason for the additional official eartag device; and

3. The official identification numbers of the new official eartag and the one or ones already attached to the animal.

(b) An eartag with an Animal Identification Number (AIN) beginning with the 840 prefix (either radio frequency identification or visual-only tag) may be applied to a cervid that is already officially identified with one (1) or more National Uniform Eartagging System tags. The person applying the Animal Identification Number eartag shall record the date the Animal Identification Number tag is added and the official

identification numbers of any official eartags and shall maintain those records for at least ten (10) years.

(4) Removal or loss of official identification devices.

(a) Removal of official identification shall be prohibited, except as approved in writing by the OSV or a USDA area veterinarian in charge if a device needs to be replaced.

(b) If a cervid loses an official identification device:

1. A replacement tag with a different official identification number may be applied. The person applying a new official identification device with a different official identification number shall record the following information about the event and maintain the record for at least ten (10) years:

- a. The date the new official identification device was added;
- b. The official identification number on the device; and
- c. The official identification number on the old device, if known.

2. Replacement of a temporary identification device with a new official identification device shall be considered to be a retagging event and shall be noted on the Retag Form.

(5) Removal of official identification, without prior written approval of the OSV shall be strictly prohibited.

(6) Replacement records required. Any time an official identification device is replaced, as authorized by OSV or the USDA, the person replacing the device shall record the following information about the event and maintain the record for at least five (5) years:

- (a) The date on which the previous device was removed;
- (b) Contact information for the location where the device was removed;
- (c) The official identification number (to the extent possible) on the device that was removed;
- (d) The type of device removed (for example, metal eartag or RFID eartag);
- (e) The reason for the removal of the former device;
- (f) The new official identification number on the replacement device; and
- (g) The type of replacement device that was applied to replace the former device.

Section 11. Premises of Origin Location.

(1) POL information shall be provided by the person seeking the permit for the premises from which the cervids are to be loaded upon seeking a movement permit.

(2) The POL of the specific location the cervids were loaded shall include:

- (a) A PIN issued by the USDA or the Animal Health Official in the state of origin or a LID; and
- (b) The owner at the time of movement and that owner's address and contact information.

Section 12. Requirements for Interstate Movement into Kentucky.

(1) A person or hauler shall not move a cervid into Kentucky without first obtaining a CVI from a licensed and USDA category II accredited veterinarian;

(2) Obtained a movement permit from the OSV at least forty-eight (48) hours prior to movement and scheduling by the OSV, that includes a scheduled appointment for delivery of cervids between the hours of 6 a.m. and 9 p.m.; and

(3) An OSV representative, USDA representative, or an USDA category II accredited veterinarian shall be present for the unloading of the cervids at the point of destination at the time scheduled in (2) and shall be responsible for removing the transport seal and observing the offloading.

(4) An entry permit shall not be issued for a cervid that does not have certified status or an equivalent status, as documented by a certificate issued in accordance with 9 C.F.R. 81.4. An entry permit shall not be issued for a cervid that originated in, or at any time resided, in a state where CWD has been confirmed in either wild or captive cervids.

- (5) An entry permit shall not be issued for a cervid that is not:
 - (a) Negative to an official tuberculosis test within ninety (90) days of entry; or
 - (b) Originating from a cervid tuberculosis accredited herd. The herd accreditation number and the last herd test date shall be listed on the CVI.

Section 13. Requirements for Movement Within Kentucky.

- (1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement within Kentucky.
- (2) A CVI shall not be required if the movement is from the same herd to a different permitted premises within the same farm, if the cervid has official identification, prior to the movement.
- (3) Movement shall not commence until forty-eight (48) hours after the issuance of the permit.
- (4) An OSV representative, USDA representative, or an USDA category II accredited veterinarian shall be present at the loading at the point of origin, or the unloading of the cervids at the point of destination for movements to a different premises.
- (5) The requirements of this section shall be the responsibility of the owners, agents, and haulers of the moved cervid.

Section 14. Requirements for Movement for Export from Kentucky.

- (1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement from Kentucky.
- (2) Movement shall not commence until forty-eight (48) hours after the issuance of the permit by the OSV and scheduling.
- (3) All cervids being exported from Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection.
- (4) A cervid shall not leave Kentucky until:
 - (a) The CVI is written to meet the state of destination requirements by a Kentucky licensed category II veterinarian; and
 - (b) The owner, agent, or hauler contacts the OSV designee at least forty-eight (48) hours in advance of the movement to schedule an appointment for departure inspection and movement documentation between the hours of 6 a.m. and 9 p.m.

Section 15. Requirements for Movement Through Kentucky. Cervids moving through Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection. A Kentucky movement permit shall not be required for direct movement through Kentucky. Persons directly moving cervids through Kentucky may voluntarily obtain a permit from the OSV.

Section 16. Reindeer Exhibition.

- (1) Any reindeer exhibiting in the state of Kentucky shall obtain written permission of the OSV.
- (2) Requests for an exhibition permit shall be made to the OSV in writing or electronically at statevet@ky.gov a minimum of ten (10) business days prior to the movement to the exhibit.

Section 17. Voluntary Accreditation and Certification Programs.

- (1) Cervid owners wishing to seek a voluntary herd certification for brucellosis shall follow the provisions established in APHIS 91-45-16, Brucellosis in Cervidae.
- (2) Cervid owners wishing to seek a voluntary herd accreditation for tuberculosis eradication shall follow the provisions established in APHIS 91-45-011, Bovine Tuberculosis Eradication.
- (3) After the completion of terms in APHIS 91-45-011 or

APHIS 91-45-16, the OSV shall issue a certificate, for the respective disease, that shall be valid in Kentucky for a period of thirty-six (36) months from issuance.

Section 18. Retention of Records.

- (1) Intrastate movement or sales documents shall be maintained by both the buyer and the seller for at least ten (10) years after the movement of the cervids.
- (2) Official identification device distribution records. Any veterinarian who distributes official identification, shall maintain distribution lists and documents for at least ten (10) years after issuance.
- (3) Interstate movement records and documentation that is required by this administrative regulation shall be maintained for at least ten (10) years.
- (4) Herd plans, inventory records, and disposition of cervid records shall be maintained for at least ten (10) years.

Section 19. Penalties.

- (1) Penalties for failure to comply with standards established in this administrative regulation.
 - (a) OSV shall have the authority to revoke or suspend a herd's permit for the Herd Certification Program or the Herd Monitoring Program if a person:
 1. Falsifies information on an enrollment application, falsifies subsequent information required for continued enrollment, or refuses to produce documents requested by a representative of OSV;
 2. Fails to comply with requirements in this administrative regulation on cervid identification, cervid inventory, herd records, testing, or cervid movement;
 3. Or facility fails to remain in compliance with KRS Chapters 257 or 150, or any administrative regulation promulgated under the authority thereof;
 4. Fails to comply with an instruction from a representative of OSV; or
 5. Fails to produce any document require to be created or maintained by this administrative regulation.
 - (b) In accordance with KRS 257.990, a permit holder shall be subject to a monetary fine for violation of this administrative regulation.
- (2) Penalties for failure to comply with Section 8, 9, 10, or 11 of this administrative regulation.
 - (a) In accordance with KRS 150.740(6), a person shall be guilty of a Class D felony upon conviction; and
 - (b) Upon conviction of a second violation, a person shall be permanently ineligible for renewal of a captive cervid permit.
- (3) In accordance with KRS 150.740(7), the Kentucky Department of Fish and Wildlife Resources shall have authority to seize captive cervids that were imported into the Commonwealth in violation of this administrative regulation or KRS 150.740 and 257.550.
- (4) Any person whose permit is revoked shall not reapply to the HCP or HMP programs for a period of five (5) years.
- (5) Herds enrolled in HMP or HCP programs whose permit holders fail to reapply for permits on or before the application deadline shall be immediately placed in quarantine. These herds shall be subject to a physical herd inventory prior to permit issuance. A hunting or harvest shall not take place during the quarantine period. Herds shall not be re-enrolled in any program without first paying the initial fee of \$150 and the renewal fee as required in either the HCP or HMP program.
- (6) Removal of official identification, from a cervid without written permission of the OSV shall result in the loss of status for all cervids inside the herd.

Section 20. Expiration or Removal of HCP or HMP Status. All entities that exit an HCP or HMP program that have remaining inventory shall be placed under quarantine until such inventory is eliminated by harvest or sales permitted by the OSV to other HCP or HMP permit holders [shall be referred to the Kentucky Department of Fish and Wildlife for herd disposal] .

Section 21. Restriction on hog hunting. No hunting of hogs or any member of the porcine species shall be allowed in any HCP or HMP permit area.

Section 22. Material Incorporated by Reference.

(1) The following material is incorporated by reference:

- (a) "Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application", October 2020;
- (b) "Deceased Animal Report", May 2019;
- (c) "Herd/Flock Additions", October 2020;
- (d) "Herd/Flock Deletions", October 2020;
- (e) "Retag Form", February 2017;
- (f) "USDA Chronic Wasting Disease Program Standards", May 2019;
- (g) "APHIS 91-45-16, Brucellosis in Cervidae", September 2003; and
- (h) "APHIS 91-45-011, Bovine Tuberculosis Eradication", January 1999.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Animal Health, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RYAN QUARLES, Commissioner of Agriculture

APPROVED BY AGENCY: October 12, 2023

FILED WITH LRC: October 14, 2023 at 11:00 a.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Clint Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This filing creates the rules for cervid farming.

(b) The necessity of this administrative regulation:

This filing is necessary to create a uniform set of rules and processes cervid farming.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This filing creates a uniform set rules and processes for cervid farming.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This filing assists with the statute by incorporating the federal manual for cervid farming.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This filing removes training requirements after the initial one. The filing creates language for limiting breeding in an HMP, and makes clear the process for exiting the program.

(b) The necessity of the amendment to this administrative regulation:

The changes are required to add clarity about longstanding expectations.

(c) How the amendment conforms to the content of the authorizing statutes:

This filing adds clarity to the regulations where the statutes granted broad authority to the KDA to create rules.

(d) How the amendment will assist in the effective administration of the statutes:

The changes are required to add clarity about longstanding expectations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This regulation affects entities and persons seeking be in cervid farming. Approximately 119 HCP and 7 HMP participants.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

All persons seeking participate in cervid farming need to comply with the minimum standards laid out in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The cost depends on the activity the regulated entity is involved in and the size of the herd.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Entities will be able cervid farm.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The KDA estimates \$275,000 total annually.

(b) On a continuing basis:

The KDA estimates at least \$275,000 total annually.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

A combination of fees and the KDA general fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

Fee establishments are required to attempt to cover part of the program costs.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This filing directly establishes fees.

(9) TIERING: Is tiering applied?

No, all entities are treated the same. The only fee difference is based on volume held.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The KDA.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 257

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The KDA expects to receive \$57,000 annually at current volumes purchased.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

The KDA expects to receive \$57,000 annually at current volumes purchased as a projection.

(c) How much will it cost to administer this program for the first year?

The cost to administer the Cervid program is \$275,000

(d) How much will it cost to administer this program for subsequent years?

The cost to administer the Cervid program for subsequent years is estimated to be at least \$275,000.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

Cost savings for regulated entities will remain at current levels.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

Cost savings for regulated entities will remain at current levels is a reasonable expectation.

(c) How much will it cost the regulated entities for the first year?

Costs will depend on the volume purchased in the prior year at application time.

(d) How much will it cost the regulated entities for subsequent years?

Costs will depend on the volume purchased in the prior year at application time.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. Fees will not exceed the major economic impact threshold.