

have to participate in the CWD Herd Certification Program if they wished to move their animals to another State.

### Section by Section Explanation of Proposal

We are proposing to add a new subpart to 9 CFR part 55 that describes the CWD Herd Certification Program. We also propose to add a new 9 CFR part 81, "Chronic Wasting Disease in Captive Deer and Elk," which would contain the mandatory requirements for moving deer and elk interstate. The next sections describe our proposed changes for parts 55 and 81.

#### Definitions (§ 55.1)

The interim indemnity rule established a "Definitions" section in part 55 and established several definitions that are used in both the indemnity program and in this proposed herd certification program. The following definitions from the interim indemnity rule are also important for the proposed certification rule.

**CWD-positive animal.** An animal that has had a diagnosis of CWD confirmed by means of an official CWD test.

**CWD-positive herd.** A herd in which a CWD positive animal resided at the time it was diagnosed and which has not been released from quarantine.

**CWD-suspect animal.** An animal for which an APHIS employee has determined that laboratory evidence or clinical signs suggest a diagnosis of CWD.

We propose to retain these definitions as they are; we are setting them out here only for information.

In addition, we are proposing to modify the definitions in part 55 of *CWD-exposed animal*, *herd*, and *herd plan*, as follows:

**CWD-exposed animal.** An animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 5 years.

The revision would substitute the standard of being "exposed to a CWD-positive animal" for language in the earlier definition that based the exposed classification on whether the animal was part of a herd within 5 years prior to that herd's designation as CWD-positive, or had been housed with or been in direct contact with a positive animal, or had been on a contaminated premises.

**Herd.** One or more animals that are (a) under common ownership or supervision and are grouped on one or more parts of any single premises (lot, farm, or ranch) or (b) all animals under common ownership or supervision on two or more premises which are

geographically separated but on which animals have been interchanged or had direct or indirect contact with one another.

The definition of *herd* would be revised by changing its current statement that it applies to "a group of animals" to read "one or more animals," since in some rare circumstances the owner of a single animal may wish to enroll in the CWD Herd Certification Program.

**Herd plan.** A written herd management agreement developed by a State representative with input from the herd owner, his or her veterinarian, and other affected parties. The State representative will then submit the herd plan to the Administrator, and the herd plan will not be valid until it has been reviewed and signed by the Administrator. A herd plan sets out the steps to be taken to eradicate CWD from a CWD-positive herd, to control the risk of CWD in a suspect herd, or to prevent introduction of CWD into another herd. A herd plan will require: Specified means of identification for each animal in the herd; regular examination of animals in the herd by a veterinarian for clinical signs of disease; reporting to a State or APHIS representative of any clinical signs of a central nervous system disease or chronic wasting condition in the herd; maintaining records of the acquisition and disposition of all animals entering or leaving the herd, including the date of acquisition or removal, name and address of the person from whom the animal was acquired or to whom it was disposed; and the cause of death, if the animal died while in the herd. A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the particular circumstances of the herd and its premises, including but not limited to: depopulation of the herd, specifying the time for which a premises must not contain cervids after CWD-positive, -exposed, or -suspect animals are removed from the premises; fencing requirements; selective culling of animals; restrictions on sharing and movement of possibly contaminated livestock equipment; cleaning and disinfection requirements; or other requirements. A herd plan may be reviewed and revised at any time by any party signatory to it, in response to changes in the situation of the herd or premises or improvements in understanding of the nature of CWD epidemiology or techniques to prevent its spread. The revised herd plan must also be submitted to the Administrator for review and signature.

This revision would emphasize that a herd plan is developed primarily not by APHIS, but by a State representative and the herd owner, working in concert with the herd's veterinarian and any other affected parties. Under this definition, APHIS would retain the right to approve or disapprove herd plans. The revision also clarifies that when veterinarians examine animals in accordance with a herd plan they are looking for clinical signs of disease, including signs of chronic wasting conditions, and states that sometimes herd plan requirements may include depopulating the herd.

In addition to the definitions above that are already established, we propose to add the following new definitions to part 55 in support of the CWD Herd Certification program.

**Commingled, commingling.** Animals are commingled if they have direct contact with each other, have less than 30 feet of physical separation, or share equipment, pasture, or water sources/watershed, except for periods of less than 48 hours at sales or auctions when an APHIS employee or State representative has determined such contact presents minimal risk of CWD transmission. Animals are considered to have commingled if they have had such contact with a positive animal or contaminated premises within the last 5 years.

This definition is needed to address situations where a healthy animal, because it was commingled with a CWD-positive animal, was put at risk of contracting CWD. A buffer zone of 30 feet was chosen because in other APHIS disease control programs this distance has been shown to be effective in preventing aerosol transmission of infective agents from one animal to another. Because there is not yet a detailed model of how TSE's are transmitted, APHIS believes it is prudent to assume that they might spread short distances as aerosols, rather than only through more direct contact.

**CWD-exposed herd.** A herd in which a CWD-positive animal has resided within 5 years prior to that animal's diagnosis as CWD-positive, as determined by an APHIS employee or State representative.

This definition is needed because herds exposed to CWD should be restricted and monitored until sufficient evidence is available to confirm whether or not the exposure caused new cases of CWD in the herd. Because current evidence strongly suggests that a cervid would die from CWD no more than 5 years after acquiring the disease, we are not concerned about exposures that took