

judicial review thereof, unless otherwise ordered by the Administrator.

This proposed section also describes restrictions of the source of animals that could be added to an enrolled herd. A herd could add animals from herds with the same or an earlier enrollment date in the CWD Herd Certification Program with no negative impact on the certification status of the receiving herd.³ If animals were acquired from a herd with a later date of enrollment, the receiving herd would revert to the program status of the sending herd. If a herd participating in the program acquired animals from a nonparticipating herd, the receiving herd would revert to First Year status with a new enrollment date of the date of acquisition of the animal.

Official Identification (§ 55.25)

This section proposes that each animal required to be identified under the CWD Herd Certification Program must have at least two forms of APHIS-approved identification, because a single form of identification can sometimes become detached or obscured (e.g., ear tags are sometimes torn loose on brush, or lost due to frostbite damage; tattoo inks sometimes fade, or are obliterated by scarring). Even though not required by most regulations, the use of two forms of animal ID has become common in animal industries, and we believe its program benefits outweigh the additional expense. The official identification would have to be an ear tattoo, tamper-resistant ear tag, electronic implant, or flank tattoo approved for this use by APHIS. The official identification would have to provide a unique identification number that is applied by the owner of the herd or his or her agent and is linked to that herd in the National CWD Database.

This concludes discussion of the changes proposed for part 55. The contents of proposed new part 81 are discussed below.

Definitions (§ 81.1) and Identification of Deer and Elk in Interstate Commerce (§ 81.2)

These proposed sections would be essentially the same as the definitions and identification requirements discussed above with regard to proposed §§ 55.1 and 55.25. The definition of *captive* proposed for part 81 differs slightly from the definition employed in part 55, because under part 81 it is necessary to restrict the

interstate movement of animals that were captured from a free-ranging population for interstate movement and release. Such animals are not covered under the indemnity and certification programs of part 55. The definition of *chronic wasting disease* (CWD) proposed for part 81 also describes some clinical signs of CWD that are not needed in the similar definition in part 55, because part 81 requires issuance of certificates stating that animals do not exhibit clinical signs of CWD.

General Restrictions (§ 81.3)

This proposed section would institute the mandatory requirement that no captive deer or elk may move interstate unless it originated in a herd enrolled in the CWD Herd Certification Program and the herd remained in the program long enough to reach a specified status. To encourage early enrollment in the CWD Herd Certification Program and to support its goal of eventually eradicating CWD from captive deer and elk herds in the United States, we are proposing to establish a timetable that gradually increases the time a herd must be in the program in order to move animals interstate. Eventually, only animals from herds that have been enrolled in the program for over 5 years would be allowed to move interstate. If this proposed rule is adopted, immediately after it takes effect, a herd would need to achieve Second Year status before animals from the herd could be moved interstate. (Some herds would have this or greater program status immediately upon enrollment, due to the provisions to “grandfather” herds enrolled in existing State programs that was discussed above.) As of 27 months after the rule takes effect, a herd would need to achieve Third Year status before animals from the herd could be moved interstate. Twelve months later the herd would have to achieve Fourth Year status, then after 12 more months, Fifth Year status, for animals to be moved interstate. Finally, after 12 more months (approximately 5¼ years after the rule takes effect), the herd would have to achieve Certified status. Under this schedule, the longer a herd owner waits before enrolling in the CWD Herd Certification Program, the longer he or she would have to wait before moving animals interstate. This gradually increasing requirement also means that as time goes on, animals allowed to move interstate will have spent more and more time in the CWD Herd Certification Program, with a corresponding decrease in the risk that such animals could spread CWD.

We also propose that captive deer or elk moved interstate must be

accompanied by a certificate that identifies its herd of origin, states that the herd is participating in the CWD Herd Certification Program and gives its program status, and states that it is not a CWD-positive, CWD-exposed, or CWD-suspect animal. One exception to this requirement is that deer or elk that are temporarily captured from free-ranging populations may be moved interstate for release (translocated) without enrollment in the CWD Herd Certification Program. Since the CWD Herd Certification Program is not designed for free-ranging populations, we propose that in such cases the free-ranging population must instead be documented to be free from CWD based on a CWD surveillance program that is approved by the State Government of the receiving State and by APHIS.

Issuance of Certificates (§ 81.4)

This proposed section describes the function and contents of the certificate that would be required by proposed § 81.3. Animal health certificates are used in this section in much the same way they are used in many other APHIS regulations: to document the origin, identity, and disease status of animals moving interstate. The certificate would have to show the herd of origin and official identification numbers of each animal to be moved. (Certificates issued for the translocation of free-ranging animals caught in one State and released in another would not need to record this information, since it does not exist for such cases.) The certificate would also have to show the number of animals covered by the certificate, the purpose for which the animals are to be moved, the points of origin and destination, the consignor, and the consignee. The certificate would have to include a statement by the issuing accredited, State, or Federal veterinarian that the animals were not exhibiting clinical signs associated with CWD at the time of examination. The certificate would also have to state that the animals are from a herd participating in the CWD Herd Certification Program, and give the herd's program status, or state that the animals are free-ranging animals that are being translocated from a herd that is documented to be free from CWD based on a CWD surveillance program.

This proposed section also includes some administrative details regarding how to attach secondary forms listing animal identification information to an official certificate. We propose that animal identification documents attached to certificates must be a legible copy of State or APHIS forms that requires individual identification of

³Note that in addition to this requirement, proposed § 81.3 contains restriction on the interstate movement of captive deer and elk.