

animals, and must identify each animal to be moved with the certificate; but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink. We also propose that the following information must be typed or written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added; the name of the document; and either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who issued the document and the date the document was issued. These proposed requirements would help us ensure the authenticity and reliability of animal identification documents, and help us trace the movement of animals when necessary.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

For this proposed rule, we have prepared an economic analysis. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866, as well as an analysis of the potential economic effects of this proposed rule on small entities, as required under 5 U.S.C. 603. The economic analysis is summarized below. Much of the data regarding the cervid industry was provided by the two major industry associations, the North American Elk Breeders Association (NAEBA) and the North American Deer Farmers Association (NADFA). See the full analysis for the complete list of references used in this document. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) the Secretary of Agriculture is authorized to regulate the movement in interstate commerce of any animal if the Secretary determines it necessary to prevent the introduction or dissemination of a livestock pest or disease; to hold, seize, quarantine, treat, destroy, dispose of, or take other remedial action with respect to such animals; to carry out operations and measures to detect, control, or eradicate diseases of livestock; and to cooperate with States or political subdivisions of

States in programs to control livestock diseases.

Alternatives Considered

In assessing the need for this proposed rule, we identified three alternatives. One was to maintain the status quo, where State efforts are supported by Federal technical assistance and compensation programs. We rejected this alternative because it does not fully address disease risk, *i.e.*, the possibility of disease spread through interstate movement. The current patchwork of State regulations hinders movement of animals believed free of CWD and hence growth of the industry. Also, this alternative does not give herd owners in States that do not have certification programs the opportunity to participate in such programs if they so desire. The status quo alternative would have no cost effects for APHIS, but over time would impose additional costs on herd owners, who would face costs due to loss of animals from increased spread of CWD, loss of interstate and international markets, and possibly increased compliance costs for stricter State CWD programs as States react to CWD spread.

Another alternative was to simply prohibit the interstate movement of deer and elk altogether, without establishing a voluntary Federal herd certification program. This alternative would not significantly increase costs to APHIS, and would help reduce costs due to loss of animals caused by disease spread through interstate movement. However, this alternative does not afford producers the opportunity to seek the best-paying market for their animals in any State. Accordingly, this alternative was rejected.

The third alternative, the one that we chose, was the establishment of a voluntary Federal herd certification program with interstate movement on animals contingent on participation in that program. This alternative substantially reduces the risk of exporting CWD from one state to another—because only deer and elk that have been subject to certain minimum surveillance criteria can be moved interstate—but at the same time allows producers the opportunity to seek the best-paying market for their animals. The costs and benefits of this alternative are discussed below.

Summary of Economic Analysis

This proposed rule would establish a CWD Herd Certification Program for captive elk and deer, and prohibit the interstate movement of deer and elk that are not enrolled in the program. Herds that participate would have to follow

program requirements for animal identification, testing, herd management, and movement of animals to and from herds. Herd owners would be able to enroll in an Approved State CWD Herd Certification Program that met minimum standards established by APHIS, or enroll directly in the Federal CWD Herd Certification Program if there is no State program in their location.

Currently, there are no Federal requirements for the interstate movement of deer and elk. However, 23 States have banned cervid introductions from other States, and at least 20 States have formal CWD certification programs for cervids in place, with requirements similar to the Federal requirements proposed in this rule. The proposed Federal program is designed to build on, rather than replace, existing State programs or State programs that are currently being developed. Herd owners in States that do not have an APHIS-approved program would be able to enroll in the Federal program.

This proposal is intended to help eliminate CWD from captive cervids in the United States. It would support an existing APHIS program that pays indemnities to owners of CWD-positive herds who voluntarily depopulate their herds.

The proposed rule would primarily affect deer and elk farms. In the United States there are an estimated 150,000 elk on 2,300 farms, and 550,000 deer on 11,000 farms. It is estimated that, without improved CWD control efforts, the disease could eventually infect almost all U.S. captive elk herds.

The proposed rule should have a positive economic effect on deer and elk farmers, both large and small, over the long term. In the shorter term, the economic effect on farmers will vary depending on the circumstances of each. Some farmers, especially those who already participate in State programs and who would take advantage of the increased access to out-of-State markets, would benefit immediately. Conversely, some farmers could experience a significant adverse effect, especially any farmers who cannot afford to pay the program's annual costs. However, given the available data, there is no basis to conclude that the proposed rule will have a significant negative economic impact on a substantial number of small entities.

The economic importance of the deer and elk farming industries notwithstanding, the rule's primary benefits would appear to lie in its ability to reduce the potential for the introduction or spread of CWD.