

herd infection is rare. Only 27 farmed elk herds and 2 farmed deer herds have been found positive, representing only 1 percent of all elk farms and much less than 1 percent of all deer farms. We estimate that 20 currently-infected elk herds will be detected over the next two years if this rule is adopted (if this rule is not adopted, there will be less herd monitoring and fewer detections).

Finally, the proposed certification program would establish herd status, based on the number of years of enrollment in the program with no evidence of disease. Herd status would affect the movement of animals, since additions from a herd with a later enrollment date would cause the acquiring herd to revert to the status of the herd from which the deer and elk were acquired. Herd status, therefore, would tend to make animals from lower status herds less valuable than those from higher status herds, due to the reduced marketability of the former. This would be an issue for new (or short-term) participants in a certification program. Because they would have little or no previous surveillance history, their herds would be accorded lower status, an action that would likely cause a decline in the market value of their animals. This effect will decline over time as herds accumulate years in the program. Also, the "grandfather" provision for Approved State CWD programs means that in many cases the time herds spent in a State program, prior to adoption of this rule, will count toward their program status. Herd owners who choose not to participate in a certification program could also face a loss in animal value, since participating herds would be less likely to acquire animals from nonparticipating herds, due to penalties.

Cost for States

If this rule is adopted, we expect that all States which permit cervid farming would participate by developing approved State CWD programs under the regulations. Many of these States would likely make participation mandatory for all in-State herd owners.

States that do establish a certification program would incur the costs of setting up and administering that program, including costs for: the development of legislative/regulatory authority, surveillance and monitoring, disease research, and education and outreach to farmers. As a point of reference in this regard, it has been conservatively estimated that such costs for establishing and maintaining a CWD program for farmed elk would amount to \$47,000 per State per year.

In addition, States may also incur costs stemming from a possible disease discovery, such as costs for: the maintenance of quarantines, diagnostic testing, disposition of positive/exposed herds, and carcass disposal. The costs associated with a discovery of the disease can vary significantly, depending on the number of animals in an affected herd, the herd plan developed to deal with the disease, the type of carcass disposal, and other factors. Based on the experience of 5 of the 7 States with farmed elk that have tested positive for CWD, the cost of responding to a disease finding is estimated at \$20,285 per herd, on average.

APHIS assists the States in their CWD eradication efforts by conducting testing, surveillance, and other activities that the States would otherwise have to fund themselves. Through fiscal year 2002, \$17.3 million of CCC funding was transferred to APHIS for CWD eradication activities. In addition, \$0.8 million of APHIS contingency funds were used for CWD eradication efforts over the last 4 fiscal years.

Cost for APHIS

The direct costs APHIS would incur from this proposed rule are the costs of approving and monitoring CWD programs established by States, and the costs associated with establishing and administering a Federal program for herd owners who wish to participate but who are not located in States with programs. Both costs should be relatively insignificant increases, since APHIS already works closely with States on their CWD programs, and direct enrollment of herds into a Federal program is expected to be needed in no more than a few States with only a few cervid herds in each. APHIS may also incur some costs to the extent that it assists in the design and implementation of State programs that are established (or modified) in response to the proposed rule.

APHIS' liability for indemnities could also be affected, if the newly-established State programs result in more positive finds than would otherwise be the case. To date, APHIS has paid out \$12.5 million for CWD indemnities.

Analysis of the Economic Effects on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of rules on small entities. This proposed rule would primarily affect deer and elk farms, because they are most likely to be affected by the program's requirements

and the interstate movement restrictions.

We do not have details about the size of the 2,300 elk farms and 11,000 deer farms in the United States. However, it is reasonable to assume that most are small in size, under the U.S. Small Business Administration's (SBA) standards. This assumption is based on composite data for providers of the same and similar services. In 1997, there were 10,045 U.S. farms in NAICS 11299, a classification comprised solely of establishments primarily engaged in raising certain animals (including deer and elk but excluding cattle, hogs and pigs, poultry, sheep and goats, animal aquaculture, apiculture, horses and other equines, and fur-bearing animals). For all 10,045 farms, the per farm average gross receipts in 1997 was \$105,624, well below the SBA's small entity threshold of \$750,000 for farms in that NAICS category.

To the extent that the proposed rule prevents the spread of—and perhaps eliminates altogether—CWD in farmed deer and elk herds in the United States, small herd owners should benefit over the long term. The proposed rule would also provide herd owners with increased access to potentially better-paying out-of-State markets. By establishing equivalency between State programs, and replacing the current patchwork of State regulations, the rule would reduce the cost of complying with multiple sets of requirements and facilitate the safe movement of animals between States. Even herd owners who sell their animals in-State only stand to benefit, since the program reduces their disease risk when importing animals from other States.

The benefits, however, do not come without a price. As indicated above, it is estimated that the direct cost to satisfy the program's prescribed minimum disease preventative measures would total about \$1,600 annually for the average elk herd owner (*i.e.*, one with a herd of 50 elk), exclusive of any costs stemming from a CWD discovery within the herd. However, the annual cost does not appear to be particularly burdensome, since it is equivalent to less than 2 percent of the 1997 per farm average gross receipts for all U.S. farms in NAICS 11299 (\$1,600/\$105,624). Those herd owners who have the option and elect not to participate would avoid the program's annual costs but they would see the value of their animals discounted in the marketplace, since "non-program" animals would likely carry a stigma of inferiority. As discussed below, the discount is likely to exceed the program's annual cost for