

must comply with any applicable State regulations;

(3) The owner must immediately report to an APHIS employee or State representative all deaths of deer and elk in the herd aged 16 months or older, and must make the carcasses of such animals available for tissue sampling and testing. This includes animals killed on premises maintained for hunting. The owner also must allow test samples to be collected from all animals sent to slaughter;

(4) The owner must maintain herd records including a complete inventory of animals that records the age and sex of each animal, the date of acquisition and source of each animal that was not born into the herd, the date of disposal and destination of any animal removed from the herd, and all individual identification numbers (from tags, tattoos, electronic implants, etc.) associated with each animal. Upon request, the owner must allow an APHIS employee or State representative access to the premises and herd to conduct a physical herd inventory with verification reconciling animals and identifications with the records maintained by the owner;

(5) If an owner wishes to maintain separate herds, he or she must maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. No commingling of animals may occur. Movement of animals between herds must be recorded as if they were separately owned herds;

(6) New animals may be introduced into the herd only from other herds enrolled in the CWD Herd Certification Program. If animals are received from an enrolled herd with a lower program status, the receiving herd will revert to that lower program status. If animals are obtained from a herd not participating in the program, then the receiving herd will be required to start over in the program.

#### **§ 55.24 Herd status.**

(a) When a herd is first enrolled in the CWD Herd Certification Program, it will be placed in First Year status. If the herd continues to meet the requirements of the CWD Herd Certification Program, each year, on the anniversary of the enrollment date the herd status will be upgraded by 1 year; *i.e.*, Second Year status, Third Year status, Fourth Year status, and Fifth Year status. One year from the date a herd is placed in Fifth Year status, the herd status will be changed to Certified, and the herd will remain in Certified status as long as it is enrolled in the program, provided its status is not lost or suspended in

accordance with this section. Once the herd has received Certified status, slaughter surveillance and surveillance of animals killed in shooter operations will no longer be required, but other requirements of the program will remain in force.

#### **(b) Loss or suspension of herd status.**

(1) If a herd is designated a CWD-positive herd or a CWD-exposed herd, it will immediately lose its program status and may only reenroll after completing a herd plan. When reenrolled, the herd will enter at a First Year status level, with a new enrollment date reflecting the date the herd completed the herd plan.

(2) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd, it will immediately be placed in Suspended status pending an epidemiologic investigation by APHIS or a State animal health agency. If the epidemiologic investigation determines that the herd was not commingled with a CWD-positive animal, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level.

(i) If the epidemiologic investigation determines that the herd was commingled with a CWD-positive animal, the herd will lose its program status and will be designated a CWD-exposed herd.

(ii) If the epidemiological investigation is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (*i.e.* a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status will continue as Suspended unless and until a herd plan is developed for the herd. If a herd plan is developed, the herd will be reinstated into the CWD Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status. The herd must comply with the requirements of the herd plan as well as the requirements of the CWD Herd Certification Program, and the herd plan will require testing of all animals that die in the herd for any reason, regardless of the age of the animal, and may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question.

(c) The Administrator may cancel the enrollment of an enrolled herd by giving written notice to the herd owner. In the event of such cancellation, the herd owner may not reapply to enroll in the

CWD Herd Certification Program for 5 years from the effective date of the cancellation. The Administrator may cancel enrollment after determining that the herd owner failed to comply with any requirements of this section. Before enrollment is canceled, an APHIS representative will inform the herd owner of the reasons for the proposed cancellation.

(1) Herd owners may appeal cancellation of enrollment or loss or suspension of herd status by writing to the Administrator within 10 days after being informed of the reasons for the proposed action. The appeal must include all of the facts and reasons upon which the herd owner relies to show that the reasons for the proposed action are incorrect or do not support the action. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, cancellation of enrollment or loss or suspension of herd status shall become effective pending final determination in the proceeding if the Administrator determines that such action is necessary to prevent the possible spread of CWD. Such action shall become effective upon oral or written notification, whichever is earlier, to the herd owner. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This cancellation of enrollment or loss or suspension of herd status shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

#### **(2) [Reserved]**

(d) A herd may 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.<sup>1</sup> If animals are acquired from a herd with a later date of enrollment, the receiving herd reverts to the program status of the sending herd. If a herd participating in the CWD Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new enrollment date of the date of acquisition of the animal.

<sup>1</sup> Note that in addition to this requirement, § 81.3 of this chapter restricts the interstate movement of captive deer and elk based on their status in the CWD Herd Certification Program.