

DEPARTMENT OF AGRICULTURE

Animal Health Division

CONCERNING THE PREVENTION OF DISEASE IN ALTERNATIVE LIVESTOCK

8 CCR 1201-17

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Part 1. Definition and construction of terms.

- 1.1. "Accredited veterinarian" means an individual who is currently licensed and in good standing with a veterinary licensing board or agency in any state of the United States or the District of Columbia to practice veterinary medicine and is accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.
- 1.2. "Alternative livestock" means any domesticated elk or fallow deer as such are classified as alternative livestock pursuant to this article. Alternative livestock shall not be considered wildlife for purposes of this article.
- 1.3. "Alternative livestock farm" means any real property licensed by the State Board of Stock Inspection pursuant to § 35-41.5-104, 106 and 107, C.R.S.
- 1.4. "Animal and Plant Health Inspection Service (APHIS)" means the agency in the United States Department of Agriculture known as the Animal and Plant Health Inspection Service.
- 1.5. "Certificate of veterinary inspection (CVI)" means an official document issued by an accredited veterinarian at the point of origin of a shipment of livestock. The document shall include the date; the physical location of origin; the name and mailing address of the consignor; the physical location of the destination; the name and mailing address of the consignee; the age, sex, number, and breed of the livestock; sufficient identification marks, tags or other identification as may be approved by the State Veterinarian, to positively identify livestock; and the results of all required tests. Such document shall also include a statement verifying that the livestock identified on the document have been inspected and that they are free from clinical signs of any contagious, infectious, or communicable diseases and that the livestock do not originate from an area of quarantine, infestation, or infection. A certificate of veterinary inspection is valid for thirty (30) days after the date of issuance.
- 1.6. "Chronic Wasting Disease (CWD)" means a transmissible spongiform encephalopathy of cervids.
- 1.7. "CWD Surveillance Status" means the period of consecutive months during which an alternative livestock farm: 1) has submitted the required biological samples from all domesticated elk mortalities 12 months of age and older, regardless of cause; 2) and when all such tests have proven negative for CWD; and 3) when all external domesticated elk additions to the herd originated from a herd with equal or higher CWD Surveillance Status.
- 1.8. "Domesticated elk" means any elk kept, maintained, or possessed pursuant to an alternative livestock farm license issued pursuant to 35-41.5-101, *et seq.*, C.R.S.

- 1.9 “Herd plan” means a plan approved by Colorado Department of Agriculture, Colorado Parks and Wildlife (CPW), and the USDA Area Veterinarian in Charge to replace a quarantine previously issued by the State Veterinarian to an alternative livestock farm that has tested positive for the presence of CWD. A herd plan sets forth how the herd and farm must be managed to minimize the spread of CWD infection.
- 1.10. “Official identification device or method” means a means approved by the Administrator of the USDA APHIS for applying an official identification number to an animal of a specific species or associating an official identification number with an animal or group of animals of a specific species or otherwise officially identifying an animal or group of animals.
- 1.11. “State Veterinarian” means the veterinarian designated by the Commissioner of the Colorado Department of Agriculture and the director of the Division of Animal Health, Colorado Department of Agriculture.

Part 2. Surveillance for Chronic Wasting Disease in Domesticated Elk, Quarantine and Depopulation

- 2.1. Except as set forth in Part 2.5 a mandatory CWD surveillance program applies to all Colorado licensed alternative livestock farms, as set forth below:
 - 2.1.1. Brain tissue, retropharyngeal lymph nodes, and any other tissue or other appropriate sample must be submitted for examination, as directed by the State Veterinarian, of domesticated elk 12 months of age or older that die for any reason, within 15 working days of any mortality. If the USDA testing requirement is lower than 12 months of age, the USDA requirement shall apply. Notice must be given to the State Veterinarian if the specimen condition is questionable or unusable. If any animal or animals remain untested or unaccounted for or cause of death is otherwise unknown or in question, CWD Surveillance Status may be determined by taking into consideration the possibility of predation, theft, or other relevant factors, or CWD Surveillance Status may be reduced to the date the untested or unaccounted for animal or animals with the unknown or questionable cause of death were introduced into the herd. After initial CWD Surveillance Status is determined, the State Veterinarian will update CWD Surveillance Status annually thereafter. If CWD is detected in any animal, the CWD Surveillance Status of the herd exposed to such animal will be reduced to 0 months unless CPW and the State Veterinarian agree otherwise.
 - 2.1.2. The tissues/samples must be submitted for testing to a laboratory designated by the State Veterinarian. All sample results, regardless of result, must be reported to the State Veterinarian’s Office.
 - 2.1.3. The costs of sampling and testing will be borne by the Colorado licensed alternative livestock farm.
- 2.2. CWD clinically suspect animals tested in connection with slaughter must be held, with carcasses intact, until the test results for the sample are obtained. If the test is positive for CWD, the carcass of the affected animal must be destroyed by a means approved by the State Veterinarian.
- 2.3. A positive diagnosis of CWD in an alternative livestock farm, including in a wild cervid within the exterior boundaries of the farm, shall subject the herd to immediate quarantine by the State Veterinarian. The quarantine shall remain in place and no re-stocking of any domesticated elk will be allowed, including, but not limited to, stocking for the purposes of the operation of a terminal farm, until a herd plan has been successfully developed and approved as set forth in these rules.

- 2.4. Each Colorado licensed alternative livestock farm shall comply fully with tissue submission, reporting of test results, investigation of the origin of test positive animals and quarantine measures.
- 2.5. A Colorado alternative livestock producer who has had no CWD positive tests in the previous 60 months and who has at least 60 months of CWD surveillance status may apply to the Commissioner for a waiver from the requirements of this Part 2. Such application for waiver must be made on a form approved by the Commissioner.
 - 2.5.1 Once approved for waiver, any approved Colorado alternative livestock producer who imports animals from another farm with at least 60 months of CWD surveillance status, and who harvest any such imported animal within 12 months of importation, must alternatively store the brain specimens and retropharyngeal lymph nodes of each animal harvested from that producer's farm for a period of no less than three years rather than submitting the samples for testing.
 - 2.5.2 In the event any animal tests positive or is diagnosed CWD-positive either at the owner's farm or at any premises-of-origin, the producer must submit all such stored samples for testing within 15 working days of receiving notice of the CWD diagnosis or of the positive test results. In all such circumstances, the producer must pay for all associated testing expenses.

Part 3. Requirements for Movement of Alternative Livestock

- 3.1 Interstate Movements - Imports
 - 3.1.1. Prior to importation of alternative livestock, whether by the importation of live animals, gametes, eggs, sperm, or other genetic material, into the State of Colorado, the importing party must obtain a CVI from an Accredited Veterinarian and an import permit from the Colorado State Veterinarian's office. Said CVI shall require that the alternative livestock meet genetic purity requirements as established by the Parks and Wildlife Commission.
 - 3.1.2. All alternative livestock imported into Colorado must be examined by an accredited veterinarian prior to importation and must be accompanied by a valid CVI issued pursuant to § 35-50-102, C.R.S., certifying disease free status.
 - 3.1.2.1. Minimum specific disease testing results and/or health statements must be included on the CVI.
 - 3.1.3. All alternative livestock imported into Colorado must be tagged with an official identification device and a bangle or ranch tag to identify ownership.

- 3.1.4. Any alternative livestock imported into Colorado must originate from a herd determined to be tuberculosis monitored, qualified or accredited under the official Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 1, 1999, as amended by VS Bulletin 2018.02, "Animal Additions to Tuberculosis (TB)-Accredited Cervid Herds," ("UM&R") as approved by the USDA, APHIS (US Federal Building, Room 729, Hyattsville, MD 20782), and must have been a part of said herd not less than 12 months prior to import into Colorado, unless the animal is a natural born addition. Otherwise, all importation of alternative livestock into Colorado from out of state requires compliance with the Bovine Tuberculosis Eradication Uniform Methods and Rules and VS Bulletin 2018.02, "Animal Additions to Tuberculosis (TB)-Accredited Cervid Herds." Certified copies of the UM&R and VS Bulletin 2018.02 are available for public inspection and copies may be obtained or examined by contacting the Colorado State Veterinarian at the Colorado State Veterinarian's Office, Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021 during regular business hours. Further, the incorporated material may be examined at any state publications depository library or online at http://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/bovtb_umr.pdf (for the UM&R) and at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fwww.aphis.usda.gov%2Fanimal_health%2Fanimal_diseases%2Ftuberculosis%2Fdownloads%2Fcervid-tb-additions.pdf&clen=128499&chunk=true (for the VS Bulletin). This bulletin indicates that it supplements the 1999 UM&R that have been adopted by the Director of the Federal Register and incorporated by reference into 9 CFR Part 77. No later amendments or additions to or editions of the Bovine Tuberculosis Eradication Uniform Methods and Rules are incorporated into this Rule.
- 3.1.4.1. However, testing of herds shall include all cervidae 12 months of age and over, and any animals under 12 months of age that are not natural additions to the herd.
- 3.1.5. All alternative livestock must be tested and found to be negative for any diseases as specified by the State Veterinarian prior to importation into Colorado.
- 3.1.6. If the State Veterinarian determines the need for quarantine, imported alternative livestock must be quarantined on arrival at an alternative livestock farm as specified by the State Veterinarian.
- 3.1.7. Movement of all domesticated elk imported into the State of Colorado must be from a herd that has CWD Surveillance Status of at least 60 months.
- 3.1.7.1. Acceptable surveillance shall include:
- 3.1.7.1.1. Brain tissue, retropharyngeal lymph nodes, and any other tissue or appropriate sample must be submitted for all mortalities 12 months of age and older, regardless of cause of death, to a laboratory approved by the State Veterinarian conducting generally accepted tests to determine whether the cervid was infected with CWD; unless the USDA testing requirement is lower than 12 months of age, in which case the USDA requirement applies;
- 3.1.7.1.2. Official animal identification device and source-herd premises information on all animals imported and in the herd of origin;
- 3.1.7.1.3. At least an annual inventory of all animals, including mortalities and imports, that is verified by an accredited veterinarian, state, or federal animal health official;

- 3.1.7.1.4. Documentation that confirms that all mortalities have been submitted for CWD testing, including the laboratory reports of test results, which must be provided to the Colorado State Veterinarian's office, along with a reconciled death and sold inventory for the herd of origin. In addition, a statement by the exporting state's animal health officials or accredited veterinarian attesting that the herd of origin has met these requirements must be submitted.
 - 3.1.7.1.5. If any animal or animals remain untested or unaccounted for or cause of death is otherwise unknown or in question, CPW and CDA will evaluate the associated risk when reviewing movement requests, taking into consideration the possibility of predation, theft, or other relevant factors.
 - 3.1.8 All import requests must be accompanied by a statement or certificate by the exporting state's animal health official attesting that the herd of origin is Herd Certification Program (HCP) certified.
 - 3.1.9. When all required surveillance documents have been received, the State Veterinarian shall forward all documents to CPW for review and approval that the herd meets the minimum import requirements for CWD surveillance. The State Veterinarian and CPW shall have 5 business days to review all necessary surveillance documents
 - 3.1.10. The Department will only issue a permit number if the destination farm is licensed as an alternative livestock farm by the State Board of Stock Inspection Commissioners or as a captive wildlife facility licensed by CPW and all requirements of Part 3.1., including any sub-parts, of these rules have been met. No importation permit may be issued prior to authorization from CPW.
 - 3.2. Interstate Movements – Exports
 - 3.2.1 All alternative livestock exported from Colorado must be from a herd that is part of the voluntary herd certification program, must comply with the “UM&R”, which publication is incorporated into these rules in Part 3.1.4., and comply with the state of destination's regulations.
 - 3.3. Intrastate Movement
 - 3.3.1. Prior approval is required for all movement of alternative livestock within the state; after determination by CPW and CDA that the movement does not present a substantial risk of spreading CWD, based on the location of the source and receiving farms, presence of CWD in the wild in proximity to the farms, length of surveillance at the source farm, and other relevant factors. Provided, however, that if the receiving farm's CWD surveillance Status is higher than the source farm's CWD Surveillance Status, the receiving farm shall assume and have the lower CWD Surveillance Status.
 - 3.3.2. Upon receipt of any request to move alternative livestock within the state, the State Veterinarian shall forward the request and all necessary documentation, including, but not limited to, the CWD surveillance Status records for the farms involved, to CPW for review and approval. The State Veterinarian and CPW shall have 5 business days to review all necessary surveillance documents
 - 3.3.3. No evaluation of determination of CWD risk is required for alternative livestock shipped directly to slaughter or to a biosecure farm approved by CPW and CDA.

- 3.4. When the Commissioner has reasonable grounds to believe that a violation of this Part 3 has occurred, the Commissioner may quarantine, both the source, if an in-state farm, and the receiving alternative livestock farms. In addition, the State Veterinarian may reduce the CWD Surveillance Status as deemed appropriate, including reducing the status to zero (0) months. The State Veterinarian may take into account mitigating circumstances when determining other penalties. Egregious violations may result in revocation of the alternative livestock license after appropriate hearing before the State Board of Stock Inspection Commissioners.

Part 4. Cervidae Disease Revolving Fund

- 4.1. An assessment of eight dollars (\$8) will be assessed for each head of alternative livestock and captive wildlife cervidae per year. The assessment shall be paid by the owners of alternative livestock and captive wildlife cervidae based on the inventory of a licensed alternative livestock farm and licensed location where captive wildlife cervidae are kept and paid to the Cervidae Disease Fund.
- 4.2. The Agricultural Commission shall cease making assessments if the fund reaches a level of two hundred thousand dollars until such time as the level of the fund falls below two hundred thousand dollars and the Commission determines that a levy is necessary.
- 4.3. The Commissioner of Agriculture, upon the recommendation of the State Veterinarian and with approval of the Agricultural Commission, may authorize the payment of indemnity to any alternative livestock owner or captive wildlife cervidae owner whose herd is voluntarily sold for slaughter because it is exposed to an infectious or contagious disease; however, such indemnification when combined with other monies received by the owner of the alternative livestock or captive wildlife cervidae, may not exceed eighty percent of the market value for animals of comparable grade and of the same or similar type.

Part 5. Voluntary Herd Certification Program

- 5.1. Any owner of an alternative livestock farm may apply to enroll in the Herd Certification Program by sending a written request to the department.
- 5.2. CDA will evaluate and determine the herd's eligibility, and if needed will require the owner to submit more details about the herd animals and operations.
- 5.3. An application for participation may be denied if CDA determines that the applicant has previously violated state or federal laws or regulations and that the nature of the violation indicates that the applicant may not faithfully comply with the requirements of the CWD herd certification program.
- 5.4. After determining that the herd is eligible to participate in the voluntary herd certification program, CDA will send the herd owner a notice of enrollment that includes the herd's enrollment date.

Parts 6-9 Reserved

Part 10 Statements of Basis, Specific Statutory Authority, and Purpose

- 10.1 Adopted April 29, 2003 - Effective July 30, 2003

The statutory basis for this rule is §§35-50-10135-50-106, 35-50-111, 35-50-144 C.R.S., Prevention and Eradication of Diseases; 35-53-111, C.R.S., Sanitary rules as to movement of livestock - quarantine - penalty.

Parts 1, 2, and 3 were previously approved by the Colorado Agricultural Commission on April 17, 1998 and July 22, 1998. The Commission approved these parts as rules also adopted by the State Board of Stock Inspection (Brand Board) on July 8, 1998. Part 5 was adopted by the Brand Board and is moved to Division of Animal Industry as the implementing agency for collecting and disbursing proceeds of the Cervidae Disease fund. Minor changes were made to Part 5 to delete portions repeated elsewhere in Brand Board rules. Portions of these rules were amended to implement the "Memorandum of Agreement Between the Colorado Department of Agriculture and the Colorado Department of Natural Resources, Division of Wildlife for Development of a Coordinated State Program to Address Chronic Wasting Disease" and to clarify the process by which approval is granted to import Alternative Livestock into and within the State of Colorado.

10.2 Adopted September 25, 2003 - Effective December 1, 2003

The statutory basis for this rule is §§35-50-101 35-50-106, 35-50-111, 35-50-144 C.R.S.(2002), Prevention and Eradication of Diseases; 35-53-111, C.R.S. (2002), Sanitary rules as to movement of livestock -quarantine - penalty.

This rule is amended to clarify the incorporation by reference of the Uniform Methods and Rules adopted by USDA regarding the control of tuberculosis in cervidae (subsection 2.4).

10.3 Adopted: November 10, 2015 - Effective: December 31, 2015

SPECIFIC STATUTORY AUTHORITY

The specific statutory authority of this Rule is located in §§ 35-50-105(3)(a), (c), (d), (f), (h), (j), (p) and (q); and 35-53-111, C.R.S., which cumulatively grant authority to the Commissioner of Agriculture, upon approval by the Colorado Agricultural Commission, to adopt Rules related to designations of livestock disease for control and reporting purposes; health standards for importation of livestock; standards for livestock health certificates; livestock testing for contagious or infectious disease; standards for disease surveillance among and in livestock; standards and requirements for identification and traceability of livestock; and sanitary rules as to movement of livestock.

Purpose

The purpose of this rule-making is to provide revisions to portions of the Rules "Concerning the Prevention of Disease in Alternative Livestock" to make the Rules easier to read and understand while updating the Rules to reflect changes in disease detection, surveillance, testing, and monitoring. These changes in this rule-making reflect the efforts of the reviewers to achieve the dual goal of protecting Colorado's alternative livestock industry from disease while providing an environment where that industry may thrive.

The definitions within this Rule have been updated to bring consistency to all definitions used in the Animal Health Division of the Department of Agriculture. The reviewers sought to clarify sentences, update language, remove duplicative terms, and increase overall readability of the Rules in accord with the Department's Regulatory Efficiency Review Process.

Factual Policy and Issues

Since the last modification of these Rules, the Colorado Division of Wildlife has become the Colorado Division of Parks and Wildlife. This name change and the division's acronym, "CPW," have been changed within this Rule. The reviewers noted that portions of the Rule were duplicative and unnecessary. Specifically, Part 2 of the Rules was removed and combined with what is now Part 3.

The United States Department of Agriculture now requires that tissue samples be submitted from all alternative livestock from certified herds that are 12 months of age and older. This Rule changes the previous requirement from 16 months to 12 months to comply with the USDA standard.

References to disciplinary actions that the Department might take were removed because the organic act controls such actions, and duplication of that information into the Rules is unnecessary.

Additionally, as knowledge and understanding of Chronic Wasting Disease has evolved, approaches to monitoring, testing, and prevention have changed. The changes to these Rules adopt those modifications where necessary.

10.4. Adopted April 12, 2017 - Effective May 30, 2017

Specific Statutory Authority

The specific statutory authority of this Rule is located in §§ 35-50-105(3)(h) and (p), C.R.S., which grant authority to the Commissioner of Agriculture, upon approval by the Colorado Agricultural Commission, to adopt rules regarding standards for disease surveillance among and in livestock and standards and requirements for prevention of diseases in livestock.

Purpose

The purpose of this rule-making is to create a waiver process whereby an alternative livestock producer who has monitored his herd for the immediate past 60 months without any indication of CWD within that 60-month time period may apply for a waiver from the requirement to send specimens from every elk or fallow deer that dies on-premises to CSU for testing. The change permits alternative livestock producers to store their collected samples on-site, rather than ship the samples and pay for immediate testing.

The definition of “CWD Surveillance Status” adds the phrase “and retropharyngeal lymph nodes” to “brain specimen” to indicate all the parts of the animal that must be submitted for testing for CWD.

Factual Policy and Issues

The changes in this rule-making came about at the request of producers. The reviewers considered this change, analyzed it in comparison to national standards, and agreed to implement it as a means of reducing economic burden on producers whose under-surveillance herds do not pose a significant threat to future spread of CWD. Additionally, the reviewers conferred with Colorado Parks and Wildlife and received support.

10.5 Adopted April 13, 2022 – June 15, 2022

Specific Statutory Authority

The specific statutory authority of this Rule is located in § 35-50-105(3)(h) and (p), C.R.S., which grant authority to the Commissioner of Agriculture, upon approval by the Colorado Agricultural Commission, to adopt rules regarding standards for disease surveillance among and in livestock and standards and requirements for prevention of diseases in livestock.

Purpose

The revisions to these Rules incorporate changes as a result of the Department’s Regulatory Efficiency Review Process, as well as the desire by the alternative livestock industry in Colorado to remove the Chronic Wasting Disease (CWD) testing requirement for fallow deer and the tuberculosis (TB) testing requirement for in-state animal movement.

Factual and Policy Issues

As of the date of this review, no research has proven that fallow deer can contract CWD under natural conditions. As such, the USDA does not consider fallow deer as a susceptible species and few states require CWD testing of fallow deer. For these reasons, the reviewers removed the requirement for captive fallow deer to be tested for CWD.

CDA received a request to remove the requirement of TB testing or certification prior to in-state movement of alternative livestock. After checking with the states of South Dakota, Utah, and Idaho none of those states requires TB testing prior to in-state movement of animals. Furthermore, CDA does not have any records of TB being transmitted via in-state movement of alternative livestock. For these reasons, the reviewers removed the TB testing or certification requirement prior to in-state movement.

Written comments were received requesting that the requirement in section 1.9 for the USDA Area Veterinarian in Charge to approve the herd plan be removed. Staff reviewed this requirement during the stakeholder process and noted that is included in a Memorandum of Understanding with the USDA and that it is also required in the Code of Federal Regulations.

Specific Purpose of the Rulemaking

In Part 1.2 the reviewers changed the definition of “alternative livestock” to reflect the language in § 35-41.5-102(1) C.R.S.

In Part 1.6, the reviewers updated the definition of “chronic wasting disease” to be consistent with CFR § 81.1.

The reviewers added additional clarification in Part 1.7. to define more clearly “CWD surveillance status.”

A new definition of “domesticated elk” was added in Part 1.8. to be able to separate out domesticated elk from fallow deer which are also included in the definition of “alternative livestock”. This new definition was needed since fallow deer no longer require CWD testing.

In Part 1.9, the reviewers added that the USDA Area Veterinarian in Charge must also sign herd plans per CFR § 55.1 and the joint USDA/CDA Herd Certification Program Memorandum of Understanding.

The definition of “transmissible spongiform encephalopathy (TSE)” was removed as this term is only used in the definition of CWD.

In Part 2.1.1, the reviewers changed the term “alternative livestock” to “domesticated elk” indicating that only domesticated elk need to submit samples for CWD testing.

In Part 2.1.2, the reviewers added that all sample results, regardless of result, must be reported to the State Veterinarian’s Office.

In Part 3. the reviewers created new categories for interstate import, interstate export, and instate movement to better clarify movement requirements.

In Part 3.1.1, the reviewers added language to clarify that the importing party must obtain a CVI from an accredited veterinarian and an import permit from the Colorado State Veterinarians Office. Previous language could have been misconstrued that the CVI would be obtained from the Colorado State Veterinarian’s Office.

In Part 3.1.4, the reviewers updated the USDA Bovine Tuberculosis Eradication Uniform Methods and Rules to the 2005 edition. Upon further consideration, the reviewers removed the incorporation of other standards deemed by the state veterinarian to be equivalent and noted that Part 9 of the Code of Federal Regulations incorporates only the 1999 edition of the UM&R and that USDA-APHIS had, in 2018, issued VS Bulletin 2018.02 to amend the 1999 edition of the UM&R. Thus, it was determined that the rules should continue to incorporate the 1999 UM&R as well as incorporating the amendment into these rules.

In Part 3.1.7.1.2, the reviewers added that acceptable surveillance shall include source-herd premises information.

The reviewers added Part 3.1.8. clarifying that all import requests must be accompanied by a statement or certificate by the exporting state's animal health official attesting that the herd of origin is Herd Certification Program (HCP) certified as directed by CFR § 81.3.

Part 3.2.1 was added to clarify interstate exports must comply with the UM&R.

The reviewers added Part 5. to establish enrollment requirements of the Herd Certification Program.

Editor's Notes

History

Entire rule eff. 12/31/2015.

Parts 1.7, 2.1, 2.5, 3.4, 10.4 eff. 05/30/2017.

Entire rule eff. 06/15/2022.