

Draft Minnesota Rules, Chapter 1721

Proposed Revisions to 1721.0370 to 1721.0420

Farmed Cervidae

Preface

This is a DRAFT document. None of the changes are adopted or reflect current law.

Guiding principles in this revision:

- Incorporate changes made by the Minnesota legislature in 2019 to Minnesota Statute 35.155
- Update, simplify, and clarify existing rules
- Add or change definitions to improve clarity
- Add or change language to align the rules with current and relevant scientific evidence related to transmission of CWD
- Omit language that is inconsistent with federal guidelines for regulating farmed Cervidae
- Add or change language to allow the Board to better respond to and manage animal disease events

It is the Board's intent to continue work on its Farmed Cervidae rulemaking.

The Board encourages your review and welcomes your comments and feedback at:

<https://minnesotaoah.granicusideas.com/>

Minnesota Chapter 1721

Deer and Elk

1721.0370 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 1721.0370 to 1721.0420, the terms in this part have the meanings given them.

Subp. 2. **Animal.** "Animal" means an animal that is a member of the family Cervidae.

Subp. 3. **Brucellosis certified free herd.** "Brucellosis certified free herd" means a farmed Cervidae herd that has tested negative to at least two official brucellosis tests and meets requirements to be recognized by the board as brucellosis free.

Subp. 4. **CWD.** "CWD" means chronic wasting disease.

Subp. 5. **CWD state level 6 herd.** "CWD state level 6 herd" means a farmed Cervidae herd that is enrolled in a CWD herd certification program approved by the board and has reached level 6 herd status.

Subp. 6. **CWD management zone.** "CWD management zone" means a geographic area as determined by the board where CWD is present in wild Cervidae populations.

Subp. 7. **CWD herd certification program.** "CWD herd certification program" means a herd CWD surveillance and control program administered by a state, federal, or provincial government agency.

Subp. 8. **Farmed Cervidae.** "Farmed Cervidae" means Cervidae that are raised for any purpose and are registered in a manner approved by the board. Farmed Cervidae are livestock and are not wild animals for purposes of game farm, hunting, or wildlife laws.

Subp. 9. **Herd.** "Herd" means all Cervidae:

- (1) in a group of at least one animal; and
- (2) maintained on common ground for any purpose; or
- (3) under common ownership or supervision, geographically separated, but that have an interchange or movement of animals without regard to whether the animals are infected with or exposed to diseases.

Subp. 10. **Official CWD test.** "Official CWD test" means any test for the diagnosis of CWD approved by the board. A list of CWD tests approved by the board is available through the Internet at <http://mn.gov/bah> or by calling the board office at 651-296-2942.

Subp. 11. **Terminal Hunt Facility.** Facility at which all farmed Cervidae are killed and removed annually.

Subp. 12. **Tuberculosis accredited free herd.** "Tuberculosis accredited free herd" means a herd of farmed Cervidae that has tested negative to at least two official tuberculosis tests and meets requirements to be recognized by the board as tuberculosis free.

Subp. 13. **Wild Cervidae.** "Wild Cervidae" means Cervidae that live in the wild.

1721.0380 GENERAL REQUIREMENTS.

Subpart 1. **Possession of live Cervidae in Minnesota.** A person may not possess live Cervidae in the state unless the person is registered with the board and meets all the requirements for farmed Cervidae in parts 1721.0370 to 1721.0420 and Minnesota Statutes, sections 17.452; 35.153; 35.155; 97A.401, subdivision 3; and 97A.505, subdivision 8.

Subp. 2. **Registration.** To be registered with the board, the owner of farmed Cervidae must have the owner's herd inspected by a representative of the board and demonstrate that the owner has fulfilled all the requirements for farmed Cervidae in parts 1721.0370 to 1721.0420. The owner must also sign and submit to the board a registration agreement in which the owner agrees to maintain the owner's herd in compliance with this part. The failure of the owner to comply with this part or to pay a civil penalty assessed by the board pursuant to Minnesota Statutes, section 35.95, for failure to comply with the requirements of this part shall constitute grounds for the board to cancel the registered status of a farmed Cervidae herd. In accordance with Minnesota Statutes, section 35.155, subdivision 9, the board shall notify the herd owner of the right to request a contested case hearing regarding the board's determination under the Administrative Procedure Act, Minnesota Statutes, chapter 14. An owner whose herd registration has been revoked by the board may not register a farmed Cervidae herd for at least two years after their registration has been revoked.

Subp. 3. **Inspections.** A representative of the board shall be permitted to inspect farmed Cervidae, farmed Cervidae facilities, and farmed Cervidae records. Each herd and all premises where the herd is located must be inspected by a representative of the board at least once every 12 months to document compliance with this part. The inspection shall include a physical inspection of all perimeter fencing, and a viewing to verify that all animals are tagged. If a fence deficiency is detected during an inspection, the facility must be reinspected at least once in the subsequent three months. The farmed Cervidae owner must pay a reinspection fee equal to one-half the applicable annual inspection fee under Minnesota Statute 35.155, subd. 7a, for each reinspection related to a fence violation. For new farmed Cervidae facilities where no farmed Cervidae have ever been kept, prior to stocking with Cervidae, a representative of the board shall be permitted to conduct an inspection to document compliance with this part, including verifying that perimeter fencing has been installed, and verify an initial null inventory for the herd.

Subp. 4. **Herd inventory.** The owner must keep records for the acquisition and disposition of each animal, as outlined in Subpart 10. For each farmed Cervidae herd, a complete animal inventory must be compiled by the owner annually, within 3 months of the previous year's inventory. The accuracy of the inventory must be verified by two individuals, the owner and either an accredited veterinarian or approved agent of the board, by signing and submitting the inventory to the board. The inventory must be filed on forms approved by the board and include the age, sex, type of animal, and all

identification numbers for each animal in the herd. Upon request by the Board for a physical inventory, the owner of a farmed Cervidae herd must present the entire herd for inspection under conditions where a board representative or accredited veterinarian can safely read all identification on the animals. The owner is responsible for assembling, handling, and restraining the animals and for all costs incurred to present the animals for physical inventory.

Subp. 5. **Fencing.** Farmed Cervidae must be confined in a manner designed to prevent escape. Perimeter fences for farmed Cervidae must be at least 96 inches in height and be constructed and maintained in a way that prevents the escape of farmed Cervidae or entry into the premises by wild Cervidae. All fencing installed or repaired after July 01, 2019 shall be high tensile. Entry areas for farmed Cervidae shall have redundant gates.

Subp. 6. **Running at large prohibited.** An owner may not allow farmed Cervidae to run at large. The owner must make reasonable efforts to return escaped farmed Cervidae to their enclosures as soon as possible. The owner must notify the commissioner of natural resources and the board of the escape of farmed Cervidae if the farmed Cervidae are not returned to their enclosures or euthanized by the owner within 24 hours of their escape.

Subp. 7. **Removal of wild Cervidae.**

- A. When a tract of land is initially enclosed with a perimeter fence for the purpose of establishing a new farmed Cervidae facility, wild Cervidae must be removed from the premises by herding them off of the land at the owner's expense prior to bringing any farmed Cervidae to the premises.
- B. An owner of an existing facility or an employee or agent under the direction of the owner must destroy wild Cervidae found within the owner's farmed Cervidae facility. The owner, employee, or agent must report wild Cervidae that are destroyed to the board and a conservation officer or an employee of the Department of Natural Resources Division of Wildlife within 24 hours. Testing of wild Cervidae destroyed within the farmed Cervidae facility shall be conducted by or under the supervision of the board. The wild Cervidae must be disposed of as prescribed by the commissioner of natural resources.

Subp. 8. **Sales of farmed Cervidae and meat products.** A person selling or buying farmed Cervidae sold as livestock, sold for human consumption, or sold for slaughter must comply with parts 1721.0370 to 1721.0420 and Minnesota Statutes, chapters 17A, 31, 31A, 31B, and 35.

Subp. 9. **Slaughter of farmed Cervidae.** Farmed Cervidae must be slaughtered and inspected according to Minnesota Statutes, chapters 31 and 31A.

Subp. 10. **Record keeping.** A herd owner must maintain herd records that include a complete inventory of animals in the herd, including the type, age, and sex of each animal, the date of acquisition, the source of each animal that was not born into the herd, the date of disposal and destination of any animal removed from the herd, all individual identification numbers associated with each animal, and CWD testing. If animals enter or leave the herd, the names, addresses, and telephone numbers of previous or subsequent owners of the animals must be recorded. Records must be maintained for at least ten years.

1721.0390 ANIMAL IDENTIFICATION.

Farmed Cervidae in the state must be identified with an official ear tag that must be visible to the naked eye during daylight under normal conditions at a distance of 50 yards and include a distinct number that has not been used during the previous three years. White-tailed deer must be identified before October 31 of the year the animal is born, at the time of weaning, or before movement from the origin premises, whichever occurs first. All other newborn animals must be officially identified before December 31 of the year in which the animal is born or before movement from the premises, whichever occurs first.

1721.0400 IMPORTATION OF FARMED CERVIDAE.

Subpart 1. **Import permit.** A permit must be obtained from the board prior to the importation of live Cervidae into Minnesota.

Subp. 2. **Certificate of veterinary inspection.** Live Cervidae imported into Minnesota must be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian.

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Subp. 3. Chronic Wasting Disease (CWD).

- A. Live Cervidae must originate from a herd that has been subject to a state, federal, or provincial approved CWD herd certification program and that has reached a status equivalent to level 6 as specified in part 1721.0420.
- B. CWD management zones:
 - (1) Live Cervidae may not be imported into the state from a CWD management zone, as determined by the board.
 - (2) Cervidae carcasses may not be imported into the state from a CWD management zone, as determined by the board, except for cut and wrapped meat, quarters or other portions of meat with no part of the spinal column or head attached, antlers, hides, teeth, finished taxidermy mounts, and antlers attached to skull caps that are cleaned of all brain tissue.
- C. Live Cervidae or Cervidae carcasses may not be imported into Minnesota from a herd that is infected with or exposed to CWD.

1721.0410 INTRASTATE MOVEMENT OF FARMED CERVIDAE.

Subpart 1. **Movement requirements.** Farmed Cervidae moving from any herd to another location in the state must:

- A. be identified with an official ear tag;
- B. be accompanied by a farmed Cervidae movement report;
- C. originate from a herd that is registered with the board and has achieved at least level 4 of the CWD herd certification program; and
- D. if moving to another registered farmed Cervidae premises, the herd must have at least one cervid in the herd tested for CWD within the previous 12 months.

Subp. 3. **Movement of animals to slaughter.** Animals from registered herds may be moved directly to a slaughtering establishment having state or federal inspection.

Subp. 3. **Restraint of animals in transit.** Farmed Cervidae that are moved from one location to another for any reason including sale, exhibition, or entertainment, must be restrained at all times in a manner to prevent escape.

Subp. 4. **Restriction on herd additions.** Farmed Cervidae may not be moved into a farmed Cervidae herd unless the herd is registered with the board and has achieved at least level 4 of the CWD herd certification program as specified in part 1721.0420, subpart 1, item F. A person may not move a farmed cervid to a premises that is not in compliance with the legal requirements for possession of Farmed Cervidae in Minnesota.

Subp. 5. **Movement into, within, and out of CWD management zone.**

- A. With a permit from the Board, farmed Cervidae that originate from a CWD management zone may be moved to:
 - (1) other registered farmed Cervidae premises within the same management zone,
 - (2) to slaughter, or
 - (3) to a terminal hunt facility outside the management zone.
- B. Farmed Cervidae may not be moved into a CWD management zone unless they move directly to slaughter or to a terminal hunt facility within the management zone, with a permit from the Board.
- C. Farmed Cervidae carcasses may not be moved from a CWD management zone to other locations in the state, except for cut and wrapped meat, quarters or other portions of meat with no part of the spinal column or head attached, antlers, hides, teeth, finished taxidermy mounts, and antlers attached to skull caps that are cleaned of all brain tissue.

1721.0420 CHRONIC WASTING DISEASE (CWD).

Subpart 1. **CWD herd certification program.**

- A. The owner of a farmed Cervidae herd must be enrolled in the CWD herd certification program and must comply with all the requirements of this part.

B. The owner of a farmed Cervidae herd must sign and submit to the board a CWD herd certification program agreement in which the owner agrees to comply with the requirements in this part.

C. When farmed Cervidae that are officially identified die or are slaughtered, the owner must report the age, sex, and official identification numbers of the animals to the board within 14 days.

D. Animals from farmed Cervidae herds that are 12 months of age and over that die or are slaughtered must be tested for CWD with an official CWD test. Samples to be tested for CWD must be submitted to a laboratory approved by the board within 14 days of sample collection. Other testing protocols may be used if they are approved by the board and are equally effective for the detection of CWD in farmed Cervidae herds. Testing must be completed at owner expense unless state or federal funds are available for this purpose.

- (1) For each animal not successfully tested for CWD, tissues from an equal number of animals of the same sex and species residing in the herd for at least as long as the unsuccessfully tested animals may be substituted by the herd owner to meet surveillance requirements.
- (2) For each animal not successfully tested, the herd status may be reduced based on the most recent 12 months of surveillance in the herd in accordance with board surveillance standards for Farmed Cervidae. ("with board surveillance standards for Farmed Cervidae" is to be reviewed in conjunction with document titled, "Farmed Cervidae Program Surveillance Standards, 8.19.20.")
- (3) The board shall grant an exception to these requirements if animals die from anthrax or another zoonotic disease where sample collection poses a public health risk, or if animals are lost due to an outside act of vandalism or due to a mass mortality event such as a natural disaster or infectious disease outbreak.

E. The CWD surveillance period for a herd is the continuous length of time the herd has been enrolled in the program and the owner has met all the requirements of this part.

F. Herd status is divided into six levels based on the period of time the herd has been under continuous CWD surveillance without evidence of CWD or a determination that the herd has been exposed to CWD. Progression from one level to the next is based on successful program participation for a continuous period of time as follows:

- (1) level 1 is from time of enrollment to 12 months;
- (2) level 2 is from 12 months to 24 months;
- (3) level 3 is from 24 months to 36 months;
- (4) level 4 is from 36 months to 48 months;
- (5) level 5 is from 48 months to 60 months; and
- (6) level 6 (certified herd) is greater than 60 months.

G. If farmed Cervidae are brought into a herd from other herds, the owner must report the age, sex, and identification numbers of the animals and the name and address of the source herd to the board within 14 days on forms approved by the board. New animals may be introduced into the herd only from other herds enrolled in a CWD herd certification program. If animals are received from a herd with a lower herd status, the receiving herd reverts to the program status and enrollment date of the source herd.

H. A newly formed herd that is comprised solely of animals obtained from herds already enrolled in the CWD certification program must start at the lowest status of any herd that provided animals for the new herd.

I. The failure of the owner to comply with the requirements in parts 1721.0370 to 1721.0420 shall constitute grounds for the board to cancel herd status. In accordance with Minnesota Statutes, section 35.155, subdivision 9, the board shall notify the herd owner of the right to request a contested case hearing regarding the board's determination under the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14.

Subp. 2. **Quarantine procedures.** The board must immediately quarantine a farmed Cervidae herd that is determined to be infected with or exposed to CWD. The herd owner must depopulate the Cervidae herd within a reasonable time after any appraisal process is complete. If no appraisal is required or requested, the herd must be depopulated in a timely manner. The herd owner shall also maintain fencing for at least five years from the date of detection and post biohazard signs as directed by the board.

Subp. 3. **Determining boundaries of CWD management zones in the state.** The board shall determine the area of the management zone when CWD is confirmed in wild Cervidae in the state. The board shall designate the geographic areas of the state as part of a CWD management zone that are necessary to prevent the spread of CWD. Individual farmed Cervidae herds where animals are kept on premises within a designated CWD management zone shall be excluded from and not considered to be a part of a CWD management zone if the herd has been maintained in such a way that commingling of farmed Cervidae and wild Cervidae has been prevented for at least 36 consecutive months.