

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Fish and Wildlife

Rules and Regulations Governing the Importation, Feeding, and Baiting of Cervids in Rhode Island



January 8, 2004

AUTHORITY: These regulations are adopted pursuant to RI Gen. Laws §§ 4-4-23 and 20-17-9 , Chapters 4-18, 20-17 and 42-17.1, and 42-17.7 in accordance with RI Gen. Laws Chapter 42-35, the Administrative Procedures Act.

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Rules and Regulations Governing the Importation, Feeding, and Baiting of Cervids in Rhode Island

Rule 1 - Purpose

The purpose of these rules and regulations is to prevent the introduction of Chronic Wasting Disease ("CWD") into the State of Rhode by prohibiting persons from importing or possessing cervids or parts thereof into the State of Rhode Island as well as restricting certain feeding and baiting practices.

Rule 2 - Authority

These rules and regulations are promulgated pursuant to RI Gen. Laws §§ 4-4-23 and 20-17-9, Chapters 4-18, 20-17 and 42-17.1, and 42.17.7, in accordance with RI Gen. Laws Chapter 42-35, the Administrative Procedures Act.

Rule 3 - Administrative Findings

These rules and regulations are required in order to ensure public health, safety and welfare by preventing the introduction of Chronic Wasting Disease ("CWD") into the State of Rhode by persons importing cervids or parts thereof into the State of Rhode Island or by persons feeding or baiting cervids in this state.

Rule 4 - Application

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

Rule 5 - Severability

If any provision of these rules and regulations, or application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

Rule 6 - Superceded Rules and Regulations #2386

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of the prohibition on the importation of cervids shall be superceded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these rules and regulations shall be governed by the rules and regulations in effect at the time the enforcement action was taken, or application filed.

Rule 7 - Definition of Terms

Department - the Department of Environmental Management.

Director - the Director of the Department of Environmental Management.

Cervids - any animals which are members of the family "*cervidae*" whether captive or wild and all subspecies, including but not limited to the following: white-tailed deer (*Odocoileus virginianus*); mule deer (*Odocoileus hemionus*); black-tailed deer (*O. hemionus columbianus*); elk (*Cervus elaphus*) including red deer or wapiti, moose (*Alces alces*); fallow deer (*Dama dama*); or silka deer (*Cervus nippon*), caribou or reindeer (*Rangifer tarandus*).

Chronic Wasting Disease endemic area - any state or county bordering a state where chronic wasting disease has been diagnosed, to include the following: Colorado, Wyoming, South Dakota, Wisconsin, Illinois, Minnesota, New Mexico, Nebraska, Kansas, Oklahoma, Montana or the Canadian provinces of Saskatchewan or Alberta

Feeding/Baiting - the act of using, placing, giving, exposing, depositing, distributing, or scattering any material, or any act to maintain the availability of such material, that attracts, or is reasonably intended to attract wild white-tailed deer to feed on such material.

Person - an individual, corporation, partnership, or other legal entity.

Rule 8 - Persons Authorized To Enforce These Rules and Regulations

Any employee of the Department's Division of Law Enforcement, Division of Agriculture, and Division of Fish and Wildlife are hereby commissioned by the Director pursuant to RI Gen. Laws § 42-17.1-2, to enforce these rules and regulations.

Rule 9- Penalties

Any person who violates any section of these rules and regulations shall, upon conviction by a court of competent jurisdiction, be punished by a fine of up to three hundred dollars (\$300.) or imprisonment not exceeding one (1) year per violation.

Rule10 – Regulations Prohibition on the importation of cervids

As follows:

Rules and Regulations Governing the Importation, Feeding, and Baiting of Cervids in Rhode Island

Part 1 Importation of Cervids

- 1.1 Importation. No person shall import into the State of Rhode Island any captive or wild cervid, except under a permit issued by the director or his/her designee in compliance with Section 1.2
- 1.2 Certificate of Veterinary Inspection has been issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture, countersigned by the veterinarian from the state of origin, attesting to the subject cervids:
 - 1.2.1 Are free from visible evidence of any contagious, infectious or communicable disease or exposure thereto;
 - 1.2.2 do not originate from a Chronic Wasting Disease (CWD) endemic area;
 - 1.2.3 includes the following statement: "All cervidae identified on this certificate originate from a CWD monitored or certified herd that has achieved a CWD disease-free status of at least seven years and in which these animals have been kept for at least two years or were natural additions"; and
 - 1.2.4 these certificates need to record the negative testing for TB, brucellosis, anaplasmosis, bluetongue, or other diseases as required by the RI DEM's Division of Agriculture.
- 1.3 No cervid may enter Rhode Island for immediate slaughter without obtaining the appropriate permit from the Rhode Island Division of Agriculture as specified in Part 1.1 and any other applicable regulations from the RI Department of Health, RI Gen. Laws § 27 of the Food Code.

Part 2 Release of Cervids

- 2.1 Release. No person shall release to the wild in the State of Rhode Island any

captive or wild cervid.

Part 3

Feeding and Baiting of Cervids

- 3.1 Feeding and baiting Cervids in Rhode Island. No person shall feed cervids at any time in the state of Rhode Island except:
- 3.1.1 under a license or permit issued by the Department pursuant to RI Gen. Laws §20-1-18 for bona fide scientific research within an inclosed pen ;
 - 3.1.2 by planting, cultivating, or harvesting of crops directly associated with bona fide agricultural practices, including planted wildlife food plots;
 - 3.1.3 by distribution of food material for livestock directly associated with bona fide agricultural practices; by distribution of food material for legally possessed captive cervid, pursuant to a permit;
 - 3.1.4 by cutting of trees or brush; or
 - 3.1.5 elevated bird/squirrel feeders providing seed, grain, fruit, worms, or suet for birds or squirrels located within 100 feet of an occupied dwelling.
- 3.2 Distribution of Certain Food Materials. No person shall feed wild or captive cervids with any material that contains protein derived from any mammalian tissues.

Part 4

Prohibited Carcass Parts

- 4.1 Prohibited Carcass Parts. No person shall import or possess in Rhode Island the brain, eyes, spinal cord, lymph nodes, tonsils, or spleen of any cervid taken in or originating from a Chronic Wasting Disease endemic area, or such parts from captive or captive-bred cervid obtained from outside Rhode Island, except that:
- 4.1.1 such parts may be imported and possessed as specimens in a bona fide laboratory research study pursuant to a permit issued by the director or his or her designee provided that such parts or specimens are disposed of in accordance with accepted laboratory practices; or
 - 4.1.2 as provided in Part 5, such parts and carcasses may be transported through Rhode Island as part of an interstate shipment.

Part 5

Permitted Carcass Parts

- 5.1 Permitted Carcass Parts of Wild and/or Captive Cervids. No person shall import into Rhode Island or possess in Rhode Island the carcasses or parts of wild cervid taken in or originating from a Chronic Wasting Disease endemic area, or carcasses or parts of captive or captive-bred cervids from outside Rhode Island. Except that the following parts may be imported or possessed if marked in the manner described in Part 6:
- 5.2.1 meat may be imported and possessed provided that all such meat from an individual animal shall be boned, cut up, packaged and wrapped and such meat shall not be commingled with the meat of any other;
 - 5.2.2 the hide or cape;
 - 5.2.3 the skull-cap with antlers attached, free of blood and brain matter;
 - 5.2.4 the antlers;
 - 5.2.5 finished taxidermy;
 - 5.2.6 tanned hides;
 - 5.2.7 the upper canine
 - 5.2.8 fresh head and cape – in addition to the marking requirements of Section 6.1, the required tissue must be tested by a certified USDA laboratory and must be certified to be Chronic Wasting Disease free. This certification must be in writing and must be provided prior to importation of a fresh head and cape into the state of Rhode Island.

Part 6

Marking of Carcass Parts & Transportation

- 6.1 Marking of Carcasses and Parts. All carcasses and parts of any cervid imported into Rhode Island, or packages or containers containing such carcasses or parts, shall be affixed with a legible label bearing the following information: the species of animal, the State, Province or Country where the animal was taken or where the shipment originated, the name of the person who took the animal or the name of the shipper, the address of the taker or shipper and, for transport through the State, the destination of the shipment. Hunter harvested carcasses, parts or meat taken outside Rhode Island shall also bear the marking, tagging or labeling required by the State where the animal was taken.

- 6.2 Transportation or Shipment of Carcasses and Parts Through Rhode Island. A person may transport or ship carcasses or parts of any cervid through Rhode Island provided that all such carcasses and parts are not disposed of in any manner or delivered to any person in Rhode Island and provided that all such carcasses and parts are marked as described in Part 6.1.

Part 7

Regulatory Enforcement

- 7.1 Enforcement of These Regulations. Any person who imports live cervids, carcasses or parts thereof, consents to allow any authorized representative of the Department access to enter upon his or her premises or access to his or her vehicle to conduct inspections for compliance of these regulations.
- 7.2 The Department shall immediately seize carcasses or parts that are imported or possessed in violation of these regulations.
- 7.3 The Department shall immediately seize, quarantine and euthanize any cervid that is imported or possessed in violation of the provisions of these regulations.
- 7.4 The Department shall direct any person possessing any cervid suspected of having chronic wasting disease to comply with any measures that are deemed necessary to prevent or mitigate the spread or introduction of chronic wasting disease.
- 7.5 Department staff may euthanize, using firearms or other means, any wildlife which is at large and is suspected of having been exposed to or having chronic wasting disease.

Part 8

Right of Administrative Hearing

- 8.1 Pursuant to RI General Laws, Chapter 42-17.7, a person who feels aggrieved by a regulatory enforcement action undertaken against that person pursuant to Part 7 and seeks an adjudicatory hearing must seek such hearing by filing a written request with the Administrative Adjudication

Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contest agency action.

- 8.2 Pursuant to RI General Laws, Chapter 42-17.7, a person who feels aggrieved by a permit denial and seeks an adjudicatory hearing must seek such hearing by filing a written request with the Administrative Adjudication Division, 235 Promenade St., Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.

Rule 11 – Effective Date

The forgoing Rules and Regulations entitled “Rules and Regulations Governing the Importation, Feeding, and Baiting of Cervids in Rhode Island”, after due notice, are hereby adopted and filed with the Secretary of State this _____ day of _____, 2003 to become effective twenty (20) days thereafter, unless otherwise noted below, in accordance with the provisions of Chapter RIGL §§4-4-23 and 20-17-9, Chapters 4-18, 20-17, 42-17.1 and 42-17.7, in accordance with RI General Laws Chapter 42-35, the Administrative Procedures Act.

Frederick J. Vincent, Interim Director
Department of Environmental Management

Date

Notice Given: 12/1/03

Public Hearing: None requested

Filing Date: 1/8/04

Effective Date: 20 days from filing