

250-RICR-60-00-2

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 60 – FISH AND WILDLIFE

SUBCHAPTER – N/A

PART 2 – Rules and Regulations Governing the Importation, Feeding, and Baiting of Cervids in Rhode Island

2.1 Purpose

The purpose of these Rules and Regulations is to protect the general public's safety and native wildlife resources of the state and to prevent the introduction of wildlife diseases, such as but not limited to, bovine tuberculosis, brucellosis, chronic wasting disease (CWD), or epizootic hemorrhagic disease into the State of Rhode Island by prohibiting persons from importing, transporting, or possessing live cervids, cervid carcasses or carcass parts thereof in the State of Rhode Island as well as restricting certain feeding and baiting practices that have been demonstrated to facilitate the spread of disease amongst animals.

~~The purpose of these Rules and Regulations is to prevent the introduction of Chronic Wasting Disease ("CWD") into the State of Rhode Island 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.~~

2.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. 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 R.I. Gen. Laws Chapter 42-35, the Administrative Procedures Act.

2.3 Administrative Findings

These Rules and Regulations are required to ensure public health, safety and welfare by preventing the introduction of wildlife diseases, such as CWD, into the State of Rhode Island by persons importing, transporting, or possessing live cervids, cervid carcasses or carcass parts thereof in the State of Rhode Island or by persons feeding or baiting cervids in this State. The Department finds that cervid diseases, are primarily spread by the translocation of live captive cervids, with the potential to introduce diseases to wild cervids as the two (2) often come in contact. Impacts of diseases, such as CWD, can lead to negative impacts to the local white-tailed deer population, the

states deer hunting culture, and wildlife management of other game and non-games species. Movement of infected cervid carcasses is also a known risk for introducing CWD prions to new areas. Accordingly, Association of Fish and Wildlife Agencies (AFWA) and Northeast Association and Fish and Wildlife Agencies (NEAFWA) recommends in part prohibiting all human-assisted movement of live cervids, as well as intact carcasses from CWD endemic areas, to prevent the additional introduction and further spread of this disease. Chronic Wasting Disease may be present in a State/Province and not detected as not all States have a CWD surveillance or monitoring program.

~~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.~~

2.4 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.

2.5 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.

2.6 Superseded Rules and Regulations

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 superseded. 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.

2.7 Definition of Terms

“Cervids” means any animals which are members of the family “*Cervidae*” whether captive or wild and any and all hybrids, all subspecies or genetically altered species, including but not limited to the following: white-tailed deer (*Odocoileus virginianus*); mule deer (*Odocoileus hemionus*); black-tailed deer (~~*Odocoileus*~~ *hemionus columbianus*); elk (*Cervus ~~elaphus~~canadensis*), including red deer (*Cervus elaphus*) ~~or wapiti~~, moose (*Alces alces*); fallow deer (*Dama dama*); ~~or~~ sika deer (*Cervus nippon*),

muntjac deer (*Muntiacus spp.*), axis deer (*Axis axis*), and caribou or reindeer (*Rangifer tarandus*).

“Chronic Wasting Disease” or “CWD” means an always-fatal nervous system disease found in cervids (deer, elk, moose, reindeer) for which there is currently no cure. It can be transmitted through direct animal to animal contact, contact with saliva, feces, carcass parts of an infected animal, and can even spread through soil that has been contaminated with any of the above tissues or fluids. To date, CWD has been found in wild and captive cervids across the United States, parts of Canada and other countries across the world.

“Chronic wasting disease endemic area” means any US State, Canadian Province or other Country where CWD has ever been detected or any State/Province located within twenty five (25) miles of any CWD positive detection in a different State/Province. ~~means any state where chronic wasting disease has been diagnosed or any county bordering that state where chronic wasting disease has been diagnosed, to include the following: Colorado, Illinois, Kansas, Minnesota, Montana, Nebraska, New Mexico, New York, Oklahoma, South Dakota, Wisconsin, Wyoming or the Canadian provinces of Saskatchewan or Alberta.~~

“Department” means the Department of Environmental Management.

“Director” means the Director of the Department of Environmental Management.

“Feeding” or “baiting” for the purpose of these Regulations, means 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” means an individual, corporation, partnership, or other legal entity.

“Possession” means to exercise dominion or control over any cervid or cervid parts, at any point.

2.8 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 R.I. Gen. Laws § 42-17.1-2, to enforce these Rules and Regulations.

2.9 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 (\$300.00) or imprisonment not exceeding one (1) year per violation.

2.10 Regulations ~~Prohibition~~ on the Importation, Possession and Transportation of Live Cervids

- A. ~~Importation:~~ No person shall import, transport or possess into the State of Rhode Island any live captive or wild cervid, except under a permit issued by the Director or his/her designee in compliance with all parts of §§ 2.10(B) and (C) of this Part.
- B. A Certificate of Veterinary Inspection shall ~~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. Are free from visible evidence of any contagious, infectious, or communicable disease or exposure ~~thereto;~~thereto.
 2. Are officially permanently identified by means of a device that is compliant with all State and Federally required unique and permanent methods of identification. Forms of identification include but are not limited to USDA approved visual or radiofrequency ear tags. Do not originate from a Chronic Wasting Disease (CWD) endemic area;
 3. The certificated need to confirm that the subject cervids have tested negative for bovine tuberculosis, epizootic hemorrhagic disease, brucellosis, anaplasmosis, bluetongue, or other diseases as may be required by the Rhode Island DEM's Division of Agriculture. 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,
 4. Does not originate from a CWD endemic area or has not resided in a CWD endemic area for any duration of time. 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.
- C. ~~No cervid may enter Rhode Island for immediate slaughter (slaughter within 72 hours at a USDA or state licensed slaughter establishment) unless officially identified and accompanied by either an official certificate of veterinary inspection or an owner shipper statement as defined in the Rules and Regulations Governing the Importation of Domestic Animals, 250-RICR-40-05-1. General Exemptions that shall also be in compliance with § 2.10(C):~~

1. AZA-Accredited and USDA Licensed Facilities. Nothing in this Part shall prohibit zoos, aquariums, research facilities, or other animal care facilities that meet the exemption criteria for such facilities listed in R.I. Gen. Laws §§ 4-18-3, and 4-18-6 from importing or possessing cervids without a permit.
2. Licensed Wildlife Rehabilitators. Nothing in this Part shall prohibit a person possessing a valid license as a Wildlife Rehabilitator issued by the Department from possession of cervids without a permit while in the execution of their duties and in compliance with Rules and Regulations Governing Wildlife Rehabilitation.
3. Authorized Agents of the Department in their Official Duties. Nothing in this Part shall prohibit an agent of the Department's Division of Agriculture, Division of Fish and Wildlife, or Division of Law Enforcement from possession of cervids without a permit while in the execution of his/her official duties.
4. Agents of the Rhode Island Society for the Prevention of Cruelty to Animals. Nothing in this Part shall prohibit an agent of the Rhode Island Society for the Prevention of Cruelty to Animals from possession of cervids without a permit while in the execution of their law enforcement powers pursuant to R.I. Gen. Laws Chapter 4-1.

~~D. No person shall transport within the state of Rhode Island any live or captive cervid without a permit issued by the Director or his/her designee.~~

2.11 Release of Cervids

No person shall release to the wild or one's private property in the State of Rhode Island any captive or wild cervid. This provision does not restrict duly authorized wildlife rehabilitators to release white-tailed deer held in their care or researchers conducting research authorized by the Director. ~~No person shall release to the wild in the State of Rhode Island any captive or wild cervid.~~

2.12 Feeding and Baiting of Cervids

- A. No person shall feed cervids at any time in the state of Rhode Island except:
1. Under a license or permit issued by the Department pursuant to R.I. Gen. Laws § 20-1-18 for *bona fide* scientific research;
 2. By planting, cultivating, or harvesting of crops directly associated with *bona fide* agricultural practices, including planted wildlife food plots;

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;
4. By cutting of trees or brush; or,
5. Elevated bird/squirrel feeders providing seed, grain, fruit, worms, or suet for birds or squirrels located within one hundred feet (100') of an occupied dwelling.

B. Distribution of Certain Food Materials.

No person shall feed wild or captive cervids with any material that contains protein derived from any mammalian tissues.

2.13 ~~Prohibited~~ Carcasses and Carcass Parts

A. No person shall import, transport, or possess in Rhode Island a cervid whole carcass, brain, eyes, spinal cord, lymph nodes, tonsils, spleen, or such carcass parts from wild, captive or captive-bred cervid obtained from outside Rhode Island, except that: 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:

1. Such carcass 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/her designee provided that such carcass parts or specimens are disposed of in accordance with accepted laboratory practices; or,
2. As provided in § 2.14 of this Part, such parts and carcasses may be shipped or transported through Rhode Island as part of an interstate shipment, provided that all such carcasses and carcass parts are marked as described in § 2.14 of this Part. No carcass or carcass parts shall be disposed of or remain in Rhode Island.
3. All legally harvested wild white-tailed deer carcasses and carcass parts from Connecticut and Massachusetts. All carcasses and carcass part must be disposed of following best management practices as stated by the Department at time of disposal. If Massachusetts or Connecticut become a CWD endemic area, they are no longer exempt from the carcass or carcass parts ban beginning on the date of CWD detection.

~~2.14 Permitted Carcass Parts~~

~~4A. The following carcass parts originating from outside the State of Rhode Island may be imported and possessed if marked in the manner described in 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 § 2.154 of this Part:~~

- ~~4a.~~ 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;
- ~~2b.~~ The hide or cape;
- ~~3c.~~ The skull or skull cap ~~cap with antlers attached, cleaned free of all blood, and brain matter;~~ muscle or any other tissue;
- ~~4d.~~ The antlers;
- ~~5e.~~ Finished taxidermy;
- ~~6f.~~ Tanned hides;
- ~~7g.~~ The upper canine;
- ~~8.~~ ~~Fresh head and cape in addition to the marking requirements of § 2.15 (A) of this Part, 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.~~

2.154 Marking of Carcasses and Carcass Parts and Transportation

~~A. Marking of Carcasses and Parts.~~ All allowable carcasses and carcasses and carcass parts of any cervid imported into or through Rhode Island, or packages or containers containing such carcasses or carcasses or carcass parts thereof, shall be affixed with a legible label bearing the following information: the species of animal, the U.S. State, Canadian Province or other 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 shipper, name of the -

taker, address of the taker ~~or shipper~~ and, for transport through the State, the destination of the shipment. Permitted carcasses, ~~Hunter harvested carcasses or carcass~~; parts, or meat taken outside Rhode Island shall also bear the marking, tagging, or labeling required by the State where the animal was taken.

~~B. — 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 this Part.~~

2.165 Regulatory Enforcement

- A. Any person who imports, transports or possess live cervids, carcasses or carcass parts thereof, consents to allow any authorized representative of the Department access to enter upon his or her premises or access to his/her vehicle or domicile to conduct inspections for compliance of these Regulations.
- B. The Department shall immediately seize and destroy carcasses or carcass parts that are imported or possessed in violation of these Regulations.
- C. The Department shall immediately seize, quarantine, and euthanize any cervid that is imported, transported or possessed in violation of the provisions of these Regulations.
- D. The Department shall direct any person possessing any cervid suspected of having ~~chronic wasting disease~~ CWD or other potentially infectious diseases to comply with any measures that are deemed necessary to prevent or mitigate the spread or introduction of chronic wasting disease.
- F. 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 CWD.

2.176 Right to Administrative Hearing

Pursuant to R.I. Gen. Laws, Chapter 42-17.7, a person who feels aggrieved by a regulatory enforcement action undertaken against that person pursuant to § 2.16 of this Part and seeks an adjudicatory hearing must seek such hearing by filing a written request with the Administrative Adjudication Division, One Capitol Hill, 4th Floor, Providence, Rhode Island, 02908 within twenty (20) calendar days of receipt of the contest agency action.

~~B. — Pursuant to R.I. Gen. 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, One Capitol Hill, 4th Floor, Providence, Rhode Island, 02908 within thirty (30) calendar days of receipt of the contested agency action.~~