

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Animal Health and Food Safety

Alternative Livestock—Chronic Wasting Disease (LAC 7:XXI.1705, 1727-1737)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953.1, and under the authority of R.S. 3:3101, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the regulations set forth herein for Chronic Wasting Disease for alternative livestock facilities.

Chronic Wasting Disease (CWD) is a neurodegenerative disease found in most deer species, including white-tailed deer, mule deer, elk, red deer, moose, and caribou. It is infectious, always fatal, and has no known treatment. These diseases cause irreversible damage to brain tissue, which leads to salivation, neurological symptoms, emaciation, and death of the animal.

Pursuant to R.S. 3:3101, the Commissioner of Agriculture and Forestry is vested with authority to regulate alternative livestock, including imported exotic deer and antelope, elk, facility-raised white tail deer and other exotic cervidae within the state of Louisiana.

Since 2009, the Louisiana Department of Agriculture and Forestry (LDAF) has been working in conjunction with the U.S. Department of Agriculture (USDA)/Animal and Plant Health Inspection Service (APHIS) CWD Program, and since 2011, Louisiana, through LDAF, has been a Participating Approved State, as defined by that program. In compliance with that program, LDAF submits annual comprehensive Herd Certification Program (HCP) Reports to APHIS for review and endorsement, whereby the state's compliance with the program requirements and disease control efforts is monitored.

Due to the nation-wide rise in the number of CWD-positive cases among cervid populations, LDAF closed the state borders to prevent entry of cervids in 2012. As a precautionary measure, in 2013 and again in 2015, LDAF decommissioned three herds of cervids at alternative livestock facilities, where a total of 136 cervids were depopulated and tested for CWD. All sample results tested were negative for CWD. To date, no cervids within captive alternative livestock facilities within the state have tested positive for CWD.

Despite the successful measures by LDAF to control the transmission and environmental contamination of CWD within alternative livestock populations, CWD continues to pose threats to cervid populations across Louisiana. Left unchecked, CWD has the potential to infect entire cervid herds resulting in considerable economic loss to cervid farmers, the deer-hunting industry, and the state of Louisiana.

On January 28, 2022, the Louisiana Animal Disease Diagnostic Laboratory (LADDL) at LSU detected CWD in a sample submitted by the Louisiana Department of Wildlife and Fisheries (LDWF) from a hunter-harvested adult buck in Tensas Parish. The sample was thereafter confirmed as positive for CWD by the National Veterinary Services Laboratory (NVSL). The CWD-positive buck was not harvested from an alternative livestock facility.

The provisions established in this emergency regulation are necessary to prevent the spread of CWD in Louisiana into alternative livestock facilities in the state of Louisiana. For these reasons, the potential spread of CWD in Louisiana presents an imminent peril to the public health, safety, and welfare to Louisiana's citizens, the state's alternative livestock, and the state's alternative livestock industry, as set forth in R.S. 49:953(A)(1)(a).

This Rule shall have the force and effect of law upon signature, and will remain in effect for 180 days, unless renewed by the Commissioner of Agriculture and Forestry.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Plant Protection and Quarantine

Chapter 17. Alternative Livestock—White-Tailed Deer and Captive Cervids (Formerly Chapter 15)

§1705. Definitions (Formerly §1503)

A. ...

Certified herds—a herd that has enrolled in the Herd Certification Program and has attained Certified status as defined in 9 CFR part 55.

Chronic Wasting Disease (CWD)—a neurodegenerative disease found in most deer species, including white-tailed deer, mule deer, elk, red deer, moose, and caribou. It is infectious, always, fatal, and has no treatment. CWD is part of a group of diseases known as transmissible spongiform encephalopathies (TSEs) and is similar to BSE (mad cow disease) in cattle and scrapie in sheep. These diseases cause irreversible damage to brain tissue in the animal, which leads to excessive salivation, neurological symptoms, emaciation, and death of the animal.

Enrolled Herds—a herd that has enrolled in a Herd Certification Program and met the minimum requirements defined in 9 CFR part 55.

Surveillance Zone—an LDAF-designated area consisting of a 25 mile radius from the positive animal in which mitigation measures and regulations are applied to alternative livestock facilities.

USDA—the United States Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:971 (May 2014), amended LR 42:1864 (November 2016), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

§1727. Chronic Wasting Disease; Surveillance Zones

A. Whenever the commissioner or his designee has been notified that any cervid, whether in an alternative livestock facility or not, has tested positive for CWD anywhere within the state, he may establish a surveillance zone by the following procedures:

1. by giving notice, in writing, to any and all alternative livestock facilities within the surveillance zone;

2. by publishing notice of the surveillance zone in the *Louisiana Register*; and

3. by posting notice of the surveillance zone on the LDAF website.

B. Once imposed, a surveillance zone will remain in effect unless and until otherwise cancelled or modified by the commissioner or his designee.

C. LDAF shall annually, on or before December 31, publish in the *Louisiana Register* a list of all areas of Louisiana which are included in surveillance zones.

D. The commissioner or his designee may, at his discretion, cancel a surveillance zone or modify an area from a surveillance zone when it is proven to his satisfaction that the area has been mitigated and no longer warrants surveillance zone restrictions, by the following procedures:

1. by giving notice, in writing, to any and all alternative livestock facilities within the surveillance zone;

2. by publishing notice of the surveillance zone in the *Louisiana Register*; and

3. by posting notice of the surveillance zone on the LDAF website.

E. Surveillance zones in this state include:

1. an area consisting of a 25-mile radius from the positive animal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

§1729. Chronic Wasting Disease; Export of Carcasses from a Surveillance Zone

A. The export of any cervid carcass or part of a cervid carcass originating from a facility, as defined in this Chapter, located within a surveillance zone, is prohibited, except for:

1. meat that has been cut and wrapped;
2. meat that has been boned out;
3. quarters or other portions of meat with no spinal column or head attached;
4. antlers;
5. cleaned skull plates with antlers;
6. cleaned skulls without tissue attached;
7. capes;
8. tanned hides;
9. finished taxidermy mounts; and
10. cleaned cervid teeth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

§1731. Chronic Wasting Disease; Transport of Cervids in Surveillance Zone.

A. The transport of alternative livestock into, out of, and within an LDAF-designated surveillance zone is prohibited, except as indicated in this Chapter.

B. Alternative livestock may be transported into, out of, and within an LDAF-designated surveillance zone only with prior authorization of LDAF in the form of an LDAF-issued permit.

C. Permits to transport into, out of, or within an LDAF-designated surveillance zone may be obtained by contacting the Office of Animal Health.

D. Failure to obtain a permit prior to transporting alternative livestock to or from a facility located within an

LDAF-designated surveillance zone shall constitute a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

§1733. Chronic Wasting Disease; Certified Herds; Non-Certified/Non-Enrolled Herds

A. Alternative livestock facilities who have voluntarily enrolled in the USDA/APHIS Herd Certification Program may transport cervids into, out of, and within the surveillance zone subject to the following requirements.

1. Certified Herds who have been in good standing with the USDA/APHIS CWD Program for a period of at least 60 months may transport cervids into, out of and within the surveillance zone only upon the prior issuance of an LDAF-issued movement permit.

2. Enrolled Herds who have been in good standing with the USDA/APHIS CWD Program for a period of at least 24 months may transport cervids into, out of, and within the surveillance zone only:

a. upon the prior issuance of an LDAF-issued transport permit; and

b. in accordance with same guidelines and procedures set forth in Appendix II - USDA-APHIS CWD Program Standards (May 2019 or amended).

B. Alternative livestock facilities located within a surveillance zone shall stock any new herds with cervids from a USDA/APHIS-certified herd and shall first obtain a license from LDAF to do so.

C. Movement is prohibited in non-enrolled herds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

§1735. Chronic Wasting Disease: Permits and Licenses

A. Permits to transport alternative livestock within an LDAF-designated surveillance zone, and licenses to establish new herds, may be obtained by application to the Office of Animal Health.

B. Permits to transport and/or permits to establish new herds may be cancelled by the commissioner or his designee whenever, in his sole judgment, such cancellation is necessary to prevent the spread of CWD.

C. Permits to transport shall specify the origin, destination, proposed date(s) of transport, and individual official identification for each animal being transported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

§1737. Chronic Wasting Disease; Enforcement.

A. Any person violating the provisions of R.S. 3:3101 et seq. or this Chapter shall be subject to enforcement action

B. The commissioner may suspend or revoke any license issued under the provisions of R.S. 3:3108 and this Chapter. The commissioner may also assess a civil penalty for violation of any provision of R.S. 3:1461 et seq., or any violation of any regulation enacted under the authority of said statutes.

C. Whenever the commissioner has reason to believe that any person has violated any provision of the R.S. 3:3101

et seq., or this Chapter, the commissioner shall notify the person of the alleged violation as well as an opportunity to respond thereto, by certified mail, prior to any scheduled hearing date.

D. Each separate day on which any violation occurs shall be considered a separate violation.

E. No penalty may be assessed, nor may any license be suspended or revoked by the commissioner, prior to the holding of an adjudicatory hearing before a hearing officer. Such adjudicatory hearing shall be conducted in accordance with the requirements of the Administrative Procedure Act; any person alleged to have violated any provision of R.S. 3:3101 et seq., or this Chapter shall be accorded all rights and privileges under said Act.

F. The hearing officer shall make an initial determination on alleged violations and recommend findings of fact and conclusions of law together with penalties, if applicable, in writing.

G. The commissioner shall make the final determination on the disposition of alleged violations.

H. Reinstatement of a revoked license shall be by a formal hearing before a hearing officer held pursuant to the Administrative Procedure Act, and shall require the approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

Mike Strain DVM
Commissioner