

## Meeting Minutes: Advisory Committee for Farmed Cervidae Rule Amendments

Date: 11/30/2020, 1:00 p.m. to 3:00 p.m.  
Minutes prepared by: Dr. Courtney Wheeler  
Location: Virtual Meeting via Microsoft Teams

### Attendance

#### Farmed Cervid Advisory Committee Members

- Nicole Amey, United States Department of Agriculture Veterinary Services (USDA-VS)
- Kelly Anderson, Minnesota Department of Agriculture (MDA)
- Michelle Carstensen, Minnesota Department of Natural Resources (DNR)
- Amy Cordry, Member of the public
- Craig Engwall, Minnesota Deer Hunters
- Brenda Hartkopf, Minnesota Elk Breeders Association
- Rich Meech, Minnesota Deer Farmers Association
- Steve Notch, Minnesota Association of Counties
- Daryl Simon, Non-native Minnesota Cervidae species producers
- Dr. Jerry Torrison, Minnesota Veterinary Diagnostic Laboratory (MVDL)

#### Farmed Cervid Advisory Committee Members not present:

- Representatives of Minnesota Tribal members: Miles Falck and Philomena Kebec
- Representative of Minnesota cervid veterinarians: Dr. Joel Ihnen
- At-large livestock producer (other than farmed Cervidae producer): Dan Miller
- Representative of the Minnesota Department of Health: Dr. Joni Scheftel
- At-large representative of Minnesota farmed cervid producers: Robert Ernst

#### Minnesota Board of Animal Health (Board) staff

- Dr. Linda Glaser, Farmed Cervidae Program Director
- Dr. Courtney Wheeler, Farmed Cervidae Program Director
- Annie Balghiti, JD, Rules Coordinator

### Welcome

Annie Balghiti welcomed the committee members. She stated that today's agenda would be busy and therefore the Board elected to extend the meeting by 30 minutes in an effort to incite a more robust conversation. Ms. Balghiti reminded everyone joining the meeting that the last 15 minutes would be dedicated to public comment, time permitting.

Annie Balghiti took roll call of committee members and thanked all members for their participation. She then described the role and responsibilities of advisory committee members stating that they had been invited to

advise the Board on development of farmed Cervidae program rules. She pointed out that members were chosen because of their knowledge and expertise which is required for the Board to amend their rules effectively. Ms. Balghiti stated that advisory committee members don't write rules and don't vote on the rules but do have the Board's "ear" and power of persuasion. She recommended that members of the public reach out to committee members who represent their interests to voice concerns on their behalf.

Ms. Balghiti noted that the Board's initial public comment period closed on October 30<sup>th</sup> and recommended that people visit the Board's website which she referred to as a "one stop shop" to review the public comments that were submitted. Ms. Balghiti also noted that the draft referenced during the meeting today is not the Board's final rules draft. She explained that the Board elected to modify the rulemaking timeline with the goal of releasing a final rules draft in January. She added that the Board needed more time to develop program standards and meet all requirements under Minnesota's administrative law.

Ms. Balghiti described next steps in the rulemaking progress noting that when the Board's notice of a final draft is published with the Notice of Intent to Adopt, a second public comment will open for a minimum 30 days. The Board will then hold at least one hearing before an administrative law judge who will independently review the record for the Board. Ms. Balghiti emphasized that the rulemaking process the Board is following will offer four opportunities for public comment.

Ms. Balghiti informed the group that the plan for this meeting is to resume the previous discussion of the Board's most current rules draft and discuss proposed changes or suggestions that committee members have. She explained that each committee member would be allotted 2 to 3 minutes to bring forward their comments on suggested changes or additions to the draft. After all committee members have been provided an opportunity to speak, any time left could be devoted to additional comments from committee members.

Dr. Linda Glaser and Dr. Courtney Wheeler then introduced themselves, explaining their roles in managing the Board's farmed Cervidae program.

## **Proposed Rules Draft (dated 11.06.20) Review and Discussion**

Dr. Glaser shared the Board's most recent proposed rules draft ([https://www.bah.state.mn.us/media/DRAFT-11\\_06\\_20-incorporating-comments-for-Minnesota-Rules-Chapter-1721.0370-to-1721.0420.pdf](https://www.bah.state.mn.us/media/DRAFT-11_06_20-incorporating-comments-for-Minnesota-Rules-Chapter-1721.0370-to-1721.0420.pdf)). Dr. Glaser noted that this was the third proposed draft of proposed amendments to the Board's farmed Cervidae rules. She noted that during the last meeting the committee reviewed the draft through the definitions section (1721.0370) and she would begin by presenting proposed amendments to section 1721.0380, general requirements. Dr. Glaser pointed out that the black and red fonts represent changes from the first two drafts and the blue font indicates amendments to this, the third draft.

Dr. Glaser explained that no additional changes were proposed to Minn. Rule 1721.0380 subpart 1 or subpart 2. She pointed out that in subpart 3, Inspections, the Board proposed inserting the word "annual" for clarity. The new language would read, "the annual inspection shall include a physical inspection of all perimeter fencing, and a viewing to verify that all animals are tagged as required under part 1721.0390".

Dr. Glaser noted that in subpart 4, Herd inventory, the Board proposed eliminating the previously added sentence, "An annual inventory must be submitted within a maximum of 3 months of the date of the previous year's annual inventory". She emphasized that a physical inventory is still required every third year.

Under subpart 5, Fencing, Dr. Glaser read the proposed added requirement, "All new Farmed Cervidae premises with white-tailed deer that are registered after January 1, 2022, must have perimeter fences that are at least

120 inches in height". Dr. Glaser explained that this addition was in response to concerns from multiple parties specifically related to the potential escape of white-tailed deer. There has been some, although limited, research published on the ability of a white-tailed deer to jump a 96" fence. Dr. Glaser added that the Board's wildlife partners require 10-foot fencing to prevent ingress of wild white-tailed deer onto agriculture lands and the Board's current authority allows us adoption of similar requirements.

Dr. Glaser referenced subpart 6, Running at large prohibited. She noted the proposed amendment to the second sentence, "Farmed Cervidae that are running at large are livestock as defined in part 1721.0370, and remain the property of the rightful owner until the animal is declared by the Board as lost; an animal may be declared as lost no sooner than 30 days after its escape". She explained that the Board doesn't believe they have the authority to determine ownership of an escaped animal. The Board's authority does not extend more than 30 days following escape.

Dr. Glaser highlighted the proposed addition of language that requires "All escaped animals that are harvested or found dead must be tested for CWD, regardless of age" and "All animals and their parts, that are harvested or found dead before an animal is declared lost, must be returned to the owner".

Brenda Hartkopf stated that it appears as though this new language removes ownership of an animal, adding that she didn't see where the Board has the authority to take away ownership. Ms. Hartkopf specifically referenced the proposed language, "until the animal is declared by the Board as lost", commenting that "this is overreach".

Dr. Glaser agreed that the Board does not have the authority to determine who owns an escaped animal. She asked Ms. Hartkopf if she was proposing removing "remain the property of the rightful owner" as well.

Ms. Hartkopf responded that whether it is before or after an animal is declared lost by the Board, this has no bearing on the owner's rights.

Ms. Hartkopf addressed the Board's proposed amendment requiring new white-tailed deer producers to erect 10-foot fences, inquiring, "How many animals are jumping over the fence; why regulate something that is not a problem?"

Dr. Glaser responded that her understanding is that white-tailed deer have the capability to jump over an 8 foot (96 inch) fence, one other state requires 10 foot fencing, and people on this committee and other stakeholders have concerns that current fencing requirements [for fencing height] are insufficient.

Ms. Hartkopf readdressed her concerns asking, "In Minnesota, do we have a problem with deer jumping over fences?"

Dr. Glaser responded that since she took over the program, there have been no reports of escapes related to deer jumping over fences.

Rich Meech commented that requiring a 10-foot fence will add 30-40% in additional cost for fencing materials. He added that research documenting whether deer can jump over fences is limited, and it is just as likely that deer are crawling under fences. Mr. Meech stated that he thinks this is just a requirement to satisfy the general public adding that 96 inches has been the norm and is adequate.

Daryl Simon commented that he agreed with Mr. Meech and Ms. Hartkopf that there is no need to change fence height without sufficient evidence to support that this is an issue. Mr. Simon referenced studies that concluded that when deer were forced to jump over fencing, they only jumped 8 feet. He added that in the vast majority of escapes [in Minnesota], a tree fell on the fence or a gate was left open. Mr. Simon expressed his feelings that the updates to statutes regarding redundant gating should solve this problem.

Steve Notch asked if, during a physical inspection, the entire farm is inspected including fence height.

Dr. Glaser confirmed that this was true noting that updated statutes require that the entire perimeter of the fence be visualized during the inspection.

Mr. Notch inquired, "How many of these farmers have to notify the Board that there was an escape?"

Dr. Glaser responded that all producers need to notify the board 24 hours after an escape.

Mr. Notch asked, "When you inspect, if a producer has fences that are leaning, is it a requirement that they be re-straightened?"

Dr. Glaser answered that fencing must be 96 inches in height and prevent ingress or egress. If this is not adequate during an inspection the producer is required to repair the fence.

Dr. Glaser shared the Board's proposed amendments to section 1721.0390, Animal identification, noting the addition of language that will require all animals on the premises to be identified with two forms of identification before any animal may be moved off the premises. Dr. Glaser further explained that the Board had originally considered requiring every single animal on the premises to have two forms of identification whether they move animals or not and then reconsidered.

Brenda Hartkopf stated for clarification, "Before an animal may be moved off the premises all animals must be identified, does that include newborns as well?"

Dr. Glaser responded that the Board's expectation is that all newborns would be identified as required under law.

Ms. Hartkopf commented that elk producers move a lot of animals in November and December prior to tagging calves. She asked the Board to consider amending the language to avoid unintended consequences.

Dr. Glaser reiterated that the Board's intent was not to include tagging of young animals before they were required to be tagged and will reconsider wording to address this.

Dr. Glaser then presented the Board's proposed amendments to section 1721.0400, "Importation of farmed Cervidae". She drew everyone's attention to subpart 3(B), "live Cervidae returning from display" and read the proposed amended language, "Live farmed Cervidae who are from a registered Minnesota herd and are returning to Minnesota from a display are exempt from the importation requirements of subparts 1, 2, and 3 if they were housed and maintained according to board-approved guidelines, which includes ensuring they were not exposed to other farmed cervids, wild cervids, or areas where other cervids are/have been kept".

Brenda Hartkopf asked the committee to focus on subpart 2 which currently reads, "Live Cervidae may not be imported into the state from an area where CWD has been detected, as determined by the board". She commented that by removing the term "endemic area" the designation is "too vague". Ms. Hartkopf added that state statute refers to an endemic area and the Board's rules should coincide with the statute. Ultimately, Ms. Hartkopf expressed the need for a defined area.

Dr. Glaser presented the Board's proposed amendments to section 1721.0410, "Intrastate movement of farmed Cervidae". Dr. Glaser noted the addition of "clarifying language" reading, "Farmed Cervidae moving from any herd to another location in the state must be identified with two forms of identification, one must be official animal identification". She also noted additional language that requires farmed Cervidae moving to another

Minnesota location with Farmed Cervidae, to originate from a herd that is registered with the board and that has achieved at least a level 6.

Dr. Glaser explained that the Board proposes striking section D which would require producers to test at least one test eligible cervid prior to moving animals out of the herd. She also highlighted an added section in this part which reads, "Animals from a registered herd that has achieved a level 4 or 5 of the CWD herd certification program may not move to a location with Farmed Cervidae, but animals may move to another location if they meet the requirements of subpart 3 items A and B, and the owner has obtained a movement permit from the board prior to movement".

Rich Meech asked, for clarification, "So herds that are a level 4 or 5 must obtain a permit prior to movement?"

Dr. Glaser conformed that this is correct and added that the Board doesn't want these herds to move their animals to another farmed Cervidae herd. Requiring the herd to be at the highest status level will ensure producers have monitored their herd to the fullest extent the program requires.

Mr. Meech followed up for confirmation, stating, "If a producer slips and their status is lowered, they would not be allowed to move animals".

Dr. Glaser replied that a herd's status would be "suspended, not lowered". [After reviewing the notes – Dr. Glaser's comment to Mr. Meech would be that the producer would not be allowed to move animals to another herd if their status was lowered].

Mr. Meech commented that a "Suspended status is worse because a producer cannot move anything; if a producer misses a sample and they lose status, they would not be able to move animals to market". Mr. Meech elaborated by stating, "If someone who has had good surveillance for more than 5 years, misses one sample, through no fault of their own, they are being unduly punished". He then asked, "If this happens in September, during peak movement time, does the producer have to wait for results of the substitute animals before status is reinstated?" [Upon review of these notes, to clarify: A suspended status is related to missed CWD surveillance and is not related to this discussion on movement of animals at a CWD status level of 4 or 5].

Dr. Glaser continued her presentation of the Board's proposed amendments, referencing section 1721.0410, "Movement of animals to slaughter." She highlighted the addition of language, reading "Animals moving from a CWD management zone must be moved as specified in subpart 6" explaining that animals moved from a CWD management zone, even from herds that have achieved a level 6 surveillance status will require a movement permit.

Rich Meech commented that he still disagreed with the concept of a suspended status. He inquired if Minnesota's amended rules have any bearing on animals moving to another state, more specifically, will USDA continue to recognize that herds at a level 4 or 5 are able to move animals interstate.

Dr. Glaser responded that the Board's amended rules do not have a direct effect on federal requirements for interstate movement of farmed Cervidae. [Herds at a CWD Level 4 or 5 have never been allowed to move interstate as outlined in the federal program]. She asked Mr. Meech if he was suggesting that there should be a consideration for shooter bucks moving within the state.

Mr. Meech replied that, yes, that would be helpful and should be considered. He added that the committee should revisit movement suspensions.

Daryl Simon made a comment regarding restrictions on herd additions, stating that the assumption is that most often animals are moving to a herd that already has animals. He inquired, “how can a new herd attain a level 4 if they can’t get any animals?”

Dr. Glaser responded that when a newly registered herd purchases animals, they acquire the [CWD herd surveillance] status level of the animals purchased.

Mr. Simon commented that the Board should consider adding language to clarify this in this section.

Dr. Glaser informed the group that this is in the federal CWD program surveillance standards.

Mr. Simon expressed his concerns that someone may look at this amendment and interpret it to mean that Minnesota does not allow new cervid farms. He added that New Hampshire’s legislation looks very similar and has been interpreted to not allow any new farms. Mr. Simon requested that the Board consider adding specific language stating that a new herd acquires the status of animals purchased.

Dr. Glaser continued her description of proposed amendments, pointing to subpart 6, “Movement into, within, and out of a CWD management zone”. She explained that the Board has elected to eliminate all references to a “terminal hunt facility” from this section as it became apparent that this was unpopular. She also highlighted additional language to subpart 6(C), “Antlers, hides, teeth, finished taxidermy mounts, and antlers attached to skull caps that are cleaned of all brain tissue may be imported moved to other locations in the state”.

Dr. Glaser illustrated that the Board is proposing no new amendments to section 1721.0420, “Chronic wasting disease”, subpart 1, (A) and (B). Per previous conversations with advisory committee members, the Board is proposing updates to language in subpart 1(C), to read, “With approval from the Board, for each animal that does not have a successful CWD test result, tissues from an equal number of test-eligible animals of the same species, that has resided in the same location in the herd, for at least as long as the unsuccessfully tested animals, may be substituted by the herd owner to meet surveillance requirements”.

Dr. Glaser moved on to proposed changes to subpart 2, “Quarantine procedures”, noting the addition of more specific language for options for a herd that is quarantined because an animal in the herd is infected with or has been exposed to CWD. Dr. Glaser read,

- “A. Unless a permit is obtained from the board, farmed Cervidae may not be moved into or out of a quarantined herd. the board may allow farmed Cervidae from quarantined herds to be moved under permit directly to a state or federally licensed slaughtering establishment, to an approved veterinary diagnostic laboratory, or to another location if that movement is determined by the board not to endanger the health of other animals in the state.
- B. The owner of a herd determined to be infected with or exposed to CWD must, upon request, furnish to the board a list of sources of Cervidae and a list of movement of Cervidae to other locations.
- C. Farmed Cervidae herds exposed to CWD may be released from quarantine when all CWD exposed animals on the premises have a CWD test result of not detected.
- D. If the herd is determined to be infected with CWD, then 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 board may require a herd owner of a CWD infected herd to take measures to minimize commingling of the herd with wild cervids until the herd is depopulated. The herd owner shall also maintain enclosure fencing for five years from the date of detection and post biohazard signs as directed by the board. The premises owner may not possess farmed cervids on the premises for a period of five years from the date of cleaning and disinfection.”

Brenda Hartkopf referenced letter C, "Farmed Cervidae herds exposed to CWD may be released from quarantine when all CWD exposed animals on the premises have a CWD test result of not detected", noting that farmed Cervidae herds exposed and animals exposed are not the same thing. Ms. Hartkopf added, "I don't think this language accounts for all situations and needs to be more elaborate".

Dr. Glaser clarified that the Board defines an exposed herd as one that has CWD exposed animals in it.

Ms. Hartkopf expanded her statement, saying, "My understanding is that if a CWD exposed animal tests negative the herd is released".

Dr. Glaser agreed that this is true, and she believes that the language reads that way.

Ms. Hartkopf further commented that the amended language eliminates federal indemnity language, which is "overreaching".

Dr. Glaser stated that regardless of what is written in the rules, the Board is still required to follow state statute, and the federal indemnity language is in the authorizing statute.

Ms. Hartkopf asked, "So why change the language at all?" adding, "if you take federal indemnity out it takes away our [producers'] protections under this law". [Upon review of the notes, an additional clarification: by omitting federal indemnity language in the proposed rule, the federal indemnity language contained in the authorizing statute is not "eliminated"; the statutory language still stands and it is not necessary to repeat the language in the rules]

Brenda Hartkopf referenced section 1721.0420, subpart 2(D), "The board may require a herd owner of a CWD infected herd to take measures to minimize commingling of the herd with wild cervids until the herd is depopulated". Ms. Hartkopf stated that this language is too vague and ambiguous and needs to be defined.

Rich Meech stated for clarification, "A farmed Cervidae herd may be released when all CWD exposed animals have been tested". He asked, "Without a live animal test, how does a producer get off of quarantine without killing all of the animals?"

Dr. Glaser responded that the Board has allowed herds to remain intact for five years in lieu of harvesting and testing. [This language will be added to the next rules draft].

Mr. Meech commented that "USDA doesn't pay for dead animals, after a producer puts the animals down, they are not getting any money, so why would we consider putting language related to federal indemnity in rule".

Dr. Glaser responded that statutory law does not allow us to wait for federal indemnity. She referenced and read Minnesota Statute § 35.155, subdivision 11, "The owner of a premises where chronic wasting disease is detected must depopulate the premises of Cervidae after the appraisal process for federal indemnification has been completed or, if an indemnification application is not submitted, within a reasonable time determined by the board in consultation with the commissioner of natural resources".

Mr. Meech stated that federal law doesn't allow for an animal to be put down without federal indemnification and he believes that this statute needs to be revisited by the Minnesota legislature.

Amy Cordry referenced 1721.0420, subpart 2, part D, "The herd owner shall also maintain enclosure fencing for five years from the date of detection and post biohazard signs as directed by the board. The premises owner may not possess farmed cervids on the premises for a period of five years from the date the cleaning and disinfection." She stated that Dr. [Jerry] Torrison with MNVDL has given his professional, highly respected

opinion, stating that “a 5-year period has not been substantiated by science and I think that needs to be reconsidered”.

Brenda Hartkopf inquired if the Board has direct authority to confiscate someone’s property for five years. Ms. Hartkopf referenced language stating that “the herd owner must also maintain enclosure fencing for five years” commenting that this language is not in statute, only language about posting biohazard signs. She added that maintaining fencing is usually part of a federal indemnification agreement but is overreaching by the Board.

Dr. Glaser read Minnesota Statute § 35.155, subdivision 11, “the owner of a premises where chronic wasting disease is detected must maintain the fencing required under subdivision 4 on the premises for five years after the date of detection; and post the fencing on the premises with biohazard signs as directed by the board”.

Ms. Hartkopf referenced the language stating, “The premises owner may not possess farmed cervids on the premises for a period of five years from the date of cleaning and disinfection” stating that this might be overreach by the Board. She added that “this language may be more appropriate as part of the federal indemnity agreement”.

Ms. Hartkopf inquired why language outlining how a CWD exposed herd may be released from quarantine had been omitted.

Dr. Glaser referenced and reread part C, “Farmed Cervidae herds exposed to CWD may be released from quarantine when all CWD exposed animals on the premises have a CWD test result of not detected.”

Ms. Hartkopf requested that the Board revert to the original language in this part as it was clearer.

Dr. Glaser read through proposed amendments to section 1721.0420, subpart 3, “Determining boundaries of CWD management zones in the state”. She read, “The board shall determine the area of the CWD management zone to prevent the spread of CWD when CWD is confirmed in wild Cervidae. The board shall designate the geographic areas of a CWD management zone by including all locations within at least 15 miles of a confirmed case of CWD in wild Cervidae as the CWD management zone”.

Brenda Hartkopf stated that she appreciated the Board adding the 15-mile distance back into the language but use of the words “at least” keeps it ambiguous. She emphasized her point by stating, “I don’t know that the committee realizes what this really means to a producer that find themselves in an endemic area. A producer who has been in compliance and suddenly can no longer put food on the table. We tend to use a broad brush to paint all cervids in the industry, deer, elk reindeer. There should be a way out for producers that are doing everything right”. Ms. Hartkopf requested that the Board consider using both terms “endemic area” and “management zone” to differentiate between areas like southeastern Minnesota and Crow Wing County. She stated for example, “my property is surrounded by highway and trees. I am not concerned that a deer is going to come from 15 miles away and touch noses with my elk”.

Dr. Jerry Torrison commented in response to Ms. Cordry’s statement related to section 1721.0420, subpart 2, part D, “The herd owner shall also maintain enclosure fencing for five years from the date of detection and post biohazard signs as directed by the board. The premises owner may not possess farmed cervids on the premises for a period of five years from the date the cleaning and disinfection.” He noted that a five-year timeline is not supported by literature because there is not adequate literature related to CWD prion survival in the environment. Dr. Torrison reminded the group that the data he referenced was from Scrapie literature.

Dr. Torrison stated that he appreciated Ms. Hartkopf's comments related to looking out for producers. He then suggested the use of sentinel animals on an infected property as a way to allow the Board of Animal Health to maintain regulatory oversight over any animals placed there.

Daryl Simon commented that removing the 180-day allowance to allow producers to double fence is "unjust". He stated that he agrees with Ms. Hartkopf that we are making regulations that are "one size fits all". Mr. Simon shared his thoughts that he would like to see more research showing how CWD affects species besides white-tailed deer. Mr. Simon added that he thinks an animal's behavior needs to be taken into consideration, explaining that he would suspect that elk and white-tailed deer and reindeer and white-tailed deer are not likely to make nose to nose contact at a fence line, spreading CWD. Mr. Simon also suggested that the prevalence of the disease should be taken into consideration. He pointed out that the most recent number of positives in wild deer in Minnesota is about 9. He stated that he didn't understand how we can compare one area with a significant number of infected white-tailed deer to another area of the state where only one wild white-tailed deer was found to be infected. Mr. Simon asked the Board to consider allowing the current 180-day window for species in which CWD has not been identified in their wild counterparts or basing this determination on a risk assessment of the farm.

Rich Meech commented that the language that states "at least 15 miles" is problematic. He then asked Dr. Glaser to clarify what the 36 months prior to was referencing, i.e. what type of fencing would be considered by the Board. He added that it sounds like only a double fence would be acceptable.

Dr. Glaser responded that the Board's current exclusionary fencing requirements would still be applied.

Mr. Meech stated that the assumption is that if a wild deer is found to be infected with CWD, we are assuming that that animal has had direct contact with all cervid farms in a 15-mile radius. Mr. Meech asked Dr. Glaser to further explain the intent of the 36-month requirement.

Dr. Glaser replied that when one deer is identified to be infected, we can assume that other deer in the area may also be affected.

Mr. Meech expressed his opinion that if a producer has had good surveillance but is not given an opportunity for proving that they do not have infection, i.e. by conducting additional surveillance, that is unfair.

## **Specific Comments from Advisory Committee Members**

Kelly Anderson, representative of the Minnesota Department of Agriculture, introduced herself as a Livestock Specialist. She stated that MDA is in a position to help and support all livestock operations. She described her role on the committee as representative for livestock producers adding that if there is something specific that livestock producers would like to have MDA weigh in on, she is happy to consult with experts at MDA. Ms. Anderson admitted that she did not have direct knowledge of the cervid industry and that her participation on this committee has been helpful in defining MDA's role working with cervid producers.

Steve Notch, representative of the Association of Minnesota Counties, stated that [prior to participation in this committee] he was unaware of how many rules and regulations Minnesota has for cervid producers and how many producers are registered in Stearns County. Mr. Notch inquired if cervids that are kept in zoo settings are treated differently from other producers.

Dr. Glaser responded that all farmed Cervidae producers including zoo facilities must follow the same regulations. She added that the Minnesota Zoo is registered with the Board's program.

Michelle Carstensen, representative of the Minnesota Department of Natural Resources, stated that she had nothing substantially different that she wanted to add to the conversation other than what she already expressed during previous committee meetings. Ms. Carstensen commended the Board for adopting some of DNR's suggested comments in their most recent draft. She closed by stating that we need to continue to work together to combat CWD inside and outside of the fence.

Dr. Nicole Amey, representative of the United States Department of Agriculture, Animal and Plant Health Inspection Services, Veterinary Services, expressed her appreciation for the efforts made by this committee. Dr. Amey stated that she currently didn't have any specific comments but was paying attention to the progression of Minnesota's rulemaking progress and was willing to take relevant comments back to Dr. Schaeffbauer or National Cervid Health Staff.

Craig Engwall, representative of Minnesota Deer Hunters, expressed his appreciation of the Board's being responsive to some of the comments submitted by his organization. Mr. Engwall thanked the Board for being adaptable and moving this process forward.

Dr. Joel Ihnen, representative of Minnesota cervid veterinarians, was not present.

Dan Miller, at-large livestock producer, was not present.

Jerry Torrison, Representative of the University of Minnesota Veterinary Diagnostic Laboratory, shared his appreciation for the opportunity to participate in this community. Dr. Torrison compared CWD to when swine producers were trying to eradicate pseudorabies stating that this process has been a much more amicable and well managed, constructive approach to a controversial issue. Dr. Torrison informed the group that he had submitted written comments with input from the Minnesota Center for Prion Research and Outreach (MNPRO), Dr. Jeremy Schefers, veterinary pathologist at the VDL, and others at the lab. He described these comments as "related to scientific gaps for managing property with CWD infected animals". Dr. Torrison express his opinion that he believes the management of this disease will continue to evolve with scientific advancement. Unfortunately, when compared to eradication of diseases like pseudorabies, [swine] herds were depopulated without repopulation and Dr. Torrison stated that he didn't want to see this [farmed Cervidae] enterprise in Minnesota end this way.

Rich Meech, representative of Minnesota Deer Farmers Association, stated that he aims to represent everyone in the state that has farmed cervids. Mr. Meech stated that this committee needs to keep in mind the Board's mission to protect domestic livestock [farmed Cervidae]. He added that "we need to look at the science", and "didn't think we were putting enough emphasis on the epidemiology reports associated with CWD infected herds". Mr. Meech implored the group to think about, "what would be an ideal deer farm situation?", elaborating that if the discussion centered around this question and looked at specific parameters it would prevent continuous controversy. He stated that he and other [cervid] producers feel like a "punching bag".

Daryl Simon, representative of non-native Minnesota Cervidae species producers, asked the Board to consider rethinking proposed amendments to section 1721.0420, subpart 3, "determining boundaries of CWD management zones in the state", and specifically proposed edits omitting a 180 day window for producers to erect exclusionary fencing after a management zone has been designated. Mr. Simon suggested the Board consider giving credit to producers based on the number of years that the herd has been monitored for CWD, adding that this would be consistent with other parts of the rules that base the system on number of years of surveillance. Mr. Simon explained that he would approve an opportunity for a herd "to be released" dependent on how many years the herd has successfully participated in the CWD herd surveillance program.

Amy Cordy, at-large member of the public, commended committee members for working towards problem solving. Ms. Cordy commented, "If you look at the Board's [Farmed Cervidae] program historically, Dr. Glaser was handed a program that was off the rails". Ms. Cordy added that enforcement of this program has appeared to have proven difficult and created a lot of controversy in response to how CWD has progressed over the past 30 years. Ms. Cordy stated that the public is very concerned about the health of wildlife in Minnesota. According to Ms. Cordy, her constituents also have concerns about how the Farmed Cervidae Program is managed. She referenced the Office of the Legislative Auditor (OLA) audit <https://www.auditor.leg.state.mn.us/ped/pedrep/deerfarms.pdf> which Ms. Cordy said stated, "the Board's enforcement of regulation for farmed Cervid herds had failed". Ms. Cordy summarized her comments by stating, "When we take the historical context of regulation, we need to put in new rules that are not based on burden of proof but are precautionary. If you want to see support for deer farmers, bad actors need to be punished appropriately, perhaps penalized by not being allowed to collect federal indemnity without paying civil penalties. We have heard consistently that the current CWD surveillance program is ineffective and flawed and deer movement is contingent upon this system." Ms. Cordy thanked all committee members for helping her and the rest of the public better understand issues related to this program.

Brenda Hartkopf, representative of the Minnesota Elk Breeders Association, shared her appreciation for this opportunity to work with everyone. She stated that cervid producers don't want CWD and want to do everything they can to prevent its spread. Ms. Hartkopf commented, "This is our livelihood and we hope that this [process] has given everyone an opportunity to get to know us. We are a family farm, feed many Minnesota families, and provide education and entertainment opportunities for our community. Too many regulations have put cervid producers out of business." Ms. Hartkopf requested that the amendments to the CWD herd surveillance program be revisited. She closed by stating, "We [farmed Cervidae producers] do not support status suspension and think that a producer should be rewarded for the surveillance they do".

Annie Balghiti called for additional comments from committee members and hearing none opened the meeting for comments from members of the public.

## Public Comments

Jim Byrne, Minnesota Elk Breeders Association, referenced section 1721.0420, subpart 2, "Quarantine procedures". Mr. Byrne requested that the Board consider adding language specifying that a herd may be suspect if they have a positive test from a regional lab, but it is not confirmed until read by the National Veterinary Services Laboratory (NVSL). Mr. Byrne cited the example, "I can suspect my neighbor's cows have brucellosis, but confirmatory testing is required". He then thanked the Board for allowing public participation in the rule making process.

Dean Compart, swine producer and chair of the Board of Animal Health citizen board, commented that an area of large concern seems to be related to fence height. Mr. Compart stated, "from what I gather there is not supportive evidence that Minnesota deer have jumped out of a fence that is 96 inches. I do think, specifically that in the [CWD infected] Winona herd, some areas of fence were 95.5 inches, and some were 95 inches. I suggest another string of wire, 4 to 6 inches above the top of the fence for new producers". Mr. Compart commented that "all new concrete will eventually be cracked concrete and every fence will eventually sag. Rich [Meech] mentioned that costs would be 25-30% higher, which makes sense because a producer is getting 25-30% more fence. I do think that adding additional wire might present an adequate compromise".

## Adjournment

Annie Balghiti stated that everything on the agenda had been covered and if no members of the public or committee members had additional comments the meeting would adjourn early. No other comments were noted.

Brenda Hartkopf inquired if there is another reason for committee members to reconvene.

Annie Balghiti responded that another meeting might be needed as the Board is working on another draft. She requested that committee members send comments for amended language.

Ms. Hartkopf asked for clarification, “Will we [committee members] be receiving an updated draft prior to the Board’s notice of intent to adopt?” Annie Balghiti replied in the affirmative.

Rich Meech inquired when committee members can expect a new draft, asking for at least a few weeks before the notice of intent to publish, to allow adequate time for comments.

Ms. Balghiti informed the committee that the Board’s goal is to plans on publish the notice of intent to adopt in mid to late January, and there should be ample time for review and comments.

Ms. Balghiti adjourned the meeting by thanking all participants for a productive and thorough discussion adding that everyone’s time, participation, comments, and efforts are important and valuable to the Board.

## Next Meeting

Date: TBD

Time: TBD

Location: Virtual Meeting via Microsoft Teams