

Farmed Cervidae Rulemaking Public Comments

Submission 1

Name: Gary Olson

Date: October 30, 2020

Comment:

We as an industry, were told at the beginning of this process of rule change, that an adjustment was needed. “The planned amendments to the farmed Cervidae rules are to incorporate changes made by the Minnesota legislature in 2019 to Minnesota Statute 35.155, which governs the requirements for possession and inspection of farmed Cervidae.” The Legislative action, was very minimal, but it seems like we are in the process of totally dismantling the current rules, and a very successful program, and rewriting them at its very foundation to satisfy some very political agendas that could not be passed in two years of legislation at the Capital.

“The state rule-making process requires agencies to consider the economic effect and also the cumulative impact of proposed amendments.” “ *Minnesota Statutes*, section 35.03, requires the Board to adopt rules necessary to protect the health of the state’s domestic animals;” Neither of these two statements can be taken lightly. Many of these new proposed changes will put many farms out of business and have no effect on the disease goals of the Board as to CWD. Many of these proposed rules seem more as “punishments” and are very Draconian. Science and data should lead any changes, yet many of the new proposals are backed by neither.

In 2004, when we started our Certification Program, we were told that after we reached our 5 year Certification status, we would get relief. Yet now, 16 years into the process, rules and regulations keep getting stricter every year. We have gone from over 900 farms at the start of this process to well under 300 today and many more farms are quitting every year. With \$500 yearly fees and added paperwork, farmers have found its “not worth the grief” any more. Yet nationwide, we have seen the economic impact of deer farming more than double over the past ten years going from \$3.5 billion to \$8 billion. This shows that Minnesota has not had a good environment to farm in and considering the “economic effect” on an industry.

On #1 Terminal Hunt facility

I still don't have a grasp on the purpose behind a label of being designated as a terminal facility, or why there would be an advantage to having one. The classification would be of no benefit to existing hunt facilities, but more of a detriment. I feel there would be a place for such facilities, but the rules need to be amended with suggestions for current hunt facilities that may put us in line with regulations compared to other states to keep them competitive as economics does factor into these decisions.

#2 1721.0410 Movement

Changing the ability to move deer requiring being a Level 6, vs. a level 4, would put a severe hardship on new operations starting up, but have yet been able to build their status. To stay in business, a farm must have the ability to sell animals to pay feed and other bills. This will be a "death sentence" for many farms. Also, having to have one test for CWD in a herd per year could be construed as a penalty for someone having a healthy herd and not losing any. Sacrificing an animal to satisfy a test protocol would be much like the "Salem Witch Trials" where you killed someone just to prove they weren't a witch. This was the failed "science" of the 1600's, are we going back to that?

#3 CWD Subpart 1 [2]

discussion is such that one may have to kill an animal to replace a lost or failed test. This follows no scientific data or fact. With 15-20 years of testing in Minnesota herds, we have built a confidence level where 100% compliance is not necessary. We are 3,4,5, and more generations of testing in these animals. Missing an "occasional" test should not effect a herds status. History shows, that if CWD is present in a herd, you will find it. Also, why would one have to replace the exact same age group, same sex, etc... Science shows that CWD does not discriminate. Sexes of replacements should be irrelevant and age groups may be impossible to replace. A replacement should be up to the producer for his economic reasons.

#3 Subpart 3

"that commingling of farmed cervidae and wild cervidae is prevented for at least 36 consecutive months"...This is nothing but a "back door" attempt to force double-fencing which could not be passed in the Legislature over the last two sessions. There is also no "grandfather" clauses in it. If implemented, it would immediately put farms at sever risk of financial ruin, as it provides no relief of a farm the ability to market animals for three years which would financially ruin them with no ability to move animals. This clause is very unjust. It also does not follow the science of CWD. Double-fencing has not worked to protect farms in both Wisconsin and Michigan as birds can bring CWD into a farm and has been shown to do so.

Submission 2

Name: Michael J. Isham, Jr.

Date: October 28, 2020

Comment:

GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

P. O. Box 9 • Odanah, WI 54861 • 715/682-6619 • FAX 715/682-9294

• MEMBER TRIBES •

MICHIGAN

Bay Mills Community
Keweenaw Bay Community
Lac Vieux Desert Band

WISCONSIN

Bad River Band
Lac Courte Oreilles Band
Lac du Flambeau Band
Red Cliff Band
St. Croix Chippewa
Sokaogon Chippewa

MINNESOTA

Fond du Lac Band
Mille Lacs Band



October 28, 2020

Beth Thompson, Executive Director

Minnesota Board of Animal Health

625 Robert Street North

St. Paul, MN 55155

Dear Executive Director Thompson:

I am writing to you on behalf of the Minnesota 1837 Ceded Territory Subcommittee of the Voigt Intertribal Task Force¹ (Minnesota 1837 Ceded Territory Subcommittee) of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) regarding the proposed farmed cervidae rule changes and the ongoing threat to wild *waawaashkeshi* (white-tailed deer), *mooz* (moose), and *omashkooz* (elk) populations posed by chronic wasting disease (CWD) in Minnesota. GLIFWC's mission is to assist our member tribes in the implementation of their treaty-reserved rights throughout the Ceded Territories within Minnesota, Wisconsin, and Michigan in a biologically sound and culturally appropriate manner. The tribes retained their rights to hunt, fish, and gather to ensure future generations would be able to sustain their traditional lifeways. Because the tribes consider CWD a risk to human health (the Centers for Disease Control advise that no one consume CWD-infected deer), CWD poses a direct threat to the tribes' ability to exercise their treaty rights with respect to deer, moose, and elk, and consequently, their ability to sustain their traditional lifeways.

¹The Voigt Intertribal Task Force of the Great Lakes Indian Fish & Wildlife Commission is composed of 10 representatives of member tribes throughout the 1837 and 1842 Ceded Territories and sets policy regarding inland harvest seasons and resource management issues. The VITF addresses matters that affect the treaty rights of the member tribes in the 1837 and 1842 Treaty Ceded Territories. The VITF recommends harvest seasons and regulations for each inland season. Those recommendations are then taken to the respective tribal councils for ratification prior to becoming an ordinance. The

Minnesota 1837 Ceded Territory Subcommittee of the VITF is composed of VITF members from the plaintiff tribes associated with the *Minnesota v. Mille Lacs* (1999) court decision, including the Mille Lacs Band of Ojibwe, the Fond du Lac Band of Lake Superior Chippewa, the St. Croix Chippewa Indians of Wisconsin, the Bad River Band of Lake Superior Chippewa, the Lac du Flambeau Band of Lake Superior Chippewa, the Mole Lake Band, the Red Cliff Band of Lake Superior Chippewa, and the Lac Courte Oreilles Band of Lake Superior Chippewa.

The continued spread of CWD in the State of Minnesota demonstrates the need to evaluate Minnesota Department of Natural Resources (MDNR) and the Minnesota Board of Animal Health's (BAH) rules and regulations, as well the systems in place for effective coordination and cooperation between the MDNR and BAH. The MN 1837 Ceded Territory Subcommittee notes that a 2018 report from the Minnesota state legislative auditor's office found that the lack of effective coordination, cooperation, and oversight has affected the state's ability to address CWD effectively.

The BAH has been charged with updating its rules to address changes in the state statutes on CWD. Current rules on captive cervidae facilities (including, but not limited to, facilities referred to as deer farms, breeding facilities, hunting preserves, petting zoos, animal displays, etc. that contain animals from the Cervidae family) have failed to prevent the transportation of infected animals, which contributes to the geographical spread of CWD. As the MN 1837 Ceded Territory Subcommittee has seen in Wisconsin, once the disease has become established on the landscape, CWD prions are highly transmissible and can quickly spread through wild and captive populations. Minnesota agencies might have a chance to prevent the establishment of an endemic reservoir of CWD. However, it is imperative that shortcomings in the existing regulations are addressed now, with oversight of captive cervidae facilities scaled-up, and improved coordination among state agencies established.

If effective measures are not taken now, it is likely that the spread of CWD will lead to permanent and irreparable consequences impacting captive and wild cervidae populations. Preliminary results of an ongoing study within the CWD-endemic area of southern Wisconsin have suggested that CWD-infected deer are dying at nearly three times the rate of uninfected deer, and the prevalence of CWD in white-tailed deer is as high as 50% in some areas. Many of the cervidae facilities in that area have also experienced extremely high rates of CWD prevalence, which has limited the ability of these operations to sell their livestock. Long-term studies have observed declines in white-tailed deer and mule deer populations within CWD endemic areas in western states where the disease has been prevalent on the landscape for much longer than in the Midwest. If effective measures are not taken to control the spread of CWD, the future of the captive cervidae industry is at risk.

The perception that CWD could affect human health is also likely to lead to a drop in hunter recruitment within CWD-endemic areas. As white-tailed deer or *waawaashkeshi* continues to be a significant source of lean, healthy protein within Anishinaabe communities, the inadequacy of Minnesota's approach to effectively address CWD also perpetuates harm to the sustainable economies of Anishinaabe communities, and to their health.

The MN 1837 Ceded Territory Subcommittee recommends that the BAH amend its proposed rules for farmed cervidae to more effectively protect wild and captive cervid populations. These recommendations, based on the document titled, “MN BAH Draft Minnesota Rules, Chapter 1721, Proposed Revisions to 1721.0370 to 1721.0420 – Farmed Cervidae” (dated 8-19-2020), are explained below.

1721.0370 – DEFINITIONS:

- “*Subp. 6. CWD contaminated premises.*” This entire Subp. has been struck. The justification provided at the September tribal listening session was that the BAH has no way of quantifying the level of environmental contamination. However, it is known that CWD-infected deer shed prions into the environment. Removing arbitrary categorical language such as “minimal environmental contamination” or “moderate environmental contamination” makes sense if there is no readily available method of quantifying the level of contamination. However, it does not make sense to ignore that these facilities will remain contaminated for an indeterminable amount of time (depending on many other environmental factors, such as soil type, mineral composition in the soil, etc.). There are many studies underway that are developing methods for detecting environmental contamination associated with infectious prions, including the use of highly sensitive in vitro assays (e.g., protein misfolding cyclic amplification, PMCA). For example, Plummer et al. 2018 used PMCAs to determine that mineral licks served as reservoirs of CWD prions and provided potential for disease transmission. Until methods of testing for environmental contamination are further developed and become more widely available, any facility that has had cervidae test positive for CWD should be considered environmentally contaminated. This is especially important since the current understanding of the minimal infectious dose is still being investigated through rigorous scientific studies.
- “*Subp. 7. CWD endemic zone.*” The MN 1837 Ceded Territory Subcommittee does not support the proposal to strike the term “CWD endemic area” and replace it with “CWD management zone.” In fact, “CWD endemic area” must be defined for the operation of Minn. Stat. § 35.155, subd. 12, regulating the importation of live cervidae. The revised statute specifically charges the BAH with defining this term. It is critical that the BAH creates a definition of “CWD endemic zone” that refers to areas in which the transmission of the disease is uncontrolled. This term should be used to encompass areas within and outside the State of Minnesota, and not be tied to the management areas defined by the MDNR, as the MDNR has no authority to define CWD affected areas outside the state.
- “*Subp. 9. Herd. (1) in a group of at least one animal.*” This change is welcomed and provides clarification that a herd can be composed of a single captive animal.
- “*Subp. 11. Terminal Hunt Facility. Facility at which all farmed Cervidae are killed and removed annually.*” This new category of facility would allow for the movement of potentially infected cervidae to new

areas. MN 1837 Ceded Territory Subcommittee does not support rule changes that facilitate the movement of cervidae from areas affected by CWD and recommends removing this definition and the related amendment.

1721.0380 GENERAL REQUIREMENTS

- *“Subp. 2. Registration.”* The MN 1837 Ceded Territory Subcommittee supports a two year penalty for farmed cervid owners whose herd registration has been revoked by the board. The Subcommittee recommends the BAH consider not registering herds for operators who have repeatedly demonstrated non-compliance with BAH rules.
- *“Subp. 3. Inspections.”* The proposed language states that if a “fence deficiency” is detected during an inspection, the facility must be reinspected at least once in the subsequent three months. First, “fence deficiency” should be defined. If the fence is deficient to the point at which captive animals could escape, providing the owner with up to three months to fix the fence is inadequate. Facility owners should be required to fix fence deficiencies immediately as escaped deer are a threat to captive and wild Cervidae populations. In addition, there is no language regarding mandatory inspections following windstorms, or other events that could result in fallen trees or otherwise damaged fences. Fences should be inspected by BAH staff after strong windstorm events to prevent the potential escape of captive cervidae.
- *“Subp. 4. Herd Inventory.”* The Minnesota 1837 Ceded Territory Subcommittee supports the language change so long as the “approved agent of the board” is fully trained and capable of adequately conducting the inventory and inspection. The Subcommittee would not support this change if the “approved agent by the board” lacks the skills and training necessary to conduct the inventory and inspection.
- *“Subp. 5. Fencing.”* This language is inadequate. This Subp. states, “Farmed Cervidae must be confined in a manner designed to prevent escape.” In addition, they must be confined in a manner to prevent through-fence contact with wild cervidae. This would require fences to be designed either with an enhanced fence, with a solid barrier from the ground level to the full height of a single fence, the addition of an electric fence to the existing perimeter fence, or with double fencing. There is concern that the disease is being passed either from captive cervidae to wild cervidae, or vice versa. Adding enhanced fencing, such as a solid barrier to an existing perimeter fence would remove uncertainty as to whether the disease is being passed in either direction by through-fence contact. The MN 1837 Ceded Territory Subcommittee understands that the position of the MN BAH is to protect farmed cervidae owners. Effectively separating wild populations should be prioritized as these animals, if infected by a captive herd, may very effectively transfer the disease to other captive herds if inadequate measures are

taken to separate these populations. If this is not within the legislative authority of the BAH, then the Subcommittee recommends the BAH consider mandating enhanced/double-fencing for all farms located within CWD management areas, or at a minimum, requiring enhanced/double fencing for any facilities that have had animals test positive for CWD.

- *“Subp. 6. Running at large prohibited.”* There is no language regarding record keeping of events where escaped farmed cervidae are returned to enclosures or euthanized by the owner within 24 hours of their escape. All events related to escaped cervidae should be recorded and shared with the BAH and MN DNR, regardless of how long the Cervidae were outside their enclosure. There also appears to be no penalty associated with noncompliance or repeat escape events. These should be considered.
- *“Subp. 7. Removal of wild Cervidae.”* There is currently no prohibition on establishing a new farmed cervidae facility in CWD management/endemic areas. If an owner is establishing a farm in an area where CWD has been detected in the wild cervid population, there is an increased risk that there is existing environmental contamination of infectious prions on the landscape. At a minimum, there should be additional restrictions and regulations for farmed cervid facility owners who wish to establish a new captive herd facility in an area where CWD has been detected on the landscape.
- *“Subp. 10. Record keeping.”* MN BAH should provide information on how compliance is measured in terms of record keeping, and what happens if a facility owner is found to have not kept required records. Given how useful record keeping has served in trace-back investigations of CWD-positive captive cervid detections, it would be justifiable to recommend a penalty for non-compliance with record keeping.

1721.0390 ANIMAL IDENTIFICATION

- Although short-term ear tag retention is usually not an issue, long-term ear tag retention and readability has been an issue in both livestock and wildlife studies. At a minimum, ear tag specifications must be defined and align with official ear tag specifications used by USDA-APHIS. This would include the following:
 - Be imprinted with an official identification number.
 - Be tamper evident with high retention.
 - Have characteristics consistent with those specified in Appendix 2 (Animal Identification Device Performance and Quality Controls) of the USDA-APHIS Animal Disease Traceability General Standards. This would include a maximum device loss rate of no more than 2 percent annually or 6 percent in a 3-year period, among other defined characteristics (USDA-APHIS 2019). In addition, a unique identification number should be used. Current rule language states that numbers can be reused if they have not been used for three years. Perhaps these requirements

are already associated with a definition of “official ear tag.” If that is the case, the MN 1837 Ceded Territory Subcommittee recommends adding this to the 1721.0370 DEFINITIONS.

1721.0400 IMPORTATION OF FARMED CERVIDAE

- “*Subp. 3. Chronic Wasting Disease (CWD). B (1) and (2)*” The BAH should clarify how it will enforce its statutory charge to prohibit the importation of cervidae from “a known chronic wasting disease endemic area” as it pertains to other states. There is no universal definition of this term that has been agreed upon in a consistent manner by all states. The Subcommittee recommends the BAH work with the MN DNR and other state agencies throughout the United States to agree to a consistent definition of the term for the purpose of rulemaking and enforcement.

1721.0410 INTRASTATE MOVEMENT OF FARMED CERVIDAE

- “*Subpart 1. Movement requirements.*” There is no prohibition of deer moved from a CWD management zone within the state. This is a requirement for live cervidae moved from out of state. The MN 1837 Ceded Territory Subcommittee recommends that live cervidae or cervidae carcasses may not be moved from a CWD management zone to be consistent with interstate movement requirements. If the restrictions are intended to prevent the spread of CWD, then intrastate and interstate movement restrictions should be consistent.
- “*Subp. 5. Movement into, within, and out of CWD management zone. A. (3) to a terminal hunt facility outside the management zone.*” This is unacceptable and the MN 1837 Ceded Territory Subcommittee questions whether allowing this movement of live cervidae outside of management zones is within of the authority of the BAH. No farmed cervidae should be allowed to move from a CWD management zone to any location outside of a CWD management zone. This will increase the risk of spreading CWD among cervid facilities and potentially to the wild cervid populations. The MN 1837 Ceded Territory Subcommittee recommends the BAH strike this proposed language given the potential for this to lead to the establishment of additional CWD management zones in the state.

1721.0420 CHRONIC WASTING DISEASE (CWD).

- “*Subpart 1. CWD herd certification program. D. (3).*” CWD is an infectious disease. The way this is written, it appears the board could grant an exception to these requirements if animals die from a CWD outbreak. This is confusing and needs clarification.
- “*Subp. 2. Quarantine procedures.*” The language suggests the herd owner must depopulate the cervidae herd within a “reasonable time” and in a “timely manner.” This is a subjective requirement. The herd should be depopulated as soon as practicable to prevent further spread of the disease (in and outside of

the facility) and further environmental contamination within the facility. In addition, this states the herd owner must maintain fencing for “...at least five years...” This is an arbitrary duration of time that is not supported by the scientific literature on the environmental persistence of prions. The MN 1837 Ceded Territory Subcommittee recommends that until more is understood about the environmental persistence of infectious prions, as well as until reliable methods of detecting infectious prions in the environment are readily available, that the facility must maintain fencing indefinitely. The potential risk to the wild cervid population is too high.

- “*Subp. 3. Determining boundaries of CWD management zones in the state.*” The proposed language is vague and subjective. There is no reasonable justification for why individual farmed cervid herds should be excluded from and not considered to be a part of a CWD management zone. As long as there are single-fence operations or fences without barriers to prevent through-fence contact, there is a possibility that farmed cervidae and wild cervidae could comingle. There is no way to determine that comingling has been prevented for 36 consecutive months. There are too many uncertainties regarding how infectious prions are being spread to determine that a captive cervid facility has no risk of environmental contamination when it is located in a CWD management zone. Until this uncertainty can be reduced with newly developed environmental contamination testing and the establishment of enhanced or double fencing, one must assume that the risk of exposure is not zero.

The Tribes do not take these issues lightly. Ineffective regulations and lax enforcement put the future of wild deer, moose, and elk populations at risk. The fact that the disease has continued to spread – across the state and across the country, within wild populations and between captive cervid facilities – demonstrates the inadequacy of existing laws and regulations. Unless significant steps are taken to curtail the spread of the disease, CWD will severely compromise treaty resources that the tribes rely upon for sustenance, cultural identity, and ceremonial purposes. The threat of CWD poses a direct threat to the tribes’ abilities to exercise their reserved treaty rights and sustain their traditional lifeways.

I have asked Travis Bartnick of GLIFWC’s staff to assist in facilitating further discussions of these issues. He can be reached at 715-682-6619, extension 2166 or tbartnick@glifwc.org.

Please do not hesitate to contact me directly as well.

Sincerely,

Michael J. Isham, Jr.

Executive Administrator

cc: MN 1837 Ceded Territory Subcommittee of the Voigt Intertribal Task Force
Mike Schrage, Wildlife Biologist, Fond du Lac Band of Lake Superior Chippewa
Kelly Applegate, Director of Resource Management, Mille Lacs Band of Ojibwe
Dr. Linda Glaser, Assistant Director, Minnesota Board of Animal Health
Annie Balghiti, State Program Administrator Senior, Minnesota Board of Animal Health

Submission 3

Name: Charles Huber

Date: September 9, 2020

Comment:

To Dr. Linda Glaser, BAH

Annie Balghiti, BAH

Because of the continued spread of CWD in farmed herds and in wild deer populations near these farms, I recommend these changes to the “Draft Minnesota Rules, Chapter 1721: Proposed Revisions to 1721.0370 to 1721.0420 : Farmed Cervidae”

Regarding MN Chapter 1721.0380

Subp 3. Inspections:

Change “...if a fence deficiency is detected during an inspection, the facility must be reinspected at least once in the subsequent THREE months to “ if a deficiency is detected during an inspection, the facility must be re-inspected at least once in the subsequent ONE month.

Subp 5. Fencing:

Change: “... 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” to “...Perimeters for farmed cervidae must be at least 96 inches in height and DOUBLE FENCED with a separation of 2 to 3 feet.”

Change: “ ...Entry areas for farmed cervidae shall have redundant gates” to “Entry areas for farmed cervidae shall be DOUBLE GATED”.

Thank you for your time in reading and considering these changes, We believe these rule changes would help stop the spread of CWD.

My family and I have deer hunted for many decades. We love the outdoors and seeing wild, healthy deer. We eat the deer that we harvest. Living in Pine County we are concerned about the spread of CWD in farmed herds, and that it may spread to wild deer.

Charles Huber

September 9, 2020

Submission 4

Name: Dave Boland

Date: August 21, 2020

Comment:

Michael, all game farms should be double fenced.

Bowhunter and land owner.

Dave Boland

Submission 5

Name: Amy Cordry

Date: October 30, 2020

Comment:

As the at-large member of the public on the Farmed Cervidae Advisory Committee, I offer the following insights. These are the result of numerous, lengthy, and intense ongoing Committee meetings as well as personal research and consultations with agencies such as USGS, MNPRO, CIDRAP, DNR, BAH, etc.

Based on the draft from 10/17/20, the following amendments are areas of concern to the citizens of Minnesota in the effort to control the fatal disease that is Chronic Wasting:

Rule 1721.0380 General Requirements. Subp. 6. Running at Large Prohibited. This rule needs to read; "If a farmed Cervid escapes during a legal hunting season, hunters may take the animal. Producer is responsible for all costs incurred for CWD." Most escaped farmed Cervidae are extraordinarily difficult to retrieve. The DNR

incurs expenses when searching for and attempting to retrieve those animals. At this time there are escaped farmed Cervidae that have still not been retrieved after weeks.

1721.0410 Intrastate Movement of Farmed Cervidae. Subp.6 Movement into, within, and out of CWD Management Zone.(3) to a terminal hunt facility outside the management zone that is double fenced. This flies in the face of any attempt to contain CWD to management areas and thus reduce the occurrence of the infection. There is the possibility that moving an animal that is shedding CWD prions, even to a terminal hunt facility, would infect the facility thus increasing the area and spread of CWD prions. Eliminate this rule immediately and the rule should read; "No movements of Cervidae is allowed into or out of a CWD management zone."

1721.0420 Chronic Wasting Disease (CWD). Subp. 1. CWD Certification Program. E. Herd Status. The herd status program is ineffective and flawed. Since documenting and accessing violations seems problematic, there is no guarantee that herd status reflects responsible behavior by a producer. Since many of the rules pertain to those levels, those rules are flawed by association as well. Additionally, eleven (11) level six (6) herds have had CWD infections which should bring the level system into question unless that is acceptable to the BAH. It is not acceptable to the citizens of Minnesota, however. A herd status program needs to be thorough and transparent about all violations, annual inspections, and recordkeeping to be accountable and trustworthy.

1721.0420 Chronic Wasting Disease (CWD). Subp.2 Quarantine Procedures. The rule currently reads "The herd owner shall also maintain fencing for at least five years from the date of detection..." This random time is inadequate. A study on the related prion, scrapie, saw animals reinfected upon being returned to an infected area after sixteen years. Advisory Committee member, Dr. Jerry Torrison, Director, Minnesota Veterinary Diagnostic Laboratory, submitted the following to the committee; "There are concerns that the environment can sustain viable prions for extended periods of time, beyond the five year mark currently in the rules, which lack a firm scientific basis... If cervidae can be placed back on a farm... what are the rules for animal movement in and out of that herd? ... what are the rules for monitoring disease in that herd? Because of the elevated/unknown risks, it makes sense to use the strictest level of monitoring that the board enforces and/or have additional monitoring since environmental persistence and infectivity is largely unknown."

Beyond the scope of rulemaking there are other significant concerns with the BAH. The composition of the Advisory Committee saw one third (5/15) of the committee made up of producers. While there is no doubt they play an important role in farmed animal health, that is another example of the bias that also exists on the Board itself. The Board is to be congratulated on recently admitting a non-producer member of the public as recommended by the Office of the Legislative Auditor, however.

There is a lack of transparency regarding Cervidae farms, their inspections, and violations on the BAH website. Just as the DNR website can make CWD information easily accessible while respecting privacy laws, the BAH must gain the trust of Minnesota citizens by providing easy access to their information.

I personally have a high level of concern over the lack of consequences for Cervid farm violations. When the BAH expenditures for farmed Cervidae for 2018 were larger than \$549,000, and 2019 expenditures were anticipated to be \$815,582* there is a justifiable concern by this Minnesota citizen that this program is not viable for the long run. Perhaps violators need consequences that reflect the cost of their irresponsibility to the rest of us.

*email, 3/27/19 per Linda Glaser, BAH.

Amy Cordry

Submission 6

Name: David P. Olfelt

Date: October 30, 2020

Comment:

October 30, 2020

Dr. Linda C. Glaser, Assistant Director

Minnesota Board of Animal Health

625 Robert Street North

Saint Paul, Minnesota 55155-2538

Linda.Glaser@state.mn.us

Dear Dr. Glaser:

RE: Comments for Amendments to the Minnesota Rules Chapters 1721.0370 to 1721.0420

Thank you for the opportunity to offer comments on proposed amendments to Minnesota Rules Chapters 1721.0370 to 1721.0420, regulating the farmed cervid industry. The Department of Natural Resources (DNR) appreciated the opportunity to participate in the Board of Animal Health's stakeholder group. The DNR has grave concerns over the possible impact these rule changes could mean to the health and safety of the wild deer herd in Minnesota.

1. 1721.0380 General Requirement, Subpart 4. Herd Inventory.

The change in language from requiring a complete inventory once every 12 months to requiring it “annually within 3 months of the previous year’s inventory” undermines the concept of “annual inventories.” Accurate record keeping is vitally important during disease investigations and escape events, and extending annual inventories to up to 15 months reduces the timeliness of the information.

2. 1721.0380 General Requirement, Subpart 4. Fencing.

Both deer and elk have the ability to jump higher than 96 inches, and fence heights should be increased to 120 inches to reduce escape events. We recommend a 120 inch height requirement for all new fencing that is installed.

3. 1721.0400 Importation of Farmed Cervidae, Subpart 3 (B): CWD Management Zones.

It is important to recognize that the term “CWD Management Zone” is used by the Minnesota DNR in a specific way to define a boundary that encompasses at least a 15-mile radius around a wild cervid discovered to have chronic wasting disease (CWD). Since other states may not define their CWD risk areas similarly or even at all, this usage in rule is problematic. Given the inconsistencies among states in defining disease zones and conducting adequate surveillance for CWD, the Minnesota Legislature instituted a blanket ban for the importation of whole cervid carcasses that originate from anywhere outside of the state (MS 97A.505 Subd 8). We recommend that the Board of Animal Health (BAH) considers a similar rule to ban the importation of live cervids from any state or province outside of Minnesota.

4. 1721.0410 Intrastate Movement of Farmed Cervidae, Subpart 5. Movement into, within, and out of

CWD Management Zone; (3) to a terminal hunt facility outside the management zone. We have significant concerns with the proposed change to allow farmed cervids to move out of a CWD Management Zone to a terminal hunt facility anywhere in the state. The recent discovery of CWD at a deer farm in Houston County underscores the risk of raising captive cervids in areas where the disease has been found in the wild deer population. While this farm had exclusionary fencing in place, CWD still infected the herd and had this producer opted to move animals to a terminal hunt facility outside of the CWD Management Zone, the disease would have moved with it and wild deer in a new area of the state would be at risk.

Each discovery of CWD on a cervid farm adds to surveillance costs aimed at protecting the wild deer herd (more than \$300,000 over a three-year period, increasing to \$1,000,000 annually if disease is discovered in the wild.) We have instituted rules to prohibit the movement of whole carcasses from hunter-harvested and vehicle-killed deer that originate inside a CWD Management Zone to reduce this risk factor and believe that similar live cervid movement restrictions should be implemented.

5. 1721.0420 CWD, Subpart 1, D (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 can be substituted.

We recommend replacement animals must be at least one (1) year of age or older, so they would have detectable levels of CWD if they were exposed to the disease. The replacement animal should also have the same exposure risk, that is, it should originate from the same pen as the missed animal.

6. 1721.0420 CWD, Subpart 1, D (3): If animals are lost due to a mass mortality event such as a natural disease or infectious disease outbreak, testing for CWD is not required.

While we agree that animals lost to vandalism or die from a zoonotic disease (e.g., anthrax) can be exempted from CWD test requirement, we do not agree that infectious disease outbreaks that do not represent a public health threat should negate the requirement to test captive cervids for CWD. An example is epizootic hemorrhagic disease (EHD), which can lead to a sudden, mass mortality event but does not represent a zoonotic disease risk. Outbreaks of EHD have recently occurred in both farmed and wild cervids in Minnesota; all the wild deer suspected of dying from EHD in Houston County last year were tested for CWD, if fresh tissues were available.

7. 1721.0420 CWD, Subpart 2, Quarantine procedures.

We are concerned that the addition of “the herd owner must depopulate the Cervidae herd within a reasonable time after any appraisal process is complete” fails to clearly define a timeline. We recommend a clear timeline for depopulation be included, such as “within 30 days of a completed appraisal.” Further, we recommend fencing is maintained for at least 15 years from the date of detection, since there is no evidence to suggest that prions degrade in the environment within 5 years. Given that the prions that cause scrapie have been shown to remain infectious for up to 16 years, we believe maintaining fencing for depopulated CWD-infected farms should be extended to 15 years to reduce risks to wild cervids.

Thank you for your consideration of our comments. We believe that working together to minimize the risk of CWD is vitally important to keeping cervids healthy on both sides of the fence.

Sincerely,

David P. Olfelt, Director

Division of Fish and Wildlife

DNR Building – 500 Lafayette Road

Saint Paul, Minnesota 55155-4020

651-259-5180

Dave.Olfelt@state.mn.us

DPO/MC/jls

c Mr. Bob Meier, Assistant Commissioner Policy and Government Relations, MN DNR

Dr. Michelle Carstensen, Wildlife Health Program Supervisor, MN DNR Division of Fish and Wildlife

Submission 7

Name: Morgan Swingen

Date: October 30, 2020

Comment:

1854 Treaty Authority Comments on 8/19/20 draft changes to MN BAH Farmed Cervid Rules

Section 1721.0370 Definitions

Add definition of “commingling” to be consistent with federal guidelines: direct contact between animals; or less than 10 feet of physical separation between animals; or animals sharing the same pasture, water sources, or equipment.

Add a definition of “appraisal” to mean the appraisal process conducted under federal regulation to determine the value of captive cervids prior to depopulation.

Add definition of “quarantine” to mean that movement of live cervids or biological products into or out of a facility is prohibited.

Section 1721.0380 General Requirements

Subp. 5. Fencing

Fencing should be required to limit the potential for direct contact between farmed and wild cervids. Exclusionary fencing will limit the risk of CWD transmission both to and from farmed cervid herds. Double-fencing, electrified fencing, or solid fencing are the most practical ways to keep farmed and wild cervids from commingling.

In the 10/17/20 revision to the rules, an addition was made to this section that says “if an entry does not require redundant gating, the gate to the entry must have double locks”. This is not consistent with the previous sentence that reads “entry areas for farmed Cervidae shall have redundant gates.” This language indicates that all entry areas must have redundant gates, making the statement about double locks irrelevant.

Suggested wording: Farmed Cervidae must be confined in a manner designed to prevent escape or commingling with wild Cervidae. Perimeter fences for farmed Cervidae must be at least 96 inches in height and should prevent commingling by either a solid barrier (cloth or solid fencing), electrified fencing, or double-fencing (with at least 10 feet between fences). All entry areas for farmed Cervidae must have redundant gates.

Subp. 10. Record Keeping

Suggested wording change: instead of the proposed new text “and CWD testing”, instead add “and CWD testing record including date of testing and test result”

Section 1721.0400 Importation of Farmed Cervidae

Subp. 3. Chronic Wasting Disease (CWD)

A(1) – some definition should be given here about how the “areas” where CWD has been detected will be determined.

Suggested wording change: Live Cervidae may not be imported into the state from any facility within 15 miles of a confirmed CWD-positive wild cervid.

Section 1721.0410 Intrastate Movement of Farmed Cervidae

Subp.2. Movement requirements

Further explanation of what “risk-based scientific criteria” will be used should be described here.

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

We believe that farmed Cervidae from within a CWD management zone should not be permitted to be moved to a terminal hunt facility outside of the management zone. Even if all Cervidae at a terminal hunt facility are killed and removed annually, a potentially-infected cervid from within a CWD management zone could theoretically exist within a terminal hunt facility for up to 11+ months, bringing with it the possibility of infecting other Cervids (farmed and/or wild).

Section 1721.0420 Chronic Wasting Disease

Subp. 2. Quarantine Procedures

Some guidelines should be given here defining appropriate timelines for depopulation. The terms “reasonable time” and “timely manner” are too vague. We would suggest that herds be depopulated within 14 days of a confirmed CWD case or, if an appraisal is requested, within 14 days of the appraisal. Also, the language specifying that all animals must be euthanized and tested should remain in the rules. Some text should remain about how an “exposed” herd will be monitored to determine if they are infected and/or to be released from quarantine.

Suggested wording: The board must immediately quarantine a farmed Cervidae herd that is suspected to be infected with or exposed to CWD. Herds that are suspected to be exposed or infected with CWD must be monitored for a period of at least 60 months, and all animals that die or are slaughtered from the herd must be tested, regardless of age, with an official CWD test. If no animal tests positive within 60 months, the herd may be released from quarantine

If the herd is determined to be infected with CWD, then the herd owner must depopulate the Cervidae herd within 14 days after any appraisal process is complete. If no appraisal is required or requested, the herd must be depopulated within 14 days of a positive CWD case. No new captive animals may be imported into the facility for

five years after a positive CWD case. 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

In the suggested rules change language, all of the specifics regarding establishment of CWD zones has been removed. There should be some basic guidelines present in the rules to outline how the board will designate the boundaries of these zones. We suggest that CWD zones are designated as all locations within a 15-mile buffer around each detection of CWD in a wild cervid in Minnesota or a bordering state. Also, some language should be added to define how long these CWD management zones will be in place.

Suggested Wording: The board shall delineate the boundaries of CWD management zones surrounding detections of CWD in wild cervids. All areas within fifteen miles of a confirmed case of CWD in a wild cervid must be designated as part of the CWD management zone. This includes confirmed cases of CWD in states bordering Minnesota where a fifteen-mile buffer would include a portion of Minnesota. The CWD management zone around each confirmed case in a wild cervid will remain in place permanently.

Submission 8

Name: Nathan Marti, Nancy Peterson, Kenneth Deutz

Date: October 21, 2020

Comment:

In regards to 1721.0410 subpart 1D Intrastate movement of farmed cervidae:

This section is confusing in that it does not specify which herd needs to have had at least one cervid tested in the last 12 months. Is it the origination herd or the destination herd?

A bigger concern is that this rule would make it nearly impossible for a new herd or a small herd to get started. If a herd only consists of an adult male and female, it would be impossible to sell the offspring without destroying the future of the herd. For example, in order to sell a male offspring, you'd have to kill a breeding adult. This is overstepping and stifles business unnecessarily.

It is also a punishment for herds that do a great job of keeping their herd healthy. A herd owner shouldn't have to kill a healthy animal to get tested just so another animal can be sold to someone in the same state.

Lastly, this would mean an owner could sell an animal out of state without a test in the last 12 months, but not in state.

We believe this section should be removed.

In regards to 1721.0410 subpart 4:

This section is somewhat confusing as to which herd or herds need to be at least level 4. Why could not a herd bring in animals from a level 2 herd and then just be downgraded to a level 2 as stated in 1721.0420 subpart 1G?

In regards to the surveillance standards referred to in 1721.0420 subpart 1D2:

We think there needs to be clarification as to what a "successful test" is. It has been known to happen that the testing facility can take a poor location sample by mistake which prevents testing of the obex. This is no fault of the herd owner, or the individual that took and sent in the sample to the lab, and allowances should be made for this. On our part as sample takers, we take photos of the samples taken and sent in to confirm correct sample were taken and sent.

What happens if the sample is lost or damaged in shipping? This has been happening with increased frequency lately. Again, there should be some sort of allowance for this assuming there is documentation.

For some herds, losing level 6 status for even 6 months could completely destroy their business. It would prevent the sale or exhibition of animals to any other state.

In some ways this section gives the impression that the board has no faith in its' CWD surveillance program. A herd that has been in the program for 20 years could be severely impacted due to a shipping company mistake.

In regards to 1721.0420 subpart 3:

The fencing rule was changed only a few years ago and now it is being changed again. If this is due to new research, then fine. However, we would like to know what research has surfaced to justify again changing the fencing rule.

We would also like to comment that in most of the state the only cervid in the wild that would test positive for CWD would be deer. While potentially there could be a wild deer that went up to the fence of a deer farm, there is little chance a deer would go up to other cervidae farms such as reindeer or elk. Species should play a role in rulemaking for CWD management zones.

New Ulm Regional Veterinary Center

Dr. Nathan Marti, DVM

Dr. Nancy Peterson, DVM

Dr. Kenneth Deutz, DVM