

Farmed Cervidae Rulemaking
Cervidae Producer Listening Session
Friday, February 19, 2021
1:00 p.m. to 2:30 p.m.

Attendance

Registered Farmed Cervidae Producers

Tony Beckel
Jerry Campbell
Brenda Hartkopf
Lance Hartkopf
Deb Holthaus
John Holthaus
Mark Luedtke
Todd Miller
Roger Nietfeld
Gary Olson
Marlen Schmitz
Daryl Simon
Darrell Turek
Mark Volk
Brian Wagner
Kraig Wurst
Klint Wylie

Industry Representatives

Jim Byrne Minnesota Elk Breeders Association

Guests

Matt Anderson
Paul Anderson
Dean Compart
Tony Kwilas
Erica Sawatzke

Seven undeclared participants

Minnesota Board of Animal Health (Board) Staff

Carissa Allen, State Program Administrator
Annie Balghiti, JD, Rules Coordinator
Michael Crusan, Communications Director
Addie Evans, Farmed Cervidae Program Administrator
Dr. Linda Glaser, Assistant Director and Farmed Cervidae Program Director

Dr. Dale Lauer, Assistant Director
Samantha Miltz, Farmed Cervidae Program Administrator
Dr. Beth Thompson, Executive Director
Dr. Shauna Voss, Senior Veterinarian
Dr. Courtney Wheeler, Senior Veterinarian

Welcome and Introductions

Annie Balghiti thanked the participants for joining the listening session and began with sharing a flow chart that outlines the steps of the rulemaking process and illustrates where the Board of Animal Health (Board) is in its rulemaking. The Board has for now concluded their meetings with its rulemaking Advisory Committee and although the formal comment period has closed, the Board continues to take comments from the public and from listening sessions. Board rulemaking staff has reviewed and rereviewed at length every comment it has received, no matter what the source. When the Board is ready to formally propose a rules draft for adoption to the public, this stage of rulemaking is called the Notice of Intent to Adopt, and the rules draft and Notice are published together. Once the Board publishes its Notice of Intent, a second formal comment period opens up. Ms. Balghiti reminded everyone to submit their comments again during this step in the rulemaking process so that they are reviewed by the administrative law judge. Ms. Balghiti then turned it over to Dr. Courtney Wheeler for her to go over the rules draft.

Courtney Wheeler, Senior Veterinarian assists the Board's Farmed Cervidae Program director Dr. Linda Glaser with the program. Dr. Wheeler began by referring to the sections of the rules draft dated February 5, 2021 (<https://www.bah.state.mn.us/media/BAH-2.05.21-DRAFT-changes-for-Minnesota-Rules-Chapter-1721.0370-to-1721.0420.pdf>), that were of concern during the previous listening session held on February 16th for the Farmed Cervidae producers. [Note: the Board also mailed this draft of the rules to registered farmed Cervidae producers along with a notice of the scheduled listening sessions.]

Proposed Rules Draft (dated 2.05.21) Discussion

Dr. Wheeler began the discussion with the Board's proposal to add a 10-foot fence height requirement for new white-tailed deer farms, under Minn. Rule 1721.0380 Subp. 5. (Fencing). She stated this proposed requirement is an amendment that the consensus of farmed Cervidae producers have claimed is unnecessary. The Board heard producer's comments that this would be a very costly change not only with respect to the actual fencing material, but also with the additional length of posts that would be required to support a 10-foot fence. Dr. Wheeler added there were additional comments from producers that with this amendment, new producers would not be willing to start a farmed Cervidae business in Minnesota because of the increased costs. Dr. Wheeler reported that the Board is taking these comments under serious consideration.

Deb Holthaus agreed with everything Dr. Wheeler said regarding these fencing changes. She reiterated the cost increase of this change and that this amendment would deter new farmed Cervidae producers.

Daryl Simon continued the fencing discussion stating that most producers are already adding a strand of wire to the top of fences to comply with the 96-inch height requirement because of the sagging that occurs between posts. Since producers cannot increase the height of the posts, they place eye screws at the top of the fencing posts to run one strand of high tensile wire to meet height requirements. Mr. Simon added, "If you throw in three more strands of wire at the top of the fence, it would be a weak attachment added to each post that is already set in the ground."

Deb Holthaus claimed that deer do not escape by jumping over our 8-foot fences. She said deer escape through gates that are left open. This is another reason why she is opposed to this proposed rule amendment.

Brenda Hartkopf asked if someone were to buy an existing farmed Cervidae farm from another producer, would they be considered a new producer? She noted that if they are buying an existing farm, then they would have to add a foot of extra wire to the fence to meet that extra height requirement.

Dr. Wheeler responded that if someone were to buy an existing Cervidae farm, they would not need to add additional fencing on top of the existing fencing because the existing farm is already there. However, if the new producer of the farmed Cervidae herd wanted to add additional enclosures for the herd, that fence would be required to meet the new height requirement.

Gary Olson informed everyone that lumber comes in increments of two feet. For 10-foot fencing, he said, you would have to buy 14-foot posts. Shade cloth comes in increments of 4 feet and 6 feet sheets from The Deer Store because of the stock they use. He suggested the Board talk with manufacturers to see what is available. He added that the lead time for any kind of barrier material, to purchase and ship, would be a minimum of 10 days. At a minimum, he said, it would be 14 days to get the shade cloth shipped and attached to the fence. He suggested that the Board is overlooking this process and what is actually possible.

Dr. Wheeler pointed out that the Board did investigate shade cloth manufacturers. She recommended farmed Cervidae producers educate the Board on those types of situations and products available. She said this is exactly the type of feedback the Board was hoping to receive from farmed Cervidae producers.

John Holthaus asked what the rationale is for putting the wires on top of an existing fence if deer do not ever jump over?

Dr. Wheeler told him that the Board has listened to multiple groups and individuals throughout the state, and there is anecdotal evidence of white-tailed deer clearing 8-foot fences. She says there is a potential that these animals can clear these heights.

Deb Holthaus asked, "who is saying that deer jumping over an 8-foot fence is even a possibility?"

Ms. Balghiti pointed out that all comments and meeting notes, including notes from all Advisory Committee meetings and public listening sessions, from throughout this rulemaking process are available online. She explained that the Minnesota Board of Animal Health website <https://www.bah.state.mn.us/> has a link to the Public Rule Making page <https://www.bah.state.mn.us/public-rule-making/>. On the right hand side of the page, there is a link titled, *Submit or View Comments*, that will bring you to the Office of Administrative Hearings website <https://minnesotaoah.granicusideas.com/>. All listening session notes are located on the Public Rule Making Page as well.

Deb Holthaus asked if a government employee could go on the public website and make public comments with their individual opinion?

Ms. Balghiti replied that anyone may make a comment, either in their individual capacity or on behalf of a government entity. Commenters should just be clear who they are representing when they make their comments. She reiterated that the Board reviews and considers every comment it receives when drafting the rule amendments.

Dr. Wheeler informed everyone that rulemaking staff also routinely meet with the Board's office and field staff to get their suggestions and feedback on the farmed Cervidae rules.

John Holthaus suggested that a lot of weight is taken from public comments. He argued that the bottom line is people who grow deer know the situation and they are the ones that should be weighing in on these rules.

Daryl Simon addressed the proposed fence height again stating that he has not read a lot of the public comments that have come in. He claims all Cervidae farmers know that deer do not jump over the fences to get out. He asked how much weight the Board is putting on the actual people observing their animals versus other public comments? He suggested that if the Board is taking into consideration these people's comments, we better get more specifics of these situations.

Craig Wylie, Wolf Creek Elk Ranch, stated that he has been watching elk for twenty years and has not seen an elk ever attempt to jump the fence.

Dr. Wheeler then moved the discussion on by highlighting another area of the rules that the Board identified during the Tuesday, February 16, 2021, farmed Cervidae listening session as receiving a lot of comment: determining boundaries of CWD farmed Cervidae management zone found at Minn. Rule 1721.0420 Chronic Wasting Disease (CWD), Subp. 3. She said farmed Cervidae producers expressed concern about the Board increasing the management zone from 10 miles to 15 miles of a geographic area and the way in which the Board adjusts this area.

Brenda Hartkopf referred to the DNR website, stating the DNR educates that the average range of a white-tailed deer is approximately 11 miles. She contended that, based on this information, that 10 miles is sufficient. Ms. Hartkopf requested that the words "at least" should be removed because there is no data that supports a range of greater than 15 miles.

Dr. Wheeler responded that the Board would reach out to their DNR advisors and take a closer look in relation to this.

Tony Beckel shared that there is a lot of wild deer hunting up north where he lives. He pointed out that if the Board changes the CWD management zone to 15 miles, the likelihood of his farm going out of business if they find CWD is significant. He wondered why the Board has anything to do with wild animals outside of the fence. He does not see why the Board is making rules for the producers because wild animals are not what the Board is protecting. He suggested that if the DNR wants to put up a fence around his property because their animals are diseased, they can go about it that way. He expressed that those are their animals, not his. Mr. Beckel expressed that farmed Cervidae producers have enough problems and the Board of Animal Health is supposed to be protecting them.

Dr. Wheeler informed everyone that this was a rule already in existence from 2013. She also said it is safe to assume that if there is disease [CWD] in the wild, there is potential that disease could spread to farmed cervids in the area. It is part of the Board's purview to continue preventing the spread of this disease in Minnesota as much as possible.

Tony Beckel stated that he lived 60 miles from the tuberculosis outbreak in the cattle up north. He added that tuberculosis is a very contagious disease and the Board of Animal Health never made the cattle producers fence in their area to prevent it from spreading to wild deer. Mr. Beckel stated that he is upset because as a producer, when he goes to bed at night, he doesn't know if he is going to be in business tomorrow.

Klint Wylie pointed out that deer and elk don't get along. He says this regulation does not apply even though it has been around for some time and he does not see any science to support this process. Mr. Wylie reported that he doesn't even have deer tracks around his fence. He asked what it would take to abolish this rule?

Dr. Wheeler asked Mr. Wylie to please provide the Board with language that is more specific to the species that this rule affects.

Ms. Balghiti reminded everyone to submit written comments during the next phase of rulemaking because those comments will be seen by the administrative law judge when the Board submits its rulemaking record for review.

Dr. Wheeler mentioned that several board members [from the five-member citizen board] are currently listening in on this session, and they have been actively listening to comments made throughout the rulemaking process.

Deb Holthaus commented that when you go from 10 miles to 15 miles, the exterior perimeter of that property becomes a lot larger.

Daryl Simon pointed out that this rule is there to protect farmed deer, but he does not agree that the rule protects farmed deer. He specified that if any deer farmers are thrown into this situation they are put out of business. Mr. Simon reiterated that currently farmed Cervidae producers have 180 days to be double fenced. He suspects that producers may start to double fence on their own but may decide to risk it [and not double fence]. He argued if deer on a farm get CWD the Board will find every case, because the Board always does. He suggested that if we must keep the entire rule, then adjust the rule to specify white-tailed deer since they are the ones prone to CWD. He said other species don't go nose to nose; research has shown this. Mr. Simon expressed that this regulation does not help deer farmers, all it does is put them out of business.

Dr. Wheeler reiterated for clarity that Mr. Simon is asking the Board to consider eliminating the rule or limiting the rule to one species only.

Brian Wagner responded that whether it is 10 miles or 15 miles, "we are still regulating ourselves. The DNR does not even look at their own endemic area as a problem."

Dr. Wheeler added that what Mr. Wagner is referring to is the DNR CWD management zone program for Minnesota and the rules they have in place to identify certain parameters that they consider a CWD endemic zone.

Gary Olson commented that in the last 10 years, the Board has suggested one positive CWD animal as the basis for designating a CWD management zone. He suggested the Board declare a CWD management zone when two animals in a geographic area are confirmed CWD positive. Mr. Olson added that being part of a management zone puts a lot of stress on a farmed Cervidae producer for 5 years. The Board should consider more than one animal being CWD positive to declare an area a CWD management zone.

Dr. Wheeler thanked Mr. Olson for bringing up this point because by redefining and amending this language, it gives the Board more latitude to not designate an area as a CWD management zone in the event that CWD is found from DNR surveillance.

Klint Wylie disclosed that for the first 10 – 12 years that he was in the farmed Cervidae business, there was no science of CWD prions being in feces, urine, or saliva. He asked if something has changed?

Dr. Wheeler told him there is significant evidence that CWD prions are in animal by-products. MNPRO (Minnesota Center for Prion Research and Outreach) are currently running new tests regarding this. Dr. Wheeler reiterated that there is significant evidence that CWD prions are present within these fluids and by-products of cervids.

Tony Beckel commented that there have been studies done with animals being fed bodily fluids of positive CWD animals and the test subjects did not become positive. He added that just because MNPRO can find CWD prions in fluids does not mean that the infectious dose is high enough to make any kind of infection in an animal. He

said they have also amplified these tests and not even one billionth of a particle is enough to infect an animal with CWD. Mr. Beckel shared that he was at a depopulation event of over 200 animals. He argued they pulled saliva on every deer depopulated and they didn't find any CWD prions in their saliva.

Daryl Simon wanted to add more information in favor of getting rid of the entire rule. He stated that since 2002, the DNR have tested over 90,000 wild deer and the amount of positive CWD samples that came back comes to approximately 0.001% of the deer being positive for CWD in Southeastern Minnesota. It is highly unlikely that a CWD positive animal is going to walk up near one of the premises and infect the farmed deer. As far as he is concerned, he agrees that the rule should be thrown out.

Jim Byrne wanted to remind the Board of the comments that were submitted by the Elk Breeders Association from August 31, 2020 on how to specifically define a CWD management zone. He asked that the Board change the language to, "where CWD is specifically present in the wild population". He suggests that the Board go back to the definition of what was previously in rule, which is "confirming" that CWD "continually and consistently" present before the Board designates a CWD management zone.

Lance Hartkopf commented that if the Board is trying to protect farmed Cervidae, it is really hard to protect a farm that no longer exists. He reiterated that this rule does not protect the herd; it puts them out of business therefore the language needs to be changed. He asked the Board to please consider adjusting the language, so it does not state that one animal found to be positive for CWD leads to the declaration of a CWD management zone.

Dr. Wheeler stated for clarification that producers are asking the Board to reconsider the definition of the CWD management zone and make it clear that there is not just one incidence of CWD in the wild population.

Brian Wagner wanted to offer a follow-up from Mr. Hartkopf's comment. He thinks that one of the reasons the Board should change the rule is how many animals does it take to make it endemic? Mr. Wagner suggested that farmed Cervidae enemies can plant a sample wherever they want.

Mark Volk replied that if a CWD positive wild deer is found, the CWD management zone changes and now farmed Cervidae producers will be put out of business. He asked if there is any constitutionality on that? Has the Board ever been challenged on that realm?

Dr. Wheeler affirmed that it would have to be looked at by a judge if that rule was challenged. With these proposed rule changes, the administrative law judge's responsibility is to review the parts of the law and look at the Board's statutory authority along with the comments we have received. The administrative law judge also reviews the Board's explanations and justifications for its rules.

Dr. Wheeler recommended that in the interests of time, she wanted to get comments on another issue that farmed Cervidae producers found to be of concern at the previous listening session. She specifically referenced exclusionary fencing installed within 14 days of the designation of a CWD farmed Cervidae management zone, Minn. Rule 1721.0420 Chronic Wasting Disease (CWD) Subp. 3. B(3). Dr. Wheeler stated that the Board believes 180 days gives disease too much time to spread. Farmed Cervidae producers have said that 180 days is not enough time. What the Board is specifically looking for from producers is feedback on a timeline for shade cloth; how long it takes producers to get the materials and to put up the shade cloth on fencing. Dr. Wheeler welcomed any comments and feedback regarding this.

Jim Byrne stated that they would prefer to have the 180 days. They would, however, accept their proposed 120 days because it gives producers enough time to purchase and install exclusionary fencing. He pointed out that the majority of the CWD positive results come back in January at the end of the hunting season. Determination of a positive would not be confirmed until February or March. Mr. Byrne disclosed that it is not feasible and is

detrimental to a farmed Cervidae producer to add shade cloth to a fence in bad weather. 120 days could get producers to warmer weather and able to get materials put up on their facilities without being hazardous to the producers. Mr. Byrne asked the Board to please look at the MN Elk Breeders Association's proposed wording in their January 26, 2021 submitted written comments and consider a more achievable 120 days.

Tony Beckel wanted to add with the double fencing that "we got right back to what we were talking about, worried about the wild animals." He does not agree with 120 days. Mr. Beckel said that where he lives, they had frost until June because the weather had been terrible. It would make more sense to leave the wording more open ended. He added that it would be very difficult to add shade cloth in negative degree weather like it had been for the last 14 days. Up north, they get 3 feet of snow which can be different from southern Minnesota.

Mr. Beckel expressed his disapproval of this rule because it can easily put a farmed Cervidae producer out of business.

Gary Olson commented on plastic as a type of solid barrier. He stated that during the winter it is difficult to apply the rigid material because the material can crack and break. Once summer comes, the product expands and starts to sag. He said it is important to look at the product the Board proposes be used for exclusionary fencing. Mr. Olson highlighted that Minnesota's weather is so different and putting a solid number of days to put up exclusionary fencing is hard to do. In the winter, it is hard to do anything on a Cervidae farm for 4-5 months.

John Holthaus voiced that they have been giving legitimate feedback to the Board. Farmed Cervidae producers are the front-line workers and they see these things every day. It would be in the Board's best interest to try not to appease the public.

Klint Wylie stated that it seems exclusionary fencing cannot be justified, as the chances of passing CWD from wild deer to farmed Cervidae is almost impossible. He repeated the comment that no one is proving the animals can pass it between animals, so why is the Board?

Todd Miller questioned if exclusionary fencing actually stops the spread of CWD?

Dr. Wheeler reported that at this time, representatives from the USDA have research about this exact topic and she would be happy to share the research about what they found with those on the call.

Mr. Miller continued by asking how many CWD positive herds in the CWD management zone with exclusionary fencing versus those who did not put up exclusionary fencing, have contracted CWD from the wild?

Dr. Wheeler revealed that unfortunately sometimes it is impossible to locate a source point of infection.

Mr. Miller responded that the farmed deer producers should have a choice to take that chance. He also added that the DNR is supposed to keep a healthy wild cervid herd as well.

Dr. Wheeler encouraged everyone to share their experiences and thoughts with Minnesota stakeholders who support exclusionary fencing and separation of wild cervids from farmed Cervidae.

Brenda Hartkopf commented that it is important to know what Dr. Glaser reported at last Tuesday's farmed Cervidae listening session. The last herd that was CWD positive was double fenced before it became endemic therefore the double fencing in that situation did nothing. Ms. Hartkopf added to what Tony Beckel was saying regarding how difficult it is in the winter to get equipment to the fence through snowdrifts. When the drifts

melt, then you must work through the mud. She believes 180 days should be a minimum because producers physically can't get anywhere due to the mud in the spring.

Gary Olson wanted the Board to remember that once the mud is gone, and the weather becomes stable, he and other farmed Cervidae producers must keep surviving as crop farmers. They must make choices based on whether they are going to be a grain farmer or Cervidae farmer on the good weather days. Mr. Olson reiterated that a lot of farmed Cervidae producers have separate jobs and there are very few of them that make 100% of their living off of farmed Cervidae. Producers cannot take off work when they want to.

Brian Wagner agrees that there needs to be discussions on the other people that are against farmed cervids. At previous cervid advisory committee meetings [Note: Mr. Wagner was referring to farmed Cervidae task force meetings], they were able to sit down, face to face with the DNR and the discussions would result in solutions. They felt good after leaving those meetings. Mr. Wagner offered that they would be more than willing to sit down with other stakeholders and have meetings to get to some type of conclusion. He added that currently these meetings are being had without farmed Cervidae producers having knowledge of them or being invited to participate.

Gary Olson mentioned that the DNR have meetings regarding their management. The Board also has meetings and has rejected deer farmers from being on these panels. He feels as though this is a one-way street. Mr. Olson stated that there has been no response or straight answers from the DNR regarding CWD in Southeast Minnesota which is very frustrating.

Brian Wagner suggested having everyone, including farmed Cervidae producers, sit down with the Board of Animal Health, the tribes and the DNR so farmed producers can educate them on all of their feelings regarding how CWD is handled.

An undeclared participant commented that he is a farmed Cervidae producer somewhat new to the business and there seems to be a lack of knowledge from people [outside of the farmed Cervidae industry] knowing what deer farming is. He stated that there needs to be representatives willing to educate people on what they do because there is obvious lack of knowledge from people making these comments.

Ms. Balghiti stated that farmed Cervidae producers were welcome to approach the DNR and tribes to set up meeting with them, outside of the Board's rulemaking process. She also encouraged Farmed Cervidae producers to submit their comments in writing during the next stage of the rulemaking process to ensure they were reviewed by the administrative law judge.

Tony Beckel mentioned that the tribes are involved in this rulemaking process, yet he cannot hunt and drive on their land or fish in their waters. Mr. Beckel suggested that the tribes fence in their land since they are able to hunt deer all year long.

Dr. Wheeler repeated that it would be a good idea for producers to have interactions with these other groups themselves.

Daryl Simon wanted to add an additional comment about the meetings that have been occurring with tribes and the DNR. He disclosed that during the advisory committee meetings, a representative from those groups were involved, and Mr. Simon spoke up at every meeting. He said the committee members had their own personal views about deer behind a fence. He said most of the public do not realize all the rules and regulations involved with owning farmed Cervidae. He said it would be nice if the Board educated people on what deer farmers must do and the obstacles they face to keep their animals healthy and stay in business. He said the DNR is a government agency and they don't have a problem publishing articles.

Mr. Simon asked if this rulemaking process is occurring because of the audit [conducted by the Office of the Legislative Auditor (OLA) in 2018].

Ms. Balghiti confirmed that the rule change is partly because of the OLA's audit. She said the rulemaking is also in response to the 2019 legislative changes to the statutory authority, Chapter 35.155. The Board is also making changes to the farmed Cervidae rules for the reasons that are listed in the Board's Notice of Request for Comments and on the cover page of every proposed rules draft the Board has created so far in this process.

Gary Olson asked if the Board is going to open up the rules again next year because there is already legislation presented this year against deer farmers. Ms. Balghiti replied that we will have to wait and see what happens in the legislature this term. [Note: If changes are made by the legislature and the Board updates its rules in response, that does not necessarily mean the Board would propose other rule changes in the process.]

Todd Miller mentioned that the commissioner of natural resources has authority over the removal of farmed Cervidae running at large yet they have nothing to do with us. He asked if this is something that the Board could modify?

Dr. Wheeler affirmed that this language is in Minnesota §35.155 and it not something that the Board could modify with its rules. That language requires a legislative change.

Brenda Hartkopf added comments regarding the farmed Cervidae surveillance standards for missed tests. Her concern with this part of the rules is that the consequences of these new standards are not in rule language.

Dr. Wheeler shared with everyone where to find the farmed Cervidae surveillance standards on the Board's website. She conveyed that one of the advantages of not putting these standards in rule is because it gives the Board flexibility. The Board recognizes that the current system is not very effective in CWD surveillance. The Board consulted with other states and national counterparts regarding these standards and drafted the current proposed language based on information gathered from these discussions. Dr. Wheeler mentioned that the Board has given producers some leeway in the proposed rules by adding the ability to substitute animals for missed tests. The proposed rules still allow some room for error, but the Board has determined there is a need to eliminate the continuation of certain producers failing to submit samples for testing which is the basis of these laws.

Brenda Hartkopf commented that they had to fight very hard for recognition of past surveillance, and there is not a lot of confidence that this isn't something that is going to change again in the near future with no oversight. She claims that is very scary to some farmed Cervidae producers. If the CWD surveillance standards are in the rules, Ms. Hartkopf says, everyone will know what to expect if something changes. She expressed concern that history has shown farmed Cervidae producers that the Board is not going to "lessen requirements". She argues that a lot of the Advisory Committee meeting members stated they learned about the farmed Cervidae program during the meetings and needed to have this knowledge before they could make decisions or offer anything to the rules.

Lance Hartkopf added that he does not object to the CWD surveillance standards but would like to see these guidelines in the rules language because he is not able to operate a business if he is unaware of when protocols are going to change.

Dr. Wheeler explained that Board policies are imbedded into the program. Standards and procedures do not change on a whim. They must be monitored and approved by the Board's program director. When there are changes made to policies, the Board gives the affected parties notice and works with farmed Cervidae producers to help them come into compliance with new requirements in order to better serve the program.

Klint Wylie agreed with Mr. Hartkopf's previous statement. He expressed that he needs to know what he is supposed to do and the way that it is now is political nonsense.

Darrell Turek had questions about the State CWD herd certification program, the different herd statuses divided into levels, and the repercussions of missed CWD tests.

Dr. Wheeler requested Mr. Turek call Dr. Glaser or Dr. Wheeler to go over the CWD surveillance standards in more detail outside of the listening session due to its complexity. She responded that yes, there would be herd status suspensions for missed tests.

Mr. Turek stated that he has 20 years of CWD surveillance and yet if he misses one CWD sample, he will get knocked down to level 5. He voiced that this does not recognize him being compliant with level 6 state CWD surveillance for 20 years. Mr. Turek expressed that it does not seem right that after that much successful compliance, he would get knocked down to a level 5 if one CWD sample is missed.

Gary Olson agreed with Mr. Turek. He replied that they are supposed to have rules relaxed once they get to a level 6, but it seems there are more restrictions now.

Dr. Linda Glaser joined the listening session at this point. She agreed that many years of surveillance is certainly what is needed but just because a producer has complied with CWD surveillance for many years, there is still a potential risk of CWD. She added that the Board wants to make sure that there is optimal surveillance. When animals die, it is critical that samples are collected for CWD testing. Even though testing for CWD has been completed for 20 years, that does not decrease the CWD exposure to a producer's current herd. A history of successful testing is not an assurance that herds won't get exposed to CWD because there is an ongoing risk of exposure. Dr. Glaser reiterated that it is critical to sample every animal because it shows the exact moment of possible disease presence. The Board needs assurance that there is not disease present in a producer's herd.

Gary Olson commented that lot of farmed Cervidae producers have not moved animals or introduced animals to their herd for 10 years. He revealed that his deer have been tested for several generations and CWD has never once been found in his herd.

Dr. Glaser outlined to Mr. Olson the higher potential of CWD spreading to his herd if he were in a CWD endemic area where there are wild cervids infected with CWD outside his fence. There are potential rodents and scavengers that could spread CWD near his farm. She added the threat of CWD being spread from AI (artificial insemination) due to equipment traveling with veterinarians and their staff not being properly disinfected. Dr. Glaser highlighted that because CWD is very infectious, all these potential exposures cannot be ruled out. Unfortunately, 20 years of CWD surveillance is not an assurance that these situations won't happen in the present or future.

Tony Beckel pointed out that one of the main things that should always be CWD tested are wild deer carcasses. He continued that if the DNR are concerned about the deer outside of the fence they should also be held responsible for the leftover entrails and bones that the coyotes and birds are scavenging that could possibly be contaminated.

Dr. Glaser specified that the Board does not have authority over wild deer carcasses.

Tony Beckel suggested that there should be more responsibility put back on the DNR regarding CWD because there is not enough information about the disease. He summarized that the Board wants producers to double fence because a CWD positive wild deer is 10 miles away but he does not think that CWD exposed deer are going to get close to his premises.

Dr. Glaser articulated that we are working with an infectious and contagious disease and the Board only has authority over farmed Cervidae. She added that the expression of opinions related to how the DNR respond and monitor wild deer populations doesn't change the fact that it is still the Board's responsibility to protect and regulate farmed deer. Mr. Beckel agreed with Dr. Glaser.

Gary Olson commented that they have spent several years listening to legislation at the Capitol, in the environmental committees, which result in the DNR telling farmed Cervidae producers what they do wrong. He pointed out that the farmed Cervidae program should be under the agriculture committee. He would like to see the Board criticize how the DNR handles CWD management.

Jim Byrne next specifically referenced Minn. Rule 1721.0380. Subp.4. (A) (Herd Inventory), "The accuracy of any herd inventory must be verified by two individuals, the farmed Cervidae owner and an accredited veterinarian with no ownership interest in the herd or the premises upon which the herd is confined, by signing the submitting the inventory to the board". He continued by asking what the penalty is for a veterinarian falsifying records?

Dr. Wheeler replied that veterinarians must be accredited and there are standards to which they must adhere to be accredited. The Board's federal counterparts at the USDA pick up investigations regarding accreditation. She mentioned that this is very situational including what the consequences are.

Mr. Byrne declared that what he interpreted in the rules is the veterinarian signature has no credibility if they are the owner of a farmed Cervidae herd. He claims the proposed rule language implies that the veterinarian cannot be trusted if there must be a second person's signature. He finds this disconcerting and offensive because it sounds like the Board does not trust the veterinarian. Mr. Byrne feels like it is a lack of trust from the people writing the rules.

Dr. Glaser affirmed that this was not the Board's intent and disagrees. She explained the reasoning is to make it equal across the board, that all herd inventories need a second set of eyes regardless of who the herd owner is. If the farmed Cervidae producer is also a veterinarian, requiring a second signature (set of eyes) does not mean they aren't trusted.

Mr. Byrne stated again that the wording implies that the Board does not trust the veterinarian.

Dr. Glaser asked why veterinarians should be exempt for having a second person double check their herd inventory? She reiterated that the Board is trying to make it equal across the board for all farmed Cervidae producers. The accredited veterinarian herd owner can be one signature but there needs to be a second signature on the inventory.

Tony Beckel asked if there is a farmed Cervidae herd in a 15-mile area CWD management zone, and they are limited with what they can do with their elk, can that herd owner take the animals to a slaughterhouse or to a hunting preserve because when the animal comes off of that preserve, they will be dead.

Dr. Wheeler explained that the Board had a proposed option for this type of scenario at the beginning of the rule making process, but it was very unpopular. She asked that he refer to some of the original rules drafts posted on the Board's rulemaking page, and contact Dr. Wheeler and Dr. Glaser with comments regarding this wording. Dr. Wheeler added that there was a lot of comments from the Advisory Committee, including farmed Cervidae producers, to eliminate that language.

Adjournment

The meeting went longer than its scheduled end time in order to finish discussions related to people's

comments. Dr. Wheeler voiced that with respect to everyone's time, the meeting would be concluded. She thanked everyone for their participation and asked farmed Cervidae producers to continue to share their comments with the Board, and to be sure to make written comments in the next phase of rulemaking if they wanted the administrative law judge to review them.

Meeting adjourned at 2:53 p.m.

Minutes prepared by Addie Evans

Location: Virtual on Microsoft Teams