



Evaluation of Public Comments on CWD Program Standards May 2014

Summary

The Animal and Plant Health Inspection Service (APHIS) published revised Program Standards for chronic wasting disease (CWD) in the Federal Register in December 2013 and accepted comments until March 31, 2014. APHIS is making four minor changes as a result of stakeholder comments, and these revised standards become effective immediately. The standards offer optional guidance to facilitate compliance with the CWD rule that established a herd certification program and interstate movement requirements to control CWD in farmed or captive cervids in the United States.

We would like to thank our stakeholders for their comments and recommendations on the standards. The 328 comments provided valuable insight into stakeholder concerns and priorities. The comments also reflected the positions held by stakeholders that were noted by the working group that was convened in November 2012 to revise the original document.

What We Changed

Changes to the November 2013 version of the program standards are described here and are reflected in the standards dated May 2014.

1. The interim final rule definition for **herd plan** requires signature of the herd plan by the Administrator, the State representative, and the herd owner. The definition for **herd plan** in the program standards required the herd plan to be signed only by the State representative and the herd owner. The language in the revised program standards has been modified to include APHIS as a signatory on herd plans for CWD positive, exposed, or suspect herds. This change also necessitated a change in Part B of the document.
 - “A written herd and/or premises management agreement developed **by APHIS** in collaboration with the herd owner, State...and signed by **the Administrator**, the State...” (p. 8).
 - “The revised herd plan will become effective after it is reviewed **by the Administrator and signed by the Administrator**, the State representative...” (p. 8).
 - “The plans may be reviewed by **APHIS and** State Officials. Herd plans are to be signed by **APHIS**, the herd owner and the appropriate State officials...” (p. 35).
2. Quarantine is not defined in the rule; however, the term is used in the rule (see 9 CFR 55.1 [definition of CWD-positive herd] and 9 CFR 55.23(a)(6)). *Restrict* and *restriction* are used more frequently in the rule language and better characterize the use of this regulatory action than *prohibit*.
 - Replace “prohibiting” with “**restricting**” in the definition of quarantine in the program standards definitions section (p. 9).

3. Current rule language requires an owner to report the escape of an animal from their facility to a State or APHIS official, but not the entry of a wild cervid. The revised program standards implied that reporting the entry of a wild cervid is also required. The program standards have been revised to be consistent with current rule language.
 - Part A (2.4)C.4. now reads “...or otherwise missing from the premises *and should also immediately report* entry of any wild cervids into this facility...” (p. 15).
4. A discrepancy was noted in Part A of the revised program standards regarding approval for exception for testing due to extenuating circumstances. Section 5.3 said that Approved State agencies may approve these exceptions; section 5.10 said that APHIS or Approved State Official may approve these exceptions. Part A (5.3) has been revised to make the two sections consistent.
 - Change the language in Part A. (5.3) to include APHIS as well as the Approved State agency: “Exceptions to the testing requirement may be made by *APHIS or* the appropriate Approved State agency” (p. 24).

Other Comments

In reviewing stakeholder comments, APHIS considered several factors to determine whether changes to the standards were warranted at this time.

Much of the language in Part A of the program standards is based on language in the CWD rule. For example, the program standards are more prescriptive (e.g., *must, will*) when describing actions required in the rule. Conversely, for actions not required in the rule, language is less prescriptive (e.g., *should, may*). We cannot make changes that would contradict existing rule language.

Many comments concerned specific topics that had been discussed extensively by the working group, such as transiting, testing exceptions, etc. In some instances, the 2012 program standards had been revised based on these discussions in order to best represent the disparate positions in the working group; in other instances, revisions were based on concerns expressed outside of the working group, with the goal of addressing concerns without undermining the objectives of the CWD rule. In an effort to balance sometimes divergent stakeholder priorities, APHIS did not make changes on these topics.

Similarly, we received comments that supported opposite sides of a single issue. Some commenters advocated for APHIS to allow States to implement more stringent CWD requirements, while others asked APHIS to encourage States to implement less stringent standards. No changes were made in this area, as APHIS believes States are better able to determine their own additional risk mitigations for CWD, and the rule does not preempt State regulations related to CWD, except for transiting animals.

Further Review

Some comments warrant further consideration. However, APHIS must gather additional information from stakeholders and further evaluate this information to determine if changes to the program standards are warranted.

Other comments will be kept on file for consideration in any future revisions of the program standards. The Program Standards will be reviewed at least annually by representatives of the cervid industry and appropriate State and Federal agencies, and amended as necessary.