

Express Terms (Text)

Title 6, Part 189 of NYCRR, entitled "Chronic Wasting Disease," is amended as follows:

189.1 Findings and purpose.

The Department of Environmental Conservation hereby finds that chronic wasting disease, a fatal transmissible neurodegenerative disease [which endangers] threatens the health and welfare of wildlife populations and captive cervids[, has been confirmed to exist in New York State]. The nature of chronic wasting disease requires prompt and extraordinary actions to address the threat posed by this disease. The purpose of this rule is to prevent [further] re-introduction of this disease into New York, to contain the spread of this disease within New York if present,[to prevent exportation of this disease outside of New York], and to protect the health of wild white-tailed deer (*Odocoileus virginianus*) and wild moose (*Alces alces*) in New York.

189.2 Definitions.

For purposes of this Part, the following definitions shall apply:

- (a) Captive means an animal that is privately or publicly maintained or held for any purpose within a perimeter fence or other confined space.
- (b) Captive-bred means born in captivity.
- (c) CWD containment area means an area identified in section 189.7 of this Part in which chronic wasting disease has been detected, and which is subject to special conditions in order to effect the purposes of this Part.
- (d) CWD susceptible animal means all, whether captive, captive-bred, or wild, white-tailed deer (*Odocoileus virginianus*), mule deer and black-tailed deer (*O. hemionus*), red deer (*Cervus*

elaphus), elk (*C.e.canadensis*), moose (*Alces alces*), sika deer (*Cervus nippon*), and caribou and reindeer (*Rangifer tarandus*).

(e) Department means the Department of Environmental Conservation.

(f) Person means an individual, a co-partnership, joint stock company or corporation.

(g) Wild means an animal existing in a wild state.

[(a) Department means the Department of Environmental Conservation.

(b) Person means an individual, a co-partnership, joint stock company or corporation.

(c) Genus *Cervus* means the following species and hybrids: thorold's deer (*C. albirostris*), visayan deer (*C. alfredi*), barasingha (*C. duvaucelii*), elk (red deer, wapiti) (*C. elaphus*), eld's deer (thamin) (*C. eldii*), philippine sambar (*C. mariannus*), sika deer (*C. nippon*), schomburgk's deer (*C. schomburgki*), sunda sambar (*C. timorensis*) and sambar (*C. unicolor*).

(d) Genus *Odocoileus* means the following species and hybrids: mule deer (*O. hemionus*), black-tailed deer (*O. hemionus columbianus*) and white-tailed deer (*O. virginianus*).

(e) Genus *Alces* means the following species and hybrids: moose (*Alces alces*).

(f) Feed or feeding means the act of using, placing, giving, exposing, depositing, distributing or scattering any material, or any act to maintain the availability of such material, that attracts wild white-tailed deer to feed on such material including the distribution of such material in deer wintering areas.

(g) Wild means an animal existing in a wild state.

(h) Captive means an animal that is privately or publicly maintained or held for any purpose within a perimeter fence or other confined space.

(i) Captive-bred means born in captivity.

(j) CWD containment area means an area identified in section 189.7 of this Part in which chronic wasting disease has been detected, and which is subject to special conditions in order to effect the purposes of this Part.

(k) Retail sale or sell at retail shall mean the sale to any person in the State for any purpose other than for resale.]

189.3 Prohibitions.

Notwithstanding any other provision of this Chapter to the contrary, the following prohibitions shall apply:

(a) Importation of CWD susceptible animals[of the Genus Cervus, Genus Odocoileus or Genus Alces].

No person shall import into New York State any [wild or captive] CWD susceptible animal[of the Genus Cervus or the Genus Odocoileus or the Genus Alces] except [under permit issued] as authorized by the New York State Department of Agriculture and Markets[, in consultation with the department,] pursuant to [section] Part 68[.2] of Title 1 NYCRR.

[(b) Feeding wild white-tailed deer or wild moose in New York.

No person shall feed wild white-tailed deer or wild moose at any time in New York State except:

(1) under a license or permit issued by the department pursuant to article 11, title 5 of the Environmental Conservation Law for bona fide scientific research, mitigation of wildlife damage or nuisance problems, or wildlife population reduction programs only;

(2) by planting, cultivating or harvesting of crops directly associated with bona fide agricultural practices, including planted wildlife food plots;

(3) by distribution of food material for livestock directly associated with bona fide agricultural practices;

(4) by distribution of food material for legally possessed captive animals of the Genus Cervus or the Genus Odocoileus or the Genus Alces; or

(5) by cutting of trees or brush.

(c) Distribution of certain food materials.

No person shall feed wild or captive animal of the Genus Cervus or the Genus Odocoileus or the Genus Alces with any material that contains protein derived from any mammalian tissues.

(d) Importation and possession of certain animal parts.

No person shall import into New York or possess the brain, eyes, spinal cord, tonsils, intestinal tract, spleen, or retropharyngeal lymph nodes, or any portion of such parts, of wild, captive, or captive-bred animals of the Genus Cervus or the Genus Odocoileus or the Genus Alces obtained from or taken outside New York, or any carcass containing such parts, except that:

(1) such parts, or carcasses containing such parts, may be imported and possessed as specimens in a bona fide laboratory research study provided that such parts or specimens are disposed of in accordance with accepted laboratory practices;

(2) such parts, or carcasses containing such parts, may be shipped or transported through New York as provided in section 189.5 of this Part;

(3) such parts, or carcasses containing such parts, may be imported and possessed pursuant to paragraph (e)(1) of this section.]

([e]b) Importation of carcasses and parts.

No person shall import into New York or possess in New York the carcasses or parts of [wild, captive, or captive-bred] CWD susceptible animals[of the Genus Cervus or the Genus Odocoileus or the Genus Alces] obtained from or taken outside New York, except that:

- (1) the deboned meat, cleaned skull cap, antlers with no flesh adhering, raw or processed cape or hide, cleaned teeth or lower jaw, and finished taxidermy products of CWD susceptible animals may be imported and possessed provided that all such parts are marked as described in section 189.4 of this Part;
- (2) carcasses or parts thereof may be imported and possessed as specimens in a bona fide laboratory research study under a license issued by the department pursuant to Environmental Conservation Law section 11-0515(1) and provided that such parts or specimens are disposed of in accordance with accepted laboratory practices;
- (3) commercially traded meats and products, including cleaned hide, teeth, bone and antler used in the making of such products, may be imported and possessed provided that such products and parts are marketed and/or intended to be used in a manner that they will not be exposed to live CWD susceptible animals and such products and parts do not contain any portion of brain, eyes, spinal cord, tonsils, intestinal tract, spleen, or retropharyngeal lymph nodes;

[(1) carcasses and parts of wild animals of the Genus Cervus or the Genus Odocoileus or the Genus Alces taken in the following states and provinces may be imported and possessed provided that all such carcasses and parts are marked as described in section 189.4 of this Part:

(i) United States: Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Massachusetts, Mississippi, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Tennessee and Vermont;

(ii) Canada: New Brunswick, Newfoundland, Nunavut, Ontario, Prince Edward Island, and Quebec;

(2) carcasses and parts of wild animals of the Genus Cervus or the Genus Odocoileus or the Genus Alces taken outside New York, except for those states and provinces listed in paragraph (1) of this subdivision, may be imported and possessed provided that the parts listed in subdivision (d) of this section have been removed;

(3) carcasses and parts of captive or captive-bred animals of the Genus Cervus or the Genus Odocoileus or the Genus Alces taken or obtained from outside New York may be imported and possessed provided that the parts listed in subdivision (d) of this section have been removed;

(4) any meat of wild animals of the Genus Cervus or the Genus Odocoileus or the Genus Alces may be imported and possessed provided that such meat does not contain any parts listed in subdivision (d) of this section;

(5) the following parts may be imported and possessed: the hide; the cape; the antlers; the cleaned skull-cap with antlers attached; finished taxidermy mounts; tanned hides; and the upper canine teeth; and]

[(6)4] carcasses and parts may be transported and shipped through New York as provided in section 189.5 of this Part.

[(f)c] Liberation of [wild, or captive] CWD susceptible animals.

No person shall[:

(1)] liberate or release to the wild in New York any [captive, or captive-bred] CWD susceptible animal [of the Genus Cervus or the Genus Alces or the Genus Odocoileus] except for wild white-tailed deer (*O. virginianus*) or wild moose (*A. alces*) held in temporary captivity under license or permit issued by the department pursuant to Environmental Conservation Law, section 11-0507 or 11-0515[(3) and Part 184 of this Title].

[(2) liberate or release to the wild in New York any wild animal of the Genus Alces or the Genus Cervus or the Genus Odocoileus except under license or permit issued by the department pursuant to Environmental Conservation Law, section 11-0507 or 11-0515(3) and Part 184 of this Title.]

([g]d) Transportation of captive animals.

No person shall transport within New York any captive or captive-bred CWD susceptible animal [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] except [under permit issued] as authorized by the New York State Department of Agriculture and Markets pursuant to 1 NYCRR Part 68 [68.2].

([h]e) Possession of wild white-tailed deer.

(1) No person who possesses any captive or captive-bred CWD susceptible animals [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] shall capture or possess any live wild white-tailed deer.

(2) No person who engages in the art or operation of preparing, stuffing, and mounting the skins or other parts of CWD susceptible animals [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] shall capture or possess any live wild white-tailed deer.

(f) Possession of captive-bred CWD susceptible animals.

No person who possesses captive-bred CWD susceptible animals under a license issued by the department pursuant to ECL 11-1905 and Part 153 of this title or subject to the provisions of 1 NYCRR Part 68 shall fail to continuously comply with the captive cervid health requirements adopted by the Department of Agriculture and Markets in 1 NYCRR Part 68.

189.4 Marking of [carcasses and] parts.

Except as provided in sections 189.3(e)(2) and 189.3(e)(3) of this Part, all [carcasses and] parts of any CWD susceptible animal [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] imported into New York, or packages or containers containing such [carcasses or] parts, shall be affixed with a legible label bearing the following information: the species of animal, the state[,] or province[, or] and country where the animal was taken, and the name and address of the person who took the animal.

189.5 Transportation or shipment of carcasses and parts through New York.

A person may transport or ship carcasses or parts of any [wild or captive] CWD susceptible animals [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] through New York provided that all such carcasses and parts are not disposed of in any manner or delivered to any person in New York.

189.6 Special provisions.

(a) Any person who imports into New York a [carcass or] part or possesses an imported [carcass or] part of a CWD susceptible animal [an animal of the Genus Cervus or the Genus Odocoileus or the Genus Alces] and who is notified that such animal has tested positive for chronic wasting disease

must report such test results to the department within 24 hours of receiving such notification. Test results shall be reported to the department either by mail, email, or telephone at the following address and phone number:

Mail: Director, Division of Fish, Wildlife and Marine Resources,

NYSDEC, 625 Broadway, Albany, NY 12233-4750

Email: wildlife@dec.ny.gov

Telephone: (518) 402-[8923]8883

(b) The department [may] will immediately seize any carcass or part of a CWD susceptible animal [an animal of the Genus Cervus or the Genus Odocoileus or the Genus Alces] if the carcass or part is imported or possessed in violation of the provisions of this Part or if the animal has tested positive for chronic wasting disease.

(c) The department [may] will immediately seize, quarantine and euthanize any CWD susceptible animals [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] that are imported or possessed in violation of the provisions of this Part.

(d) The department may direct any person possessing any CWD susceptible animals [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] suspected of having chronic wasting disease to comply with any measures that are deemed necessary to prevent or mitigate the spread or introduction of chronic wasting disease.

(e) Department staff may euthanize, using firearms or other means, any wildlife which is at large and is suspected of having been exposed to or having chronic wasting disease.

(f) Pursuant to the department's authority under Environmental Conservation Law, section 11-0325, the department may undertake any additional measures it deems necessary to eliminate, reduce, or confine chronic wasting disease or to prevent chronic wasting disease from entering the State.

189.7 CWD containment area.

(a) CWD containment areas.

The department may establish CWD containment areas in the event that CWD is [discovered] confirmed to exist in [captive or wild] CWD susceptible animals [deer or wild moose] in New York.

CWD containment areas shall be established by the department through publication of a notice in the Environmental Notice Bulletin. Such notice shall identify the boundaries of the containment area(s).

Upon publication of notice of a CWD containment area, the provisions of this section shall apply to the identified area. The department shall also publicize the establishment of a CWD containment area through press release and by posting notice on the department's website.

(b) Exportation of certain animal parts from a CWD containment area.

No person shall remove from [the] a CWD containment area the carcass or parts of any CWD susceptible animals obtained from or taken within a CWD containment area, except:

- (1) the deboned meat, cleaned skull cap, antlers with no flesh adhering, raw or processed cape or hide, cleaned teeth or lower jaw, and finished taxidermy products may be transported out of a CWD containment area;
- (2) carcasses or parts thereof may be exported from a CWD containment area under a license issued by the department pursuant to Environmental Conservation Law section 11-0515(1) or as authorized by subdivision (g) of this section;
- (3) the Department may authorize carcasses or parts thereof to be exported from a CWD containment area to specific cooperating taxidermists and processors or designated DEC check stations. Such authorization will be included with the CWD containment area description on the department's website.

[the brain, eyes, spinal cord, tonsils, intestinal tract, spleen, or retropharyngeal lymph nodes, or any portion of such parts, of wild, captive, or captive-bred animals of the Genus Cervus or the Genus Odocoileus or the Genus Alces obtained from or taken within the CWD containment area, or any carcass containing such parts, except under permit issued by the department or as authorized by subdivision (g) of this section.]

(c) Mandatory check of deer taken within a CWD containment area.

All statutes, rules and regulations governing the taking of wild white-tailed deer apply within [the] a CWD containment area. In addition, the following restrictions apply:

(1) All wild white-tailed deer taken within a CWD containment area during the open hunting seasons for deer shall be registered at a designated DEC check station located within the CWD containment area. The department shall post on the DEC website (www.dec.state.ny.us) and publish in the Environmental Notice Bulletin information regarding deer check station locations within the containment area and times of operation.

(2) Any person required to register a deer at a DEC check station pursuant to this section shall bring to the check station:

(i) the field dressed deer carcass; or

(ii) the deer head, which shall be unfrozen, with antlers still attached (if any), with approximately three inches of neck still attached, and marked with a tag bearing the printed name, signature, and address of the person who took the deer, and the carcass tag documentation (doc) number, season of kill, date of kill and location of kill. The deer head tag shall be provided by the person registering the deer.

(3) Any person required to register a deer at a DEC check station pursuant to this section shall allow DEC staff to collect and retain tissue samples from the deer to test for the presence of CWD.

(d) Possession of deer or moose killed by collision.

Notwithstanding the provisions of Environmental Conservation Law section 11-0915, the owner of a motor vehicle which has been damaged by collision with a deer or moose within a CWD containment area is prohibited from possessing such deer or moose, and no permit for possession of the deer or moose carcass shall be issued to the vehicle owner or to any other party.

(e) [Deer, moose, and elk urine] Urine, fecal, glandular, or velvet products of CWD susceptible animals.

No person shall collect, possess, transport or sell the urine, feces, glandular secretions, or velvet products of any CWD susceptible animal [deer, moose or elk] located or taken within the CWD containment area.

(f) Rehabilitation of wild white-tailed deer or wild moose.

(1) No person, including any licensed wildlife rehabilitator, shall take, capture, possess, or transport wild white-tailed deer or wild moose for the purpose of rehabilitation within a CWD containment area.

(2) No person shall import into a CWD containment area, from outside such CWD containment area, any live wild white-tailed deer or wild moose for any purpose.

(g) Disposal of carcasses and parts.

No person shall dispose of carcasses and parts of CWD susceptible animals [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] in a CWD containment area via composting, rendering, or distribution on the landscape, except those parts removed in the field during normal field dressing, unless such parts shall be incinerated or disposed of in a landfill authorized pursuant to Part 360 of this Title. Transfer or treatment of the waste prior to disposal, at a facility authorized pursuant to Part 360 of this Title, is acceptable.

189.8 Taxidermy.

(a) No person who engages in the art or operation of preparing, stuffing, and mounting the skins or other parts of CWD susceptible animals[of the Genus Cervus or the Genus Odocoileus or the Genus Alces] shall:

(1) allow live CWD susceptible animals [cervids] to come in contact with any materials, including taxidermy materials and any waste generated from taxidermy;

(2) dispose of the carcass or carcass parts of CWD susceptible animals in any manner other than by incineration or in a landfill authorized pursuant to Part 360 of this Title.

(b) No person shall engage in the art or operation of preparing, stuffing, and mounting the skins or other parts of CWD susceptible animals imported into New York on the same premises where captive or captive-bred CWD susceptible animals are possessed.

(c[b]) In addition to the requirements of Environmental Conservation Law section 11-1733, any person who engages in the art or operation of preparing, stuffing, and mounting the skins or other parts of CWD susceptible animals [of the Genus Cervus or the Genus Odocoileus or the Genus Alces] shall maintain and keep in their taxidermy shop or place of business a taxidermy log that includes the following information for each specimen of CWD susceptible animal[the Genus Cervus or the Genus Odocoileus or the Genus Alces]:

- (1) common name of the species submitted for mounting and a description of the specimen;
- (2) name, address and telephone number of the person who submitted the animal for mounting;
- (3) date the animal was received for mounting;
- (4) hunting license number used by the person who took the animal or the carcass tag number used by the taker to tag the animal;
- (5) state or province in which the animal was taken;

(6) county and town in which the animal was taken; and

(7) date on which the animal was taken.

(d[c]) Taxidermy logs shall be updated within 48 hours of the receipt of each animal or specimen.

(e[d]) Original taxidermy logs for the current year and for previous two years shall be maintained at the taxidermy shop or place of business.

(f[e]) Conservation officers and other persons authorized by the department shall have access to the taxidermy logs at all times and photocopies of such documents must be provided upon request.