

02 NCAC 52B .0213 is amended with changes as published in 32:06 NCR 501-502 follows:

02 NCAC 52B .0213 IMPORTATION REQUIREMENTS: ~~CERVIDAE~~ FARMED CERVIDS

(a) No ~~cervidae~~ may farmed cervids shall be imported into North Carolina ~~from~~ from:

(1) a herd located in a county or its equivalent, if not within the United States or in a territory without counties, ~~[in which]~~ where Chronic Wasting Disease (~~CWD~~) (“CWD”) has been diagnosed ~~or from;~~ diagnosed;

(2) a herd located in a county ~~which~~ or its equivalent, if not within the United States or in a territory without counties, that is contiguous to a county or its equivalent, if not within the United States or in a territory without counties, ~~[in which]~~ where CWD has been ~~diagnosed~~ diagnosed; or

(3) a CWD-positive, exposed, or suspect farmed cervid facility.

(b) Any imported farmed cervid that fails to comply with G.S. 106-549.97, 02 NCAC 52L, or this Rule, shall be deemed a CWD-suspect animal until further investigation by the North Carolina Department of Agriculture and Consumer Services’ Veterinary Division.

(c) No ~~[CWD-susceptible]~~ CWD-susceptible ~~[farmed]~~ farmed cervids, as identified by the North Carolina Department of Agriculture and Consumer Services’ Veterinary Division or the USDA, shall be imported into North ~~[Carolina,]~~ Carolina without first being tested negative for CWD using an ~~[ante-mortem]~~ antemortem test approved by the USDA.

(d) All ~~cervidae~~ farmed cervids entering North Carolina ~~must~~ shall be accompanied by all of the following:

(1) an interstate certificate of veterinary inspection (“ICVI”) ~~official health certificate~~ issued within 30 days prior to arrival; ~~[an interstate certificate of veterinary inspection (“ICVI”) that shall be maintained by the farmed cervid owner for a period of five years, subject to inspection and copying by the North Carolina Department of Agriculture and Consumer Services’ Veterinary Division, as defined and required by 9 C.F.R. Part 86, which is hereby incorporated by reference including any later amendments and editions, and available free of cost at https://www.gpo.gov/fdsys/granule/CFR-2014-title9-vol1/CFR-2014-title9-vol1-part86;]~~

(2) the following statement shall also appear on the ICVI: “All cervidae on this certificate originate from a Chronic Wasting Disease (CWD) monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd or any herd contributing to this herd for the previous five years.”; and individual ~~[animal]~~ animal identification, such as a bangle type ear tag, with lettering two inches or greater that can be viewed from a distance ~~[as required by 02 NCAC 52L .0112]~~ and noted on the health certificate; [ICVI;]

(3) proof of a negative USDA-approved tuberculosis test for animals six months of age or older conducted within 60 days prior to arrival if the animal originates from a tuberculosis accredited herd. If the animal is six months of age or older and originates from a herd of unknown status, two negative USDA approved tests for tuberculosis shall be required with the second being greater than

90 days from the initial test and within 60 days prior to arrival. If the animal is less than six months of age and from a herd of unknown status, one negative USDA approved tuberculosis test shall be required. The herd of origin and commingled susceptible species shall have had no diagnosis of tuberculosis in the 36 months preceding shipment. ~~an importation permit issued by the North Carolina State Veterinarian. The request for an importation permit must be made by a licensed, accredited veterinarian, as defined in 02 NCAC 52B .0401, and must be accompanied by a copy of the official health certificate and a copy of the captivity permit issued by the North Carolina Wildlife Resources Commission; [a valid transportation permit issued by the Veterinary Division];~~

(e) All farmed cervids entering North Carolina shall be accompanied by all of the following:

(4)(1) the following statement must ~~shall~~ also appear on the health certificate: ~~[ICVI:]~~ "All cervidae on this certificate originate from a Chronic Wasting Disease (CWD) monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd or any herd contributing to this herd for the previous five years."; individual animal identification required by 02 NCAC 52L .0112 and noted on the ICVI; and

(5)(2) proof of a negative test for brucellosis for all animals six months of age or older within 30 days prior to arrival. The herd of origin must ~~shall~~ have had no diagnosis of brucellosis in the 12 months preceding shipment; and a valid transportation permit issued by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division.

(6) ~~proof of a negative single cervical test for [USDA approved] tuberculosis [test] for animals six months of age or older conducted within 60 days prior to arrival if the animal originates from a tuberculosis accredited or qualified herd. If the animal is six months of age or older and originates from a herd of unknown status, two negative single cervical [USDA approved] tests for tuberculosis will [shall] be required with the second being greater than 90 days from the initial test and within 60 days prior to arrival. If the animal is less than six months of age and from a herd of unknown status, one negative single cervical [USDA approved tuberculosis] test will [shall] be required. The herd of origin and commingled susceptible species must [shall] have had no diagnosis of tuberculosis in the 36 months preceding shipment.~~

(e)(f) The State Veterinarian of North Carolina may issue orders prohibiting the importation of certain farmed cervids or issue moratoriums pending the investigation of any threat of disease based on his or her expertise and experience that will pose a risk of spreading disease that will damage or harm the North Carolina farmed cervid industry, including the control or spread of CWD.

History Note: Authority G.S. 106-307.5; 106-317; 106-399.4; 106-400; [106-401; 106-549.97(a2); Eff. August 1, 2002; 2002; Amended Eff. [June 1,] July 1, 2018.

1 02 NCAC 52C .0701 is repealed as published in 32:06 NCR 502 as follows:

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3 **02 NCAC 52C .0701 INTRASTATE REQUIREMENTS: CERVIDAE**

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5 *History Note: Authority G.S. 106-317; 106-400; 106-549.97(a2);*

6 *Eff. July 1, 1998;*

7 *Amended Eff. August 1, 2004; August 1, 2002;*

8 *Amended Eff. January 1, 2016;*

9 *Repealed Eff. July 1, 2018.*



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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1711 New Hope Church Rd
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May 17, 2018

Christina L. Waggett
Department of Agriculture and Consumer Services
Sent via email to Christina.Waggett@ncagr.gov

Re: Extension of the Period of Review for Rules 02 NCAC 52B .0213 and 52C .0701.

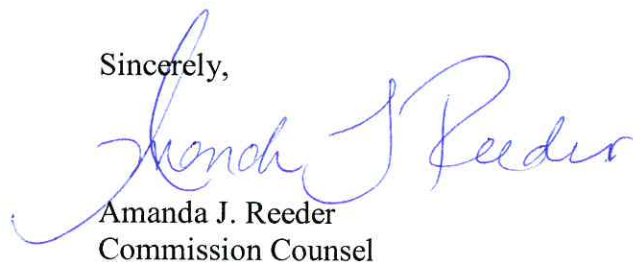
Dear Mrs. Waggett:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the Department to extend the period in order to allow the agency to address the requests for technical changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

Should you have any questions regarding the Commission's actions, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Tien Cheng, Attorney, Department of Agriculture and Consumer Services

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Agriculture and Consumer Services

RULE CITATION: 02 NCAC 52B .0213

DEADLINE FOR RECEIPT: Friday, May 11, 2018

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, if you intend to rename the Rule "Importation Requirements: Cervids" (as reflected on the Rule), please put that as the name in Box 2.

In the Rule, why are you removing "farmed" before cervids? G.S. 106-549.97 confers only authority for the Department to regulate farmed cervids. If the intent is to address the authority of the Board of Agriculture in 106-307.5, then please confirm that the Board jointly promulgated this Rule. If it is not the intent, please reinsert "farmed" into the Rule.

In (a), line 4, please underline "from:" Since you published it correctly in the Register, you do not need to show that as a change.

In (a)(1), line 6, and (a)(2), line 10, consider replacing "in which" with "where"

In (a)(3), how will the individuals know the facility is "exposed" or "suspect"? Or are you reciting the language from G.S. 106-549.97(a2)?

In (b), lines 12-13, replace "Title 2, Subchapter 52L of the North Carolina Administrative Code" with "02 NCAC 52L" Since you published it this way in the Register, you do not need to show it as a change.

In (c), line 15, why isn't "CWD susceptible" hyphenated? "CWD-suspect" is on line 13.

On line 16, delete the comma after "Carolina"

On line 17, is the approval by the USDA using USDA standards as set forth in G.S.106-549.97(a1)(6)?

Also on line 17, is "antemortem" one word, or hyphenated as "ante-mortem"? And so that I'm clear, isn't this post-death testing? Is this for transporting dead farmed cervids?

In (d)(1), since it is the term "IVCI" defined by 9 CFR Part 86, I suggest moving the language on lines 22-24 to behind "(IVCI)", so it reads:

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2018

“an interstate certificate of veterinary inspection (“IVCI”), as set forth in 9 CFR Part 86, which is hereby incorporated by reference, including any subsequent amendments and editions, and available free at [url.] The IVCI shall be maintained by the ... Division;

In (a)(3), line 31, what is “valid”? Is this known?

Also, on line 32, you only say “Veterinary Division” That is sufficient to me, but I note you added “North Carolina Department of Agriculture and Consumer Services” before that language on lines 14 and 15. Do you need to do that here?

In (a)(4), line 33, so that I’m clear – you want to retain “cervidae” and not replace it with “cervids” as you did elsewhere?

In (a)(5), Page 2, lines 4, 7 and 10, please hyphenate “USDA-approved”

In (e), line 14, I suggest inserting a “that,” before “based” and changing “on” to “upon” and then inserting a comma after “experience” and deleting “that” on line 15. Thus, “... any threat of disease that, based upon... experience, will pose...”

In the History Note, depending upon the intent of the rulemaking, do you need to retain the citations to G.S. 106-307.5 and 317?

Also in the History Note, you are adding G.S. 106-401, which addresses quarantine. But for Paragraph (e), aren’t you relying upon G.S. 106-399.4?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2018

02 NCAC 52B .0213 is amended with changes as published in 32:06 NCR 501-502 follows:

02 NCAC 52B .0213 IMPORTATION REQUIREMENTS: ~~CERVIDAE~~ FARMED CERVIDS

(a) No ~~cervidae~~ may farmed cervids shall be imported into North Carolina ~~from~~:

(1) a herd located in a county or its equivalent, if not within the United States or in a territory without counties, in which Chronic Wasting Disease (CWD) ("CWD") has been diagnosed or from; diagnosed;

(2) a herd located in a county ~~which~~ or its equivalent, if not within the United States or in a territory without counties, that is contiguous to a county or its equivalent, if not within the United States or in a territory without counties, in which CWD has been ~~diagnosed~~ diagnosed; or

(3) a CWD-positive, exposed, or suspect farmed cervid facility.

(b) Any imported farmed cervid that fails to comply with G.S. 106-549.97, Title 2, Subchapter 52L of the North Carolina Administrative Code, or this Rule, shall be deemed a CWD-suspect animal until further investigation by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division.

(c) No CWD susceptible farmed cervids, as identified by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division or the USDA, shall be imported into North Carolina, without first being tested negative for CWD using an ante mortem test approved by the USDA.

(d) All ~~cervidae~~ farmed cervids entering North Carolina ~~must~~ shall be accompanied by all of the following:

(1) an official health certificate issued within 30 days prior to arrival; an interstate certificate of veterinary inspection ("ICVI") that shall be maintained by the farmed cervid owner for a period of five years, subject to inspection and copying by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division, as defined and required by 9 C.F.R. Part 86, which is hereby incorporated by reference including any later amendments and editions, and available free of cost at <https://www.gpo.gov/fdsys/granule/CFR-2014-title9-vol1/CFR-2014-title9-vol1-part86>;

(2) individual ~~animal identification~~ identification such as a bangle type ear tag, with lettering two inches or greater that can be viewed from a distance as required by 02 NCAC 52L .0112 and noted on the ~~health certificate~~ ICVI;

(3) an importation permit issued by the North Carolina State Veterinarian. The request for an importation permit must be made by a licensed, accredited veterinarian, as defined in 02 NCAC 52B .0401, and must be accompanied by a copy of the official health certificate and a copy of the ~~captivity permit issued by the North Carolina Wildlife Resources Commission~~ a valid transportation permit issued by the Veterinary Division;

(4) the following statement ~~must~~ shall also appear on the ~~health certificate~~ ICVI: "All cervidae on this certificate originate from a Chronic Wasting Disease (CWD) monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd or any herd contributing to this herd for the previous five years."; and

(5) ~~proof of a negative test for brucellosis for all animals six months of age or older within 30 days prior to arrival. The herd of origin must~~shall ~~have had no diagnosis of brucellosis in the 12 months preceding shipment; and~~

(6) proof of a negative ~~single cervical test for~~USDA approved tuberculosis test for animals six months of age or older conducted within 60 days prior to arrival if the animal originates from a tuberculosis accredited ~~or qualified~~ herd. If the animal is six months of age or older and originates from a herd of unknown status, two negative ~~single cervical~~USDA approved tests for tuberculosis ~~will~~shall be required with the second being greater than 90 days from the initial test and within 60 days prior to arrival. If the animal is less than six months of age and from a herd of unknown status, one negative ~~single cervical~~USDA approved tuberculosis test ~~will~~shall be required. The herd of origin and commingled susceptible species ~~must~~shall have had no diagnosis of tuberculosis in the 36 months preceding shipment.

(e) The State Veterinarian of North Carolina may issue orders prohibiting the importation of certain ~~farmed~~ cervids or issue moratoriums pending the investigation of any threat of disease based on his or her expertise and experience that will pose a risk of spreading disease that will damage or harm the North Carolina farmed cervid industry, including the control or spread of CWD.

*History Note: Authority G.S. 106-307.5; 106-317; 106-400; 106-401; 106-549.97(a2);
Eff. August 1, ~~2002~~. 2002.
Amended Eff. June 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Agriculture and Consumer Services

RULE CITATION: 02 NCAC 52C .0701

DEADLINE FOR RECEIPT: Friday, May 11, 2018

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In reviewing the existing History Note, it appears that this Rule was adopted under Board of Agriculture authority. It also appears that it applied to all deer, not just captive deer, and the Department only has authority to regulate captive deer. This Rule was initially promulgated under Board authority (G.S. 106-317). Therefore, please confirm that the Board of Agriculture participated in this rulemaking.

Please insert the entire History Note into the rule.

Please insert a repealed effective date in the History Note. The earliest the repeal can be effective is June 1, 2018.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2018

1 02 NCAC 52C .0701 is repealed as published in 32:06 NCR 502 as follows:

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3 **02 NCAC 52C .0701 INTRASTATE REQUIREMENTS: CERVIDAE**

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5 *History Note: Authority G.S. 106-549.97(a2)*