

The Texas Animal Health Commission (commission) proposes amendments to §40.5, concerning Movement Requirements for CWD Susceptible Species, in Chapter 40, which is entitled “Chronic Wasting Disease”. The purpose of the amendments is to add surveillance, movement reporting, identification, and mortality record keeping requirements pertaining to Exotic CWD Susceptible Species.

Chronic Wasting Disease (CWD) is a transmissible spongiform encephalopathy (TSE). CWD is a progressive, fatal, degenerative neurological disease of farmed and free-ranging deer, elk, and moose. TSEs include a number of different diseases affecting animals or humans including bovine spongiform encephalopathy (BSE) in cattle, scrapie in sheep and goats, and Creutzfeldt-Jacob disease (CJD) in humans. Although CWD shares certain features with other TSEs, it is a distinct disease affecting only deer, elk, and moose. The species known to be susceptible to CWD are North American elk or wapiti (*Cervus Canadensis*), red deer (*Cervus elaphus*), mule deer (*Odocoileus hemionus*), black-tailed deer (*Odocoileus hemionus*), white-tailed deer (*Odocoileus virginianus*), Sika deer (*Cervus Nippon*), and moose (*Alces alces*). The species that are found in Texas are white-tailed deer, mule deer, elk, red deer, and Sika deer.

The agent that causes CWD and other TSEs has not been completely characterized; however, the theory supported by most scientists is that TSE diseases are caused by proteins called prions. The exact mechanism of transmission is unclear; however, evidence suggests CWD is transmitted directly from one animal to another through saliva, feces, and urine containing abnormal prions shed in those body fluids and tissues. Because the disease has a long incubation period, animals infected with CWD may not produce any visible signs of the disease for a number of years after they become infected. The disease can be passed through contaminated environmental conditions and has been known to persist for a long period of time. The “official” diagnostic test for CWD is the Immunohistochemistry (IHC) test performed on the obex tissue of the brain and specific lymphoid tissues. This is a postmortem test in which the animal must be dead to be tested. There is no known treatment or vaccine for CWD.

CWD was first recognized in 1967 in captive mule deer in Colorado. The disease has since been documented in captive and/or free-ranging deer and elk in 24 states, including Texas, and 2 Canadian provinces.

In 2012, CWD was first discovered in Texas in a free-ranging mule deer in the Hueco Mountains along the New Mexico border in far West Texas. The commission and Texas Parks and Wildlife Department (TPWD) created a restricted zone that has required testing of susceptible species in that area and restricted movement of live animals. On June 30, 2015, a 2-year old white-tailed deer in a Medina County breeding facility was confirmed positive for CWD. Through testing requirements associated with tracing of deer either moved from or to this facility, CWD has also been discovered in other white-tailed deer, which includes four other facilities in Medina and Lavaca counties. A free-ranging mule deer buck, harvested in Hartley County, was confirmed positive for CWD on March 3, 2016. Hartley County is located in the Texas Panhandle and borders New Mexico. On December 6, 2016, a free-ranging elk harvested in Dallam County, was confirmed positive for CWD. Dallam County is also located in the Texas Panhandle and borders New Mexico and Oklahoma.

The commission works in coordination and collaboration with the TPWD to address CWD issues and concerns and to assess and mitigate the risks to the Texas cervid industries. All mule deer, white-tailed deer, and native species are generally under the jurisdiction of TPWD. They are classified as property of the state of Texas and TPWD manages them as a valuable and important resource of the state. TPWD through specific statutory authorization does allow individuals to breed, trade, sell, move, release, and hunt white-tailed or mule deer that meet certain legal requirements.

Elk, Sika deer, and red deer are also classified as CWD susceptible species, but are not indigenous to the state and therefore, not subject to the jurisdiction of TPWD. They are classified as exotic livestock which are privately owned. Texas has an unknown number of exotic cervid species that are free-ranging or maintained on private property behind high fences. Many of these facilities are hunting ranches, which are not subject to the seasonal and regulatory hunting restrictions of TPWD.

Surveillance testing is a key, critical component to early detection of the disease and also the monitoring of the disease presence and prevalence in all areas of the state where CWD susceptible species exist. A strong surveillance system also supports Texas' animal industries and their marketability because it provides more assurance and confidence that these animals are healthy.

The United States Department of Agriculture (USDA) Animal Plant Health Inspection Service (APHIS) has federal standards requiring participation in a National CWD Herd Certification Program (HCP) which is designed to be a voluntary federal-state cooperative program implemented by participating states. The HCP's objective is to achieve a national approach that minimizes the risk of spreading CWD in cervid populations through uniform national herd certification standards. States must be approved by USDA to participate and these animals must be in an accepted program for the movement of these species interstate. Texas has an approved HCP program.

Though Texas' white-tailed deer population has had significant historical surveillance, very few elk, red deer or sika herds have participated in the CWD certification program. As such, the commission has limited CWD surveillance testing for these cervid species as a result of this program.

In 2009, legislation was passed that authorized the commission to establish a disease surveillance program for elk. This authority is found in §161.0541 of the Texas Agriculture Code. Under this statute, the commission may require each person who moves elk in this state to have elk participate in a disease surveillance program.

Pursuant to this legislation, the commission adopted rules that require elk to participate in a CWD surveillance program in 2010, however, the rules were held in abeyance until 2012 to encourage voluntary participation. Elk producers wishing to sell or move elk are required to either enroll in a CWD herd monitoring programs or have 20% of their mortalities tested to quality animals for movement. This program is found in Title 4, Texas Administrative Code,

Chapter 40, §40.5. The commission received a total of 243 CWD tests results for elk and red deer from 2003 to September of 2016.

The detection of CWD in different locations in Texas creates a risk for CWD exposure or infection to other susceptible species throughout the state. The commission believes it is necessary to conduct enhanced surveillance of Exotic CWD Susceptible Species to protect against the spread of CWD. Without adequate and equitable testing throughout Texas, the risk only increases for spreading CWD in the state, This only poses a greater disease risk to the cervid industries, as well as creates greater opportunity for negative economic impact for those industries.

The commission has historically used a group of CWD stakeholders to provide guidance, along with recommendations to the commission staff regarding the CWD program and improving surveillance in the exotic CWD susceptible species. These stakeholders include members of USDA, TPWD, Texas Deer Association, Exotic Wildlife Association, Deer Breeder Corporation, Texas Wildlife Association, Texas Veterinary Medical Diagnostic Laboratory, Texas Southwest Cattle Feeders, Texas Veterinary Medical Association, AgriLife, along with noted private veterinary practitioners and wildlife biologists. The group discussed the need to modify the intrastate program for the Exotic CWD Susceptible Species to make it a more successful surveillance program.

Section 40.5(a) provides definitions specific to this section. They include Eligible Mortality; Exotic CWD Susceptible Species; Premises; and Movement of an Exotic CWD Susceptible Species from one non-contiguous property or premises to another.

Section 40.5(b) provides for CWD surveillance requirements to require that all eligible mortalities be CWD tested until such time that three animals are tested and valid test results are obtained.

Section 40.5(c) provides for movement reporting and identification requirements for live Exotic CWD Susceptible Species moved or transported within the state. It requires the owner to obtain a Premises Identification Number and that an annual inventory be created and maintained by owners of Exotic CWD Susceptible Species and submitted to the commission, either in hard or electronic copy on forms provided or authorized by the commission.

Section 40.5(d) provides for the CWD testing requirements in terms of age, official test requirement.

Section 40.5(e) provides that the owner shall report all test results to the commission

Section 40.5(f) provides that the owner of a premises where an eligible mortality occurs must maintain mortality records.

Section 40.5(g) provides that a premises where Exotic CWD Susceptible Species are located may be inspected by the commission or authorized agents of the commission.

Section 40.5(h) provides that a dealer is a person engaged in the business of buying or selling Exotic CWD Susceptible Species and must maintain records for all Exotic CWD Susceptible Species transported within the state or where there is a transfer of ownership, and provide these to commission personnel upon request. Records required to be kept under the provisions of this section shall be maintained for not less than five years.

## **FISCAL NOTE**

Ms. Larissa Schmidt, Chief of Staff, Texas Animal Health Commission, has determined for the first five-year period the rule is in effect, there will be no significant fiscal implication initially to state and local governments as a result of enforcing or administering the rule as proposed. The work and associated costs will be done with existing resources. To curtail costs, manual resources will initially be used for data capture and program tracking, but if funds become available, a more robust database may be developed that allows producers to enter data through a web-based portal that also link to the Texas Veterinary Medical Diagnostic Laboratory (TVMDL) for direct transfer of laboratory results. The cost of such a database has not been fleshed out completely, but the cost is believed to be significant. The commission has requested an exceptional item for the upcoming budget cycle for CWD related staffing and expenses. The full amount requested through the Legislative Appropriations Request is \$1,141,796 for Fiscal Years 2018 and 2019. It is anticipated that a portion of this request could be used to administer the proposed rule if the exceptional item is funded.

The commission believes there will be no significant adverse economic implications on persons, or small and micro-businesses. It is estimated that compliance with the proposed amendments will cost a small or micro-business at or around \$300.00 per year to comply with the requirements stated in the proposal.

### *Small and Micro-business Impact Analysis*

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. These guidelines state that “[g]enerally, there is no need to examine the indirect effects of a proposed rule on entities outside of an agency's regulatory jurisdiction.” The guidelines state that an agency need only consider a proposed rule's “direct adverse economic impacts” to small businesses and micro-businesses to determine if any further analysis is required. The guidelines also list examples of the types of costs that may result in a “direct economic impact.” Such costs may include costs associated with additional recordkeeping or reporting requirements; new taxes or fees; lost sales or profits; changes in market competition; or the need to purchase or modify equipment or services.

Government Code, §2006.001(1), defines a small or micro-business as a legal entity “formed for the purpose of making a profit” and “independently owned and operated.” A micro-business is a business with 20 or fewer employees. A small business is defined as a business with fewer than

100 employees, or less than \$6 million in annual gross receipts. Although the commission is not able to adequately identify all the variations in which a business may be required to test tissue samples from an Exotic CWD Susceptible Species mortality, it is believed that most of these operations would qualify as a small or micro-business. Since the rule, as proposed, could impact these operations that engage in business activities for the purposes of generating a profit, the commission has carefully considered the rule and its impact on a business's profitability.

Because of the variety of business models within the state that may potentially be involved in a business enterprise that will be required to test eligible mortalities of Exotic CWD Susceptible Species, meaningful estimates of potential adverse economic impacts are difficult to assess.

It should also be noted that some aspects of this analysis are based on anticipated marketplace behavior which cannot be accurately predicted. In addition, to the extent that any marketplace analysis can be conducted, it is difficult, if not impossible, to accurately separate and distinguish marketplace behavior that is the result of the proposed new rule from marketplace behavior that is the result of the discovery of CWD in Texas.

The purpose of this rule is not to adversely affect small business, but rather to protect valuable statewide resources through surveillance, which assesses the risk of further CWD being discovered. Surveillance testing is a key, critical component to determine to early detection of the disease and also the monitoring of the disease presence and prevalence in all areas of the state where CWD susceptible species exist. A strong surveillance system also supports Texas' animal industries and their marketability. An inadequate surveillance program promotes the unnoticed spread of disease and ultimately makes the task of disease containment exponentially more difficult. In the current environment, the mobility and transportation of agricultural animals throughout the state and country has greatly increased the spread of disease and makes risk mitigation more difficult and complex.

The commission has a voluntary CWD Certified Status Program which requires 100% testing of all mortalities in order to maintain and advance in status. The cost of testing is assumed by the herd owner. The requirements for this program are located in §40.3. Though the white-tailed deer population in Texas has had significant historical surveillance, fewer than 10 elk, red deer or Sika deer herds have participated in a CWD monitoring program in the past.

It is also impossible to properly estimate the number of small businesses subject to the proposed rule. Elk, Sika deer, and red deer are classified as exotic livestock and there is no registration, which makes it pragmatically impossible for the commission to properly estimate who owns or maintains these species. Texas has an estimated 2,000 animals which are considered Exotic CWD Susceptible Species that are maintained on private property behind high fences.

The proposed amendments would result in no significant adverse economic implications to someone who must undertake the disease-testing requirements to continue certain activities. The estimated cost of meeting the testing requirements is \$100 per animal or \$300 per year. This cost includes submission of two tissue samples to the TVMDL in College Station, Texas, submission fee, head disposal fee (if whole head submitted), plus veterinary or sample collector fees, and the costs associated with record keeping.

### *Proposed Methods of Reducing Adverse Economic Impact on Small and Micro-businesses*

In the development of the proposed rule, there was significant discussions among stakeholder groups and commission staff. Several alternatives were raised, discussed and/or considered to achieve the goals of the proposed new rules while reducing potential adverse economic implications on small and micro-businesses and persons required to comply.

One alternative that was actively discussed by the group was the use of antemortem testing of these species in order to obtain adequate surveillance. This is a live animal test that has not yet been properly validated and there is no data on this type of test for Sika and red deer. Additionally, test sensitivity for antemortem testing was discussed, which means early cases of the disease will likely be missed by the test. Trapping of these animals for testing is difficult, particularly when they must be held before movement to await test results. To capture these animals they would need to utilize anesthesia, which also raises the concern of Capture Myopathy. This type of test would increase the adverse economic impact on small and micro-businesses because it is more expensive than the postmortem official test.

The second alternative considered was to increase surveillance efforts by authorizing movement between high fences only and requiring a certain number of test samples before animals could be moved. This would require a herd size determination or a herd inventory estimate before the number of required samples could be determined. This alternative would not eliminate the economic implications because testing would be required and record keeping would be increased.

Another alternative considered was to initiate a slaughter testing requirement. If this alternative was used, it was discussed that the first 15 animals/carcasses sent to slaughter would be CWD tested. The group determined that this alternative would not be an effective surveillance effort because of the small numbers of Exotic CWD Susceptible Species that are sent to slaughter each year would not provide an adequate statewide surveillance that is both equitable and epidemiologically sound.

The proposed model for disease surveillance as included in this proposed rule is proven. The commission has used this type model to identify other species of animals that have been potentially exposed to a disease of concern, but in the vast majority of disease efforts, the testing is performed on a live animal with results disclosed in a relatively short period of time. Live animal testing allows the agency to identify the disease exposure and accordingly take appropriate veterinary response. Because the official test for CWD is postmortem based, the commission has no control or alternative in testing eligible mortalities.

### **PUBLIC BENEFIT NOTE**

Ms. Schmidt has also determined that for each of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be a reduction of the probability of CWD being spread from locations where it might currently exist by having increased surveillance, which will protect Exotic CWD Susceptible Species from a serious disease risk. The commission believes that there is also a collateral benefit of protection from disease spread

in captive herds, thus helping to maintain the economic viability of captive herd owners and allowing for the continued enjoyment of the resource.

## **LOCAL EMPLOYMENT IMPACT STATEMENT**

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed rule will not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission.

## **TAKINGS ASSESSMENT**

The agency has determined that the proposed governmental action will not affect private real property. The proposed amendments are an activity related to the handling of animals, including requirements for testing, movement, inspection, identification, reporting of disease, and treatment, in accordance with 4 TAC §59.7, and are, therefore, compliant with the Private Real Property Preservation Act in Government Code, Chapter 2007.

## **REQUEST FOR COMMENT**

Comments regarding the proposal may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at “comments@tahc.texas.gov”.

## **STATUTORY AUTHORITY**

The amendments are proposed under the following statutory authority as found in Chapter 161 of the Texas Agriculture Code. The commission is vested by statute, §161.041(a), with the requirement to protect all livestock, domestic animals, and domestic fowl from disease. The commission is authorized, through §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock.

Pursuant to §161.005, entitled “Commission Written Instruments”, the commission may authorize the executive director or another employee to sign written instruments on behalf of the commission. A written instrument, including a quarantine or written notice signed under that authority, has the same force and effect as if signed by the entire commission.

Pursuant to §161.006, entitled “Documents to Accompany Shipment”, if required that a certificate or permit accompany animals or commodities moved in this state, the document must be in the possession of the person in charge of the animals or commodities, if the movement is made by any other means.

Pursuant to §161.0415, entitled “Disposal of Diseased or Exposed Livestock”, the commission by order may require the slaughter of livestock, under the direction of the commission, or the sale of livestock for immediate slaughter.

Pursuant to §161.0417, entitled “Authorized Personnel for Disease Control”, a person, including a veterinarian, must be authorized by the commission in order to engage in an activity that is part of a state or federal disease control or eradication program for animals. Section 161.0417 requires the commission to adopt necessary rules for the authorization of such persons and, after reasonable notice, to suspend or revoke a person's authorization if the commission determines that the person has substantially failed to comply with Chapter 161 or rules adopted under that chapter. Section 161.0417 does not affect the requirement for a license or an exemption under Chapter 801, Occupations Code, to practice veterinary medicine.

Pursuant to §161.046, entitled “Rules”, the commission may adopt rules as necessary for the administration and enforcement of this chapter.

Pursuant to §161.048, entitled “Inspection of Shipment of Animals or Animal Products”, the commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. An agent of the commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state in order to determine if the shipment originated from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or noncommunicable disease.

Pursuant to §161.049, entitled “Dealer Records”, the commission may require a livestock, exotic livestock, domestic fowl, or exotic fowl dealer to maintain records of all livestock, exotic livestock, domestic fowl, or exotic fowl bought and sold by the dealer.

Pursuant to §161.054, entitled “Regulation of Movement of Animals”, the commission, by rule, may regulate the movement of animals. The commission may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce.

Pursuant to §161.0541, entitled “Elk Disease Surveillance Program”, the commission by rule may establish a disease surveillance program for elk.

Pursuant to §161.0545, entitled “Movement of Animal Products”, the commission may adopt rules that require the certification of persons who transport or dispose of inedible animal products, including carcasses, body parts, and waste material. The commission by rule may provide terms and conditions for the issuance, renewal, and revocation of a certification under this section.

Pursuant to §161.055, entitled “Slaughter Plant Collection”, the commission may require slaughter plants to collect and submit blood samples and other diagnostic specimens for testing for disease.

Pursuant to §161.056(a), entitled “Animal Identification Program”, the commission, in order to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal



identification program. Section 161.056(d) authorizes the commission to by a two-thirds vote adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.057, entitled “Classification of Areas”, the commission by rule may prescribe criteria for classifying areas in the state for disease control. The criteria must be based on sound epidemiological principles. The commission may prescribe different control measures and procedures for areas with different classifications.

Pursuant to §161.061, entitled “Establishment”, if the commission determines that a disease listed in §161.041 of this code or an agency of transmission of one of those diseases exists in a place in this state or among livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl, or that a place in this state or livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl are exposed to one of those diseases or an agency of transmission of one of those diseases.

Pursuant to §161.101, entitled “Duty to Report”, a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the diseases, if required by the commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease.

No other statutes, articles or codes are affected by the proposal.

#### **40.5. Surveillance and Movement Requirements for Exotic CWD Susceptible Species.**

(a) Definitions:

(1) Eligible Mortality--~~The death from any cause of an Exotic CWD Susceptible Species that is 16 months of age or older. This includes hunter harvest on the premises, natural mortalities on the premises, or animals moved directly to slaughter. Captive CWD Susceptible Species--A CWD-susceptible species captured or privately or publicly maintained or held within a perimeter fence or confined area that is designed to retain the CWD-susceptible species under normal conditions at all times.~~

(2) Exotic CWD Susceptible Species--A non-native cervid species determined to be susceptible to CWD, which means a species that has had a diagnosis of CWD confirmed by means of an official test conducted by a laboratory approved by USDA/APHIS. This includes North American elk or wapiti (*Cervus Canadensis*), red deer (*Cervus elaphus*), Sika deer (*Cervus Nippon*), moose (*Alces alces*), and any associated subspecies and hybrids. All mule deer, white-tailed deer, and other native species under the jurisdiction of the Texas Parks and Wildlife Department are excluded from this definition and application of this section.

~~(3) Free-Ranging CWD Susceptible Species--Any CWD-susceptible species that is not captured or contained within a fence intended to retain CWD-susceptible species under normal conditions at all times.~~

~~(3)~~ (4) Premises--A physical location(s) which is contiguous, that is under common ownership or management, and represents a unique and describable geographic location.

~~(4)~~ (5) Transport--Movement of an Exotic CWD Susceptible Species animal from one non-contiguous property or premises to another.

(b) Surveillance Requirements. Each calendar year, the owner of a premises shall have all eligible mortalities CWD tested until such time that three animals are tested and valid test results are obtained. The owner of the premises shall ensure that the CWD samples are properly collected and submitted in compliance with the collections requirements. The owner must report the test results to the commission within 30 days of receiving the test results. In order to transport or move a CWD-susceptible species live within the state the person controlling the CWD-susceptible species shall meet one of the following:

(1) test 20% percent of mortalities of all CWD-susceptible species, maintained on a premise; or  
(2) have status with the Commission in a herd-certification program in accordance with the requirements of §40.3 of this chapter (relating to Herd Status Plans for Cervidae); or  
(3) be moved directly from the premises where they were trapped or held to a recognized slaughter facility. A recognized slaughter facility is a slaughter facility operated under the state or federal meat inspection laws and regulations.

(c) Movement Reporting and Identification Requirements. Premise Identification. In order to move a CWD-susceptible species from or to a premise which has surveillance, as required under subsection (b) of this section, the location must obtain a "Premises Identification Number (PIN)". A PIN means a unique official seven-character alpha-numeric identification code issued under this chapter to identify a specific and unique premises. Separate geographic physical locations that are under common ownership and management and on which commingling of animals occurs may be registered as one premises.

(1) Live Exotic CWD Susceptible Species moved or transported within the state shall be identified with an official identification device, which may include an eartag that conforms to the USDA alphanumeric national uniform ear tagging system, is a visible and legible animal identification number (AIN) or other identification methods approved by the commission, including a RFID device.

(2) In order to move live Exotic CWD Susceptible Species to or from a premises, the owner must obtain a Premises Identification Number (PIN). A PIN means a unique official seven-character alphanumeric identification code issued under this chapter to identify a specific and unique premises.

(3) An owner of a premises where Exotic CWD Susceptible Species are located within a high fence shall keep herd records that include an annual inventory and mortality records for all Exotic CWD Susceptible Species. The inventory shall be submitted to the commission on or before April 1 of each year.

(4) A complete movement record for all live Exotic CWD Susceptible Species that are moved onto or off of a premises shall be submitted to the commission, either in hard or electronic copy on forms provided or authorized by the commission. The person moving the Exotic CWD Susceptible Species must have documentation with the Exotic CWD Susceptible Species being moved to show compliance with the requirements of this subsection. A copy of this documentation must be provided to any market selling these species. Such record shall be submitted within 48 hours of the movement. Movement reporting shall be directed to the commission by either writing to Texas Animal Health Commission, CWD Susceptible Species Reporting, P.O. Box 12966, Austin, Texas 78711-2966; or by fax to (512) 719-0729; or by email to [CWD\\_reports@tahc.texas.gov](mailto:CWD_reports@tahc.texas.gov).

(d) Testing Requirements. CWD test samples shall be collected and submitted to an official laboratory for CWD diagnosis using a USDA validated test for all eligible mortalities. The samples may be collected by a state or federal animal health official, an accredited veterinarian,

or a Certified CWD Postmortem Sample Collector. Tissue samples shall be the obex and a retropharyngeal lymph node from each animal tested. Inventory. An annual inventory shall be verified/accounted/certified by TAHC personnel. The herd owner shall maintain herd records that include a complete inventory of animals with documents showing all test results for those animals that died and were tested.

(e) Test Reporting. The owner shall report all test results to the commission within 30 days of receiving the test results by either writing to Texas Animal Health Commission, CWD Susceptible Species Reporting, P.O. Box 12966, Austin, Texas 78711-2966; or by fax to (512) 719-0729; or by email to [CWD\\_reports@tahc.texas.gov](mailto:CWD_reports@tahc.texas.gov).

Identification Requirements. CWD susceptible species moved or transported within the state shall be identified with an official identification device, which may include an ear tag that conforms to the USDA alphanumeric national uniform ear tagging system, which is a visible and legible animal identification number (AIN) or other identification methods approved by the Commission, including a RFID Device.

(f) Mortality Record Keeping. Testing Requirements. CWD test samples shall be collected and submitted to an official laboratory for CWD diagnosis using a United States Department of Agriculture (USDA) validated test for animals that are 16 months of age or older and from the same population as the CWD susceptible species being moved. Test reporting shall be directed to the appropriate TAHC Regional Office. The samples may be collected by a state or federal animal health official, an accredited veterinarian, or a Certified CWD Sample Collector. Tissue samples may be either the obex or a retropharyngeal lymph node from each animal being tested.

(1) The owner of a premises where an Exotic CWD Susceptible Species eligible mortality occurs shall maintain the following mortality records:

(A) the date the Exotic CWD Susceptible Species dies or was harvested;

(B) the species, age, and sex of the animal;

(C) any RFID or NUES tag number affixed to the animal; and

(D) any other identification number, official or unofficial, on the animal.

(2) The mortality records shall be made available upon request to any commission employee acting in the performance of official duties.

(3) The mortality records shall be submitted to the commission on or before April 1 of each year by either writing to Texas Animal Health Commission, CWD Susceptible Species Reporting, P.O. Box 12966, Austin, Texas 78711-2966; or by fax to (512) 719-0729; or by email to [CWD\\_reports@tahc.texas.gov](mailto:CWD_reports@tahc.texas.gov).

(4) The mortality records shall be on a form provided or approved by the commission and shall be retained for a period of one year following submission to the commission.

(g) Inspection. In order to ensure compliance with these rules, a premises where Exotic CWD Susceptible Species are located may be inspected by the commission or authorized agents of the commission. Test reporting. Test results shall be directed to the Commission by either writing to Texas Animal Health Commission, c/o CWD Susceptible Species Reporting, P.O. Box 12966, Austin, Texas 78711-2966; or by fax to (512) 719-0729; or by e-mail to [CWD\\_movement@tahc.texas.gov](mailto:CWD_movement@tahc.texas.gov).

(h) Dealer Requirements. A dealer is a person engaged in the business of buying or selling Exotic CWD Susceptible Species in commerce on the person's own account, as an employee or agent of a vendor, purchaser, or both, or on a commission basis. To maintain separate herd status for the animals a dealer sells, a dealer shall maintain separate herd facilities and separate water sources; there shall be at least 30 feet between the perimeter fencing around separate herds; and no commingling of animals may occur. Movement of animals between herds must be recorded as

if they were separately owned herds. A dealer shall maintain records for all Exotic CWD Susceptible Species transported within the state or where there is a transfer of ownership, and provide these to commission personnel upon request. Records required to be kept under the provisions of this section shall be maintained for not less than five years and shall include the following information:

- (1) Owner's name;
- (2) Location where the animal was sold or purchased;
- (3) Official ID and/or Ranch tag (additional field for retag);
- (4) Gender and age of animal;
- (5) Source of animal (if purchased addition);
- (6) Movement to other premises; and
- (7) Disposition.

~~(h) Movement Reporting Requirements. A movement request for all CWD-susceptible species that are moved onto or off of premises shall be submitted to the Commission, either in hard copy on forms provided or authorized by the Commission, or an electronic copy. The person moving the CWD-susceptible species must have documentation with the CWD-susceptible species being moved to show compliance with the requirements of this subsection. A copy of this documentation must be provided to any market selling these species. Such report shall be submitted within 48 hours of the movement. Movement reporting shall be directed to the Commission by either writing to Texas Animal Health Commission, c/o CWD-Susceptible Species Reporting, P.O. Box 12966, Austin, Texas 78711-2966; or by fax to (512) 719-0729; or by e-mail to CWD\_movement@tahc.texas.gov. The movement report shall include the following information:~~

- ~~(1) PIN for premises of origin;~~
- ~~(2) PIN for premises of the destination;~~
- ~~(3) Number of CWD-susceptible species being moved;~~
- ~~(4) Official individual identification device number;~~
- ~~(5) Other official or unofficial identification numbers;~~
- ~~(6) Age/Gender; and~~
- ~~(7) Test results from the testing laboratory.~~

~~(i) Record Keeping. The buyer and seller must maintain records for all CWD-susceptible species transported within the state or where there is a transfer of ownership, and provide those to Commission personnel upon request. Records required to be kept under the provisions of this section shall be maintained for not less than five years. The records shall include the following information:~~

- ~~(1) Owner's name;~~
- ~~(2) Location where the animal was sold or purchased;~~
- ~~(3) Official ID and/or Ranch tag (additional field for retag);~~
- ~~(4) Gender and age of animal;~~
- ~~(5) Source of animal (if purchased addition);~~
- ~~(6) Movement to other premises; and~~
- ~~(7) Disposition.~~

~~(j) Inspection. In order to authorize movement, a premise where CWD-susceptible species are located may be inspected by the Commission or authorized agents of the Commission.~~

~~(k) Dealer Requirements. A dealer is a person engaged in the business of buying or selling CWD-susceptible species in commerce on the person's own account, as an employee or agent of a~~

vendor, purchaser, or both, or on a commission basis. To maintain separate herd status for the animals a dealer sells, a dealer shall maintain separate herd facilities; separate water sources; there shall be at least 30 feet between the perimeter fencing around separate herds; and no commingling of animals may occur. Movement of animals between herds must be recorded as if they were separately owned herds. A dealer shall maintain records in accordance with this section.