

**Department of Agriculture
Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted at 10:00 a.m. Thursday, August 14, 2014, in the 1st floor conference room of the Kansas Department of Agriculture, 1320 Research Park Dr., Manhattan, to consider the adoption of a proposed regulation.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Agriculture, 1320 Research Park Dr., 1st Floor, Manhattan, KS 66502, or by e-mail at leslie.garner@kda.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. The regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and economic impacts follows:

- K.A.R. 9-29-1 through 9-29-15. These proposals revoke obsolete regulations.
- K.A.R. 9-3-6. Definitions used in regulations.
- K.A.R. 9-3-7. Sets licensing fee levels and set fees for each level.
- K.A.R. 9-3-8. Identification requirements for all licensed cervid herds.
- K.A.R. 9-3-9. Requirements for importation of domesticated cervids from other states
- K.A.R. 9-3-10. Change of ownership testing requirements for Brucellosis for domesticated cervids changing ownership in Kansas, and requirements for herds should brucellosis be found in a Kansas domesticated cervid herd.
- K.A.R. 9-3-11. Change of ownership testing requirements for Tuberculosis for domesticated cervids changing ownership in Kansas, and requirements for herds should Tuberculosis be found in a Kansas domesticated cervid herd
- K.A.R. 9-3-12. Fencing requirements for containment and minimum requirements for feeding, watering, and handling of domesticated cervids.
- K.A.R. 9-3-13. Reporting requirements in the event a domesticated cervid escapes confinement.
- K.A.R. 9-3-14. Requirements for the handling, care, treatment and transportation of domesticated cervids. (Adopts by reference provisions of the Code of Federal Regulations)
- K.A.R. 9-3-15. Requirements for participation in the chronic wasting disease (CWD) program.
- K.A.R. 9-3-16. Defines CWD program levels and how they are attained and maintained.
- K.A.R. 9-3-17. Requirements should a CWD infected herd be found in Kansas.

Economic Impact upon KDA:

- K.A.R. 9-3-6 will have no economic impact.
- K.A.R. 9-3-7 will bring estimated additional revenue of approximately \$1,200 to KDA through increases in license fees and changes in fee structure.
- K.A.R. 9-3-8 will be no economic impact.
- K.A.R. 9-3-9 will be no economic impact.
- K.A.R. 9-3-10, K.A.R. 9-3-11 and K.A.R. 9-3-17. Presence of Brucellosis, Tuberculosis or Chronic Wasting Disease in a Kansas cervid herd would require increased administrative and field staff duties due to the need to test or account for animal movement into, out of and surrounding infected herds.
- K.A.R. 9-3-12 allows inspections of all licensed domesticated cervid operations. Each inspection and inventory will entail mileage and time from the KDA area field staff.

K.A.R. 9-3-13 will have no economic impact.

K.A.R. 9-3-14 will have no economic impact.

K.A.R. 9-3-15 and 9-3-16 will require all herds in the Chronic Wasting Disease Program to have a herd inspection and herd inventory reconciled yearly. Each inspection and inventory will entail mileage and time from the KDA area field staff.

Economic Impact upon other governmental agencies and upon private business or individuals:

K.A.R. 9-3-6 will have no economic impact.

K.A.R. 9-3-7 will have financial impact on domesticated cervid producers in an amount based on the applicable fee level.

K.A.R. 9-3-8 will have the time required to maintain records and the cost of identification tags.

K.A.R. 9-3-9 will cost the out-of-state domesticated cervid producers the cost of having a veterinarian inspect, conduct necessary testing and to write a certificate of veterinary inspection on the animals to be shipped to Kansas.

K.A.R. 9-3-10, K.A.R. 9-3-11 and K.A.R. 9-3-17 will require Kansas cervid producers who are selling live animals not moving direct to slaughter to either have paid an accredited veterinarian to test their herds as part of becoming a Brucellosis certified or Tuberculosis Accredited free herd, or to pay an accredited veterinarian to test each adult animal prior to change of ownership.

K.A.R. 9-3-12 will require producers to incur the cost of building and maintaining fences of the appropriate height for the species and handling facilities for their domesticated cervids, as well as the cost of providing feed and water to their animals.

K.A.R. 9-3-13 only applies to operators who allow animals to escape. Operators may not only be responsible for the cost in recapturing escaped animals, but also may lose the animal and any value associated with it should it be deemed a disease threat.

K.A.R. 9-3-14 will have no economic impact.

K.A.R. 9-3-15 and K.A.R. 9-3-16 will have no economic impact.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and impact statements in an accessible format.

Requests for accommodations should be made at least five working days in advance of the hearing by contacting Leslie Garner at (785) 564-6700. Handicapped parking is located on the west entrance to the building.

Copies of the regulation and the economic impact statement may be obtained by contacting the Department of Agriculture, Leslie Garner, 1320 Research Park Dr., 1st Floor, Manhattan, KS 66502 or (785) 564-6700 or by accessing the department's Web site at <http://agriculture.ks.gov>. Comments may also be made through our website under the proposed regulation.

Jackie McClaskey
Secretary of Agriculture

Economic impact statement and regulations below:

**KANSAS DEPARTMENT OF AGRICULTURE
IMPACT STATEMENT**

Revoked and New Permanent Regulation

**K.A.R. 9-29-1; 9-29-2; 9-29-3; 9-29-4; 9-29-5; 9-29-6; 9-29-7; 9-29-8; 9-29-9; 9-29-10;
9-29-11; 9-29-12; 9-29-13; 9-29-14; 9-29-15; 9-3-6; 9-3-7; 9-3-8; 9-3-9; 9-3-10; 9-3-11;
9-3-12; 9-3-13; 9-3-14; 9-3-15; 9-3-16; and 9-3-17**

Summary of Proposed Regulation, Including Its Purpose.

K.A.R. 9-29-1 through 9-29-15 - These proposals revoke obsolete regulations.

K.A.R. 9-3-6 - Definitions used in regulations.

K.A.R. 9-3-7 – Sets licensing fee levels and set fees for each level.

K.A.R. 9-3-8 – Identification requirements for all licensed cervid herds.

K.A.R. 9-3-9– Requirements for importation of domesticated cervids from other states

K.A.R. 9-3-10 –Change of ownership testing requirements for Brucellosis for domesticated cervids changing ownership in Kansas, and requirements for herds should brucellosis be found in a Kansas domesticated cervid herd.

K.A.R. 9-3-11 - Change of ownership testing requirements for Tuberculosis for domesticated cervids changing ownership in Kansas, and requirements for herds should Tuberculosis be found in a Kansas domesticated cervid herd

K.A.R. 9-3-12 – Fencing requirements for containment and minimum requirements for feeding, watering, and handling of domesticated cervids.

K.A.R. 9-3-13 – Reporting requirements in the event a domesticated cervid escapes confinement.

K.A.R. 9-3-14 – Requirements for the handling, care, treatment and transportation of domesticated cervids. (Adopts by reference provisions of the Code of Federal Regulations)

K.A.R. 9-3-15 – Requirements for participation in the chronic wasting disease (CWD) program.

K.A.R. 9-3-16 – Defines CWD program levels and how they are attained and maintained.

K.A.R. 9-3-17 – Requirements should a CWD infected herd be found in Kansas.

Reason Or Reasons The Proposed Regulation Is Required, Including Whether Or Not The Regulation Is Mandated By Federal Law.

K.A.R. 9-3-6 – This section defines terms used in the domesticated cervid regulations. Some definitions are required to comply with federal standards as prescribed in 9 C.F.R. Parts 55 and 81.

K.A.R. 9-3-7 – This section establishes licensing fee levels and sets fees for each level. Fees are set in order to ensure the self sufficiency of the domesticated cervid program. There are no applicable federal requirements.

K.A.R. 9-3-8 – This section is necessary so producers are aware of requirements for identification and record keeping in all licensed cervid herds. Official identification at change of ownership is required under 9 C.F.R. Part 55 not only for herds participating in the CWD program, but also all other domesticated cervids.

K.A.R. 9-3-9 – This section is necessary so out-of-state veterinarians and domesticated cervid owners are aware of requirements to bring animals into Kansas, and thus protect our domesticated cervid industry. Aside from receiving a permit from the Kansas Department of Agriculture, Division of Animal Health (KDAH) prior to movement into the state, these are also required under 9 C.F.R. Part 77.

K.A.R. 9-3-10 – This section is necessary to ensure Brucellosis is not transmitted among domesticated cervid populations in Kansas. This is not a federal requirement as it pertains only to intrastate movement.

K.A.R. 9-3-11 – This section is necessary to detect and prevent the spread of Tuberculosis within domesticated cervid herds with potential spread to adjacent wild cervids or domestic cattle. As this pertains to intrastate movement only, it is not a federal requirement. However, Tuberculosis is endemic to wild cervids in many states, and has been found in one domesticated cervid herd in Kansas.

K.A.R. 9-3-12 – This section is necessary to determine fence height requirements for most types of domesticated cervids, and how the fencing is to be maintained. It also specifies requirements for handling facilities, as well as minimum feeding, watering and sheltering. These are federal requirements under 9 C.F.R. Part 55 only for participants in the CWD program, but through this regulation will be part of normal management practices for all herds.

K.A.R. 9-3-13 – This section is needed so owners are aware of the necessity and time frame of reporting escaped animals, and potential consequences should such an escape occur. This is a federal requirement under 9 C.F.R. Part 55 only for participants in the CWD program.

K.A.R. 9-3-14 – This section specifies requirements for domesticated cervid husbandry and transport.

K.A.R. 9-3-15 – This section is necessary to detail requirements to participate in the CWD Program. Though technically a voluntary program, producers wanting to move live cervids interstate are required to be a participant in an approved CWD program under 9 C.F.R. Part 81.

K.A.R. 9-3-16 – This section is needed to define advancement and maintenance in the CWD program. This is a requirement for Kansas to be recognized by The United States Department of Agriculture, Animal and Plant Health Inspection Service, as a CWD compliant state. Without this designation by USDA/APHIS, Kansas producers would be unable to move live animals interstate.

K.A.R. 9-3-17 – This section is necessary so producers and the domesticated cervid industry are aware of what will be required of a Kansas herd affected with CWD. These steps are mandated under 9 CFR Part 55 for Kansas to remain a CWD complaint state.

Anticipated Economic Impact Upon The Kansas Department Of Agriculture.

The following Proposed regulations should have no economic impact on KDA.

K.A.R. 9-3-6, K.A.R. 9-3-8, K.A.R. 9-3-9, K.A.R. 9-3-13, and K.A.R. 9-3-14

K.A.R. 9-3-7 will bring an estimated additional revenue of approximately \$1,200 to KDA through increases in license fees and changes in fee structure. The 3 tiered fee structure was suggested by the cervid breeders. The actual fees may not be high enough to ensure the immediate self-sufficiency of this program, but the fees were set in consultation with the cervid breeders. This was done in an attempt to not make such a drastic change in structure as to put breeders out of business or send them under ground.

K.A.R. 9-3-10, K.A.R. 9-3-11 and K.A.R. 9-3-17 are in place to prevent the potentially significant negative economic impacts should Brucellosis, Tuberculosis or Chronic Wasting Disease infected domesticated cervid herds be found. Presence of these diseases in a Kansas cervid herd would require increased administrative and field staff duties due to the need to test or account for animal movement into, out of and surrounding infected herds.

K.A.R. 9-3-15 and 9-3-16 will require all herds in the Chronic Wasting Disease Program to have a herd inspection and herd inventory reconciled yearly. K.A.R. 9-3-12 allows inspections of all licensed domesticated cervid operations. Each inspection and inventory will entail mileage and time from the KDA area field staff, averaging an estimate of 175 miles roundtrip per inspection and approximately 6 hours of inspection, inventory reconciliation and data entry time per herd.

Anticipated Financial Impact Upon Other Governmental Agencies And Upon Private Business Or Individuals.

K.A.R. 9-3-6 should have no financial impact on private individuals or other governmental agencies.

K.A.R. 9-3-7 will have financial impact on domesticated cervid producers in an amount based on the applicable fee level.

K.A.R. 9-3-8 aside from the time required to maintain records, the other expense to producers is the cost of identification. Plastic tags can be purchased for secondary identification at local farm supply stores for about \$.75/tag. Official identification such as radio frequency identification (RFID) can be purchased from a number of farm supply stores at a cost varying from \$2.00 - \$2.50 each, while USDA plastic tags can be purchased for about \$1.10 apiece. However metal National Uniform Eartagging System (NUES) Tags can be obtained by owners free of charge from distributors in Kansas. If a producer uses the least cost method of a metal NUES tag and generic plastic numbered tag, the cost would be approximately \$.75 per head to identify them as required by this regulation.

K.A.R. 9-3-9 will cost the out-of-state domesticated cervid producers the cost of having a veterinarian inspect, conduct necessary testing and to write a certificate of veterinary inspection on the animals to be shipped to Kansas. This cost will vary dramatically depending on the veterinarian and the difficulty of obtaining the official identification of these animals. If the official identification is already known due to recent handling or testing of animals, this is generally going to be the cost of a farm visit to visually examine the animals and whatever time it takes to actually write a certificate of veterinary inspection. This is estimated to be \$50-\$200, depending on the time, distance and charging practices of the individual veterinarian.

K.A.R. 9-3-10 and K.A.R. 9-3-11 will require Kansas cervid producers who are selling live animals not moving direct to slaughter to either have paid an accredited veterinarian to test their herds as part of becoming a Brucellosis certified or Tuberculosis Accredited free herd, or to pay an accredited veterinarian to test each adult animal prior to change of ownership. The cost of this will again vary a great deal depending on the individual veterinarian's fee structure, the distance they travel, the time it takes to conduct testing, and the cost of laboratory testing fees.

Most veterinarians are going to need to charge at least \$100/hour to even break even for their time. Brucellosis tests at KSVDL are \$3/each while blood testing for TB runs about \$25/test at NVSL in Ames, IA. The alternative for TB testing is to inject TB antigen in the cervid on one

day, then have the veterinarian return and run all animals back through chute and read the results of the test 3 days later, meaning 2 farm trips by the veterinarian, and 2 trips through the handling facilities for the cervids.

It is important to note that cervids in a TB accredited free and Brucellosis certified free need to test their entire herd one year apart, for 2 consecutive years, then are only required to test the herd once every 3 years to maintain these certifications. These are exceptions that are not given to other livestock species.

K.A.R. 9-3-12 will require producers to incur the cost of building and maintaining fences of the appropriate height for the species and handling facilities for their domesticated cervids, as well as the cost of providing feed and water to their animals. These would be considered normal management operations for any species held in confinement. Costs are estimated between \$4.50 and \$8.00 per foot of fence depending on fence height, type and lay of ground, and type of fencing used.

K.A.R. 9-13-13 only applies to operators who allow animals to escape. Operators may not only be responsible for the cost in recapturing escaped animals, but also may lose the animal and any value associated with it should it be deemed a disease threat.

Some costs that could be associated with this could be the hourly wages for Game Wardens or other KDWPT personnel to find the escaped animals and destroy it if necessary. The loss to the owner will depend on the individual value of the animal that escaped, which could range from a few hundred dollars for a grade whitetail doe, to thousands of dollars for a elk bull or whitetail buck whose semen is sold throughout the country.

K.A.R. 9-3-17 would have varying financial impact on the herd(s) affected by CWD. Breeding operations would be most heavily affected as all live domesticated cervid movement would be restricted under the terms of the herd agreement for a minimum of five years after CWD was determined to be in the herd. Finding a CWD infected domesticated cervid will affect the Kansas Department of Wildlife and Tourism as they will be monitoring wild cervid populations in areas surrounding the affected herd(s). The amount of this impact would be difficult to determine as it depends largely on the wild cervid density in a given area.

Less Costly or Intrusive Methods That Were Considered, But Rejected, And The Reason For Rejection.

There was some question as to whether K.A.R. 9-3-10 pertaining to testing for Brucellosis was necessary as Kansas has not had a case of Brucellosis (*Brucella abortus*) in livestock since 1999. However, nearly all states still require this testing and most of what little transmission of Brucellosis that does occur is near Yellowstone national park via Elk. The overriding concern is that if Kansas fails to implement these requirements, Brucellosis may be discovered only after it begins to affect other domesticated cervid herds or nearby cattle or bison operations.

VI. Environmental Impact

The Kansas Department of Agriculture, Division of Animal Health can determine no environmental impact through the passage of these regulations.

K.A.R. 9-29-1, 9-29-2, and 9-29-3. (Authorized by and implementing K.S.A. 47-2101; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-4. (Authorized by K.S.A. 1996 Supp. 47-607 and K.S.A. 47-607d; implementing K.S.A. 1996 Supp. 47-607 and K.S.A. 47-607a; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-5. (Authorized by K.S.A. 1996 Supp. 47-607, K.S.A. 47-607d, 47-610, 47-611, and 47-657; implementing K.S.A. 1996 Supp. 47-607, K.S.A. 47-608, 47-610, 47-612, 47-614, and 47-657; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-6. (Authorized by K.S.A. 1998 Supp. 47-607, K.S.A. 47-607d, 47-610, 47-611, and 47-631; implementing K.S.A. 1998 Supp. 47-607, K.S.A. 47-608, 47-610, 47-612, 47-614, 47-631, 47-632, 47-633a, 47-634, and K.S.A. 1998 Supp. 47-635; effective Jan. 23, 1998; amended July 2, 1999; revoked P-_____.)

K.A.R. 9-29-7. (Authorized by K.S.A. 47-2101; implementing K.S.A. 47-122; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-8. (Authorized by K.S.A. 47-610; implementing K.S.A. 47-122, 47-610 and 47-614; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-9. (Authorized by K.S.A. 1996 Supp. 47-607, 47-607d, 47-610, 47-611, 47-631, and 47-657; implementing K.S.A. 1996 Supp. 47-607, K.S.A. 47-610, 47-631, and 47-657; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-10. (Authorized by K.S.A. 47-607d; implementing K.S.A. 47-608 and 47-2101; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-11. (Authorized by K.S.A. 47-607d, 47-610, and 47-631; implementing K.S.A. 47-608, 47-610, 47-611 and 47-631; effective Jan. 23, 1998; revoked P-_____.)

K.A.R. 9-29-12, 9-29-13, and 9-29-14. (Authorized by K.S.A. 47-607d, 47-610, and 47-2101, as amended by L. 2001, Ch. 5, Sec. 176; implementing K.S.A. 47-610 and 47-2101, as amended by

L. 2001, Ch. 5, Sec. 176; effective Jan. 18, 2002; revoked P-_____.)

K.A.R. 9-29-15. (Authorized by K.S.A. 47-607, 47-607d, 47-610, and 47-2101, as amended by L. 2001, Ch. 5, Sec. 176; implementing K.S.A. 47-607, 47-610, 47-614, 47-622, and 47-2101, as amended by L. 2001, Ch. 5, Sec. 176; effective Jan. 18, 2002; revoked P-_____.)

K.A.R. 9-3-6. Definitions. As used in K.A.R. 9-3-6 through 9-3-17, each of the following terms shall have the meaning specified in this regulation:

(a) “Adult domesticated cervid” means any domesticated cervid that is 12 months of age or older.

(b) “Affected herd” means any domesticated cervid herd in which tissues or fluids collected from a live animal or carcass of an animal tested positive for any infectious or contagious disease for which the herd may be quarantined, including chronic wasting disease (CWD), bovine tuberculosis (TB), or *Brucella abortus* (brucellosis), using an approved test conducted at an approved laboratory.

(c) “Animal” means a member of the family Cervidae, unless otherwise stated.

(d) “APHIS” means the animal and plant health inspection service of the United States department of agriculture.

(e) “Approved laboratory” means any laboratory approved by APHIS to conduct brucellosis, TB, and CWD testing.

(f) “Approved test” means any test for brucellosis, TB, or CWD conducted under protocols established by APHIS.

(g) “Cervid” means any member of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer, and related species.

(h) “Chronic wasting disease” and “CWD” mean a nonfebrile, transmissible spongiform encephalopathy that is insidious and degenerative and that affects the central nervous system of cervids.

(i) “Commingling” means grouping animals in a manner in which physical contact among animals could occur, including maintaining animals in the same pasture or enclosure. This term shall not include holding animals at a sale, during transportation, during artificial insemination, or in other situations in which only limited contact is involved.

(j) “Commissioner” means Kansas animal health commissioner.

(k) “CWD-clean herd” means a herd that has been a participating herd for at least 10 years in Kansas or in a state with a CWD monitoring program of equivalent status.

(l) “CWD-exposed animal” means an animal that is part of a CWD-positive herd or that has been exposed to a CWD-positive animal or contaminated premises within the previous five years.

(m) “CWD-exposed herd” means a herd in which a CWD-positive animal has resided within five years before that animal’s diagnosis as CWD-positive, as determined by an APHIS employee or representative of the commissioner.

(n) “CWD-infected herd” means any herd with a confirmed CWD-positive animal that has not completed a herd plan.

(o) “CWD-positive animal” means any cervid that tests positive on an approved test at an approved laboratory.

(p) “CWD-source herd” means a herd that is identified through testing or epidemiological investigations to be the source of CWD-positive animals identified in other herds.

(q) “CWD-suspect animal” means any cervid that showed clinical signs of the disease before death, but whose results on an approved test are inconclusive or have not yet been

reported.

(r) “CWD-suspect herd” means a herd for which unofficial CWD test results, laboratory evidence, or clinical signs suggest a diagnosis of CWD, as determined by an APHIS employee or state representative, but for which confirmatory laboratory results have been inconclusive or not yet reported.

(s) “Depopulate” means to remove, from a premises, animals that are determined to be infected or exposed to a specific disease by means by euthanizing the animals or by moving the animals to an approved slaughter facility for slaughter.

(t) “Domesticated cervid” means “domesticated deer,” as defined in K.S.A. 47-2101 and amendments thereto.

(u) “Domesticated cervid permit” means the permit required by K.S.A. 47-2101, and amendments thereto, to sell or raise any cervid.

(v) “Herd” means a group of animals maintained on the same premises or two or more groups of animals maintained in a manner that results in commingling.

(w) “Herd inventory” means an accounting that lists each adult domesticated cervid by its sex, age, breed or species, official identification and any other identification and that is confirmed by an accredited veterinarian or by a representative of the commissioner.

(x) “Herd plan” means a signed written agreement between the herd owner, the commissioner, and the APHIS administrator, detailing any testing requirements and allowable movements into and out of an affected herd. The herd plan may also include requirements on fencing, decontamination, and cleanup of premises.

(y) “Herd status” means the number of years during which a herd owner’s participating herd has been in an approved CWD monitoring program, indicating the probability that the herd is not affected by the disease. Herd status is determined by the length of time the herd has been monitored for CWD and by the herd owner’s full compliance with the program.

(z) “Official identification” means the identification required by K.S.A. 47-2101, and amendments thereto, which for any animal in a participating herd shall be in the form of a unique means of identification approved by APHIS and the commissioner. Acceptable forms of official identification shall include electronic implants, which are also known as microchips, radio frequency identification (RFID) tags, tamper-resistant tags, and national uniform eartagging system tags but shall exclude ear tattoos and flank tattoos.

(aa) “Participating herd” means any herd enrolled in the CWD monitoring program.

(bb) “Premises” means the grounds and buildings occupied by a herd and equipment used in the husbandry of the herd.

(cc) “Program” means the CWD monitoring program or the APHIS herd certification program, whichever is applicable.

(dd) “TB” means bovine tuberculosis. (Authorized by and implementing K.S.A. 2013 Supp. 47-607d, 47-610, and 47-2101; effective P-_____.)

K.A.R. 9-3-7. Fees. (a) Each applicant for an annual domesticated cervid permit issued pursuant to K.S.A. 47-2101 et seq., and amendments thereto, shall pay one of the following application fees:

(1) For 1-19 domesticated cervids, \$75.00;

(2) for 20-49 domesticated cervids, \$125.00; or

(3) for 50 or more domesticated cervids, \$175.00.

(b) Only those individuals with a current domesticated cervid permit may possess domesticated cervids.

(c) Each applicant shall submit the application for a domesticated cervid permit at least 30 days before taking possession of any domesticated cervid. (Authorized by and implementing

K.A.R. 9-3-8. Records. Each holder of a domesticated cervid permit shall maintain records for each domesticated cervid purchased, acquired, held, transported, sold, or disposed of in any other manner. Each cervid, regardless of age, that enters a herd or leaves a herd alive for any purpose other than for direct movement to slaughter shall have official identification before change of ownership. The records shall be held for at least five years after the animal dies or leaves the premises and shall include the following information:

(a)(1) The name and either the residential or business address of the person from whom each domesticated cervid was acquired; and

(2) the geographic location from which each domesticated cervid was acquired, if this location is different from the residential or business address in paragraph (a)(1);

(b) the date each domesticated cervid was acquired or, if born on the premises, the year of birth of the domesticated cervid;

(c) a description of each domesticated cervid, including the following characteristics:

(1) The species or breed;

(2) the age;

(3) all official identification numbers;

(4) the sex; and

(5) any other significant identification for that animal, including any of the following types of identification:

(A) An ear tag;

(B) an ear tattoo;

(C) an ear notch; or

(D) any brands, scars, or other permanent markings that help identify the animal;

(d)(1) The name and either the residential or business address of the person to whom any domesticated cervid is sold, given, or bartered or to whom the domesticated cervid is otherwise delivered;

(2) the geographic location to which the domesticated cervid is delivered, if this location is different from the residential or business address in paragraph (d)(1); and

(3) the date and method of disposition; and

(e) if the domesticated cervid dies, is euthanized, or is slaughtered, the following additional information:

(1) The date of the death of the animal;

(2) the cause of death of the animal; and

(3) the method of disposition of the animal. (Authorized by and implementing K.S.A. 2013 Supp. 47-2101; effective P-_____.)

K.A.R. 9-3-9. Certificate of veterinary inspection; importation and intrastate movement

requirements and permits. (a) Each cervid imported into Kansas shall be identified with official identification and shall be accompanied by a certificate of veterinary inspection.

(b) Each individual importing a cervid into Kansas shall obtain an import permit from the Kansas department of agriculture, division of animal health before the cervid enters Kansas. The cervid shall not be allowed entry into Kansas without this permit.

(c) Each animal of the genera *Odocoileus*, *Cervus*, and *Alces*, including whitetail deer, mule deer, black-tailed deer and associated subspecies, North American elk (wapiti), red deer, sika deer, moose, and any hybrids of these species, regardless of age, not moving directly to a licensed slaughter establishment within Kansas shall originate and move directly from a herd

with at least five years of herd status in the APHIS herd certification program or an equivalent program administered by the office of the state veterinarian in the state of origin.

Muntjacs, Père David's deer, reindeer or caribou, fallow deer, and axis deer shall be exempt from the monitoring requirements for CWD in K.A.R. 9-3-15 and 9-3-16. Other cervid species may be exempted by the commissioner if the species are determined by APHIS to be nonsusceptible to CWD.

(d) Each adult domesticated cervid, except whitetail deer and mule deer, that is entering Kansas from another state, is not moving directly to a licensed slaughter establishment within Kansas, and has not originated and moved directly from an APHIS-certified brucellosis-free herd shall be required to test negative for brucellosis, using an approved test, within 30 days before entry into Kansas.

(e) All cervids originating from an area identified by APHIS as a designated surveillance area shall be prohibited entry into Kansas.

(f) Each domesticated cervid, except nursing young under four months of age and accompanied by their dam, that is entering Kansas, is not from a herd accredited by APHIS to be TB-free, and is not moving directly to a licensed slaughter establishment in Kansas shall be required to test negative for TB, using an approved test administered twice at least 90 days apart. The first test shall be administered no more than 180 days before entry into Kansas, and the second test administered no more than 90 days before entry.

(g) Any imported cervid may be quarantined for a retest for TB by order of the commissioner.

(h) Each domesticated cervid, alive or dead, transported within the state of Kansas shall be accompanied by a completed transportation notice signed by the shipper on a form provided by the Kansas department of agriculture, division of animal health. One copy of the notice shall be mailed to the commissioner, one copy shall accompany the shipment, and one copy shall be

retained by the shipper. The shipper shall possess a current domesticated cervid permit.

(Authorized by K.S.A. 2013 Supp. 47-607, 47-607d, and 47-2101; implementing K.S.A. 2013 Supp. 47-607, 47-607a, and 47-2101; effective P-_____.)

K.A.R. 9-3-10. Brucellosis. (a) Each sexually intact adult domesticated cervid, except whitetail deer, mule deer, and any other species designated by the commissioner as nonsusceptible to brucellosis, that is changing ownership within Kansas and is not intended for immediate slaughter shall originate and move directly from a herd certified by APHIS to be brucellosis-free or shall be required to test negative for brucellosis by an approved test conducted at an approved laboratory within 30 days before the change of ownership. The designation of nonsusceptibility shall be based on written confirmation from APHIS veterinary services that the species is not considered susceptible to brucellosis.

(b) The owner of any herd infected with brucellosis shall take either of the following steps:

(1) Quarantine and depopulate the herd; or

(2) quarantine the herd until a herd plan to eradicate brucellosis from the infected herd has been completed. (Authorized by K.S.A. 2013 Supp. 47-610; implementing K.S.A. 2013 Supp. 47-610 and K.S.A. 47-614; effective P-_____.)

K.A.R. 9-3-11. Tuberculosis. (a) The following portions of the document titled “bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999,” published by APHIS, are hereby adopted by reference:

(1) Part I, except the definitions of “affected herd,” “approved laboratory,” “herd,” and “individual herd plan”;

(2) part II, except II.A and II.K.3;

(3) part IV;

(4) part VI; and

(5) appendix 1.

(b) All testing and sample collection for the testing of TB in cervids shall be conducted by a licensed and accredited veterinarian in the state of origin who has been certified by APHIS to conduct TB testing in cervids.

(c) Each adult domesticated cervid that is changing ownership within Kansas, is not intended for immediate slaughter, and has not originated and moved directly from a herd accredited by APHIS to be TB-free shall be required to test negative for TB by an approved test conducted within 90 days before change of ownership.

(d) The owner of each herd infected with TB shall take one of the following steps:

(1) Quarantine and depopulate the herd; or

(2) quarantine the herd until a herd plan to eradicate TB from the infected herd has been completed.

(e) Any imported cervid may be quarantined for a test for TB by order of the commissioner. The test shall be at the owner's expense. (Authorized by K.S.A. 2013 Supp. 47-607d and 47-610; implementing K.S.A. 2013 Supp. 47-607, 47-610, 47-631, and 47-634; effective P-_____.)

K.A.R. 9-3-12. Confinement, handling, and health. (a) Perimeter fencing. Each owner shall confine domesticated cervids with perimeter fencing, which shall meet the following requirements:

(1) Provide a barrier that prevents the escape of the domesticated cervids confined within

and prevents the entry of wild cervids from outside the fenced area;

(2) be structurally sound;

(3) be in good repair; and

(4) be of sufficient height to prevent escape, but not less than eight feet for elk, red deer, whitetail deer, moose, and mule deer and not less than six feet for all other types of domesticated cervid. Any perimeter fencing constructed before January 23, 1998 that does not meet the height requirements in this paragraph may be utilized subject to written approval of the commissioner.

All new fencing constructed on these premises shall meet the requirements of this paragraph.

(b) Facilities.

(1) Each owner shall provide handling facilities, which shall be adequate to allow each domesticated cervid to be physically handled without undue harm to the domesticated cervid or the handler.

(2) Each access lane and catch pen shall be constructed of materials and shall be of a design adequate to safely contain domesticated cervids for any inspection, identification, testing, quarantine, or other action required by the commissioner.

(c) Herd management. The owner shall provide each domesticated cervid with free access to the following:

(1) Clean water;

(2) adequate feed;

(3) appropriate shelter, natural or otherwise; and

(4) protection from predators.

(d) Health. Each owner or handler of domesticated cervids shall meet the requirements of all federal and state regulations for contagious and communicable diseases. (Authorized by and implementing K.S.A. 2013 Supp. 47-2101; effective P-_____.)

K.A.R. 9-3-13. Escaped domesticated cervids. (a) The owner of any domesticated cervid that has escaped confinement shall report the animal as missing to the commissioner within 48 hours of noticing the animal missing. This report shall include the following information:

- (1) The breed or species of cervid that has escaped;
- (2) the sex of the escaped animal;
- (3) the date the animal was found to be missing;
- (4) the official identification of the animal; and
- (5) any secondary identification on the animal, including plastic tags and brands.

(b) The owner of an escaped domesticated cervid shall bear the cost of recovering that animal.

(c) The following types of domesticated cervids shall be immediately destroyed without compensation to the owner upon the order of the commissioner:

(1) Any escaped domesticated cervid from a herd that is quarantined because the herd is infected with or has been exposed to any infectious or contagious disease; or

(2) any escaped domesticated cervid that is deemed by the commissioner to constitute a hazard to livestock or wildlife through the spread of disease. (Authorized by K.S.A. 2013 Supp. 47-610 and 47-2101; implementing K.S.A. 2013 Supp. 47-610, K.S.A. 47-614, and K.S.A. 2013 Supp. 47-2101; effective P-_____.)

K.A.R. 9-3-14. Handling, care, treatment, and transportation. The following portions of 9 C.F.R. part 3, as in effect on January 1, 2013, as applied to cervids, are hereby adopted by reference:

- (a) Secs. 3.125 through 3.133, except sec. 3.127(d); and

(b) secs. 3.136 through 3.142, except that in sec. 3.136(c), “a veterinarian accredited by this Department” shall be replaced by “a veterinarian accredited by APHIS,” and “part 160 of this title” shall be replaced by “9 C.F.R. Part 160.” (Authorized by and implementing K.S.A. 2013 Supp. 47-610 and 47-2101; effective P-_____.)

K.A.R. 9-3-15. Participation in the chronic wasting disease monitoring program. (a) Each participating herd shall be maintained or held only on premises for which a current domesticated cervid permit has been issued by the commissioner. If a herd owner wishes to maintain separate herds, the herd owner shall maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There shall be a buffer zone of at least 30 feet between the perimeter fencing around each separate herd, and no commingling may occur. Movement between herds shall be recorded as if the herds were separately owned.

(b) Each application for enrollment of a herd in the chronic wasting disease program shall be submitted on a form provided by the commissioner and shall include the following:

(1) Documentation that a current domesticated cervid permit has been issued to the owner of the premises on which the herd is held or maintained;

(2) a copy of an initial herd inventory, including documentation of at least one form of official identification for each animal and one form of other visible identification, including eartags, brands, and any other means that are unique to that animal in the herd; and

(3) adequate herd records and documentation of the history of the herd since it originated or over at least the previous 60 months, whichever is less, including the following:

(A) For each animal added to the herd, any available records documenting the herd status of the herd from which the animal was transferred; and

(B) records establishing that no animal has displayed any clinical signs of CWD and that

the herd has not had any CWD-positive animals.

(c) The date of the initial application into the CWD monitoring program shall be the anniversary date. On initial application, a herd inventory, including all official identification and any other identification, shall be completed and confirmed by means of visual inspection by an accredited veterinarian or a representative of the commissioner.

An application accompanied by a herd inventory, including all official identification and any other identification, shall be completed annually and confirmed by an accredited veterinarian or by a representative of the commissioner. Each herd inventory shall be filed at least 11 months and no more than 13 months after the last anniversary date of the participating herd's enrollment in the program. A visual inspection of the identification listed on the herd inventory shall be conducted and confirmed by an accredited veterinarian or by a representative of the commissioner at least once every three years.

An approved test for CWD shall be administered to the carcass of each animal that is 12 months of age or older at the time the animal dies or is slaughtered, unless an exception is granted by the commissioner.

(d) Failure to comply with this regulation shall result in a reduction or loss of herd status.

(Authorized by and implementing K.S.A. 2013 Supp. 47-610 and 47-2101; effective P-

_____.)

K.A.R. 9-3-16. Program levels. (a) Each participating herd shall be assigned herd status based on the following:

(1) The number of years that the participating herd has been under surveillance with no evidence of CWD; and

(2) the herd owner's compliance with K.A.R. 9-3-15.

Herd status shall be reassigned based on the herd status of each herd from which the participating herd has received any animal.

(b)(1) Each of the following shall start at the entry level of year one:

(A) Each herd that has not received any animal from a herd with previous herd status;

(B) each herd that has received any animal of unknown herd status; and

(C) each herd that is not currently a participating herd.

(2) Application for renewal and advancement within the CWD monitoring program shall be yearly as described in K.A.R. 9-3-15. Each herd meeting the requirements of K.A.R. 9-3-15 shall advance one year in herd status for every year during which these requirements are met. Each participating herd with at least 10 years with no evidence of CWD shall be considered a CWD-clean herd. To maintain herd status as a CWD-clean herd, a herd shall receive animals only from other CWD-clean herds.

(c) Any owner of a herd in which all animals received have been moved directly from herds of a designated herd status within Kansas, or from a state with a CWD monitoring program equivalent to the Kansas program, may apply for the same level of herd status. However, the participating herd shall be assigned the herd status of the herd with the lowest herd status from which the participating herd has obtained any animal.

(d) Each herd that receives any animals from a herd of lesser herd status shall drop to the lowest level of herd status of the animals received. If a participating herd receives any animals of unknown or no herd status, then the herd status of the participating herd shall be reduced to year one. (Authorized by and implementing K.S.A. 2013 Supp. 47-610 and 47-2101; effective P-
_____.)

K.A.R. 9-3-17. CWD-infected herds. Each CWD-infected herd shall be subject to the following requirements:

(a) A herd quarantine shall be issued by the commissioner immediately after receiving a report from an approved laboratory of a positive test for CWD in an animal from a herd.

(b) A herd plan shall be developed by a representative of the commissioner and the owner within 21 days of the date the herd quarantine is issued. This herd plan shall be approved by the owner, the state APHIS representative, and the commissioner and shall detail how animal movement into and from the CWD-infected herd may occur.

(c) Each domesticated cervid permittee shall notify the commissioner of the death of any animal in a CWD-infected herd. The notice shall be given to the commissioner within 24 hours of the discovery of the animal's death. An approved test shall be administered by a designee of the commissioner to the carcass of each animal in the CWD-infected herd that dies.

(d) If an animal in a CWD-infected herd shows symptomatic or clinical signs of CWD, the domesticated cervid permittee shall notify the commissioner. The animal shall be euthanized and administered an approved test by a designee of the commissioner.

(e) The carcass of each CWD-positive animal shall be disposed of only by a method and at a site approved by the commissioner and the secretary of the Kansas department of health and environment or the secretary's designee.

(f) The quarantine on the CWD-infected herd shall be removed after five consecutive years in which there are no animals in the CWD-infected herd with any clinical signs of CWD and no positive results on an approved test. The owner of a CWD-infected herd may apply to reenroll the herd in the program with a year-five herd status. (Authorized by K.S.A. 2013 Supp. 47-610 and 47-2101; implementing K.S.A. 2013 Supp. 47-610, K.S.A. 47-614, K.S.A. 2013 Supp. 47-622 and 47-2101; effective P-_____.)