

**Colorado Department of Agriculture**

**State Board of Stock Inspection**

**Administration and Enforcement of the Alternative Livestock Act §§ 35-41.5-101 – 117 C.R.S.**

**8 CCR 1205-2**

**Part 1. Definition and construction of terms.**

As used in these rules, unless the context otherwise requires:

As used in these rules, the singular includes the plural, the masculine gender includes the feminine and neuter, and vice versa. All terms used in these rules shall have the meaning set forth for such terms in the Act.

- 1.1. “Accredited veterinarian” means a veterinarian approved by the Deputy Administrator of VS, APHIS, U.S. Department of Agriculture (“USDA”), to perform functions required by cooperative State — Federal animal disease control and eradication programs.
- 1.2. “Act” means the Alternative Livestock Act, Title 35, Article 41.5, C. R. S.
- 1.3. “Alternative livestock” means any domesticated elk or fallow deer owned by a person pursuant to 35-41.5.102 C.R.S. Alternative livestock shall not be considered wildlife for purposes of this rule.
- 1.4. “Alternative livestock auction” means any place, establishment, or facility at which alternative livestock are received, held, or assembled for either public or private sale. The alternative livestock auction shall be licensed and bonded, as required by Colorado statutes.
- 1.5. “Alternative livestock facility” means any real property licensed by the State Board of Stock Inspection pursuant to §§ 35-41.5-104, 106 and 107, C.R.S.
- 1.6. “APHIS” means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.
- 1.7. “Applicant” means a person who applies for a license or renewal of a license under the Act.
- 1.8. “Board” means the State Board of Stock Inspection Commissioners.
- 1.9. “Buyer” means the person or legal entity purchasing alternative livestock. The buyer may, or may not be, the same as the purchaser.
- 1.10. “Change of ownership” means when title of a live alternative livestock animal changes between persons.
- 1.11. “Chronic Wasting Disease (CWD)” means a transmissible spongiform encephalopathy of fallow deer and elk.
- 1.12. “CWD Status” means: the period of time in years, which an Alternative Livestock operation has submitted brain specimens from all mortalities 16 months of age and older, regardless of cause,

and all tests have proven negative for CWD, and all external animal additions to the herd originated from a herd with equal or higher status.

- 1.13. "Consignor" means the person or other legal entity who sends or delivers alternative livestock to the auction to be sold.
- 1.14. "Herd/Facility plan" means a plan issued by the U.S. Department of Agriculture or the State Veterinarian which stipulates how an alternative livestock herd and facility must be managed to minimize the threat of CWD infection.
- 1.15. "Purchase invoice" means the bill of sale issued by a licensed auction market which contains the information required in Part 12.00.
- 1.16. "Purchaser" means the person or other legal entity who has obtained title to alternative livestock by making payment for same with cash or an instrument which was honored when presented.
- 1.17. "Raised" as used in § 35-41.5-104 of the Act means any possession of alternative livestock for any purpose.
- 1.18. "Seller" means the person or other legal entity who transfers legal title to alternative livestock.
- 1.19. "Separate location" as used in the Act means any facility located within a separate perimeter fence not connected to another perimeter.
- 1.20. "State Veterinarian" means the veterinarian designated as such by the Colorado Department of Agriculture for the Division of Animal Industry and his or her designees.
- 1.21. "Transmissible Spongiform Encephalopathy (TSE)" means a disease of animals, which is thought to be caused by an abnormal prion protein, which accumulates in the brain and lymphoid tissue causing sponge-like lesions in the brain.
- 1.22. "VS" means the U.S. Department of Agriculture, Animal Plant Inspection Service, Veterinary Service.
- 1.23. "Hunt carcass tag" means the tag provided by the board to accompany hunt killed alternative livestock.
- 1.24. "Wild cervid" means species of the cervidae family indigenous Colorado excluding captive animals of the same species held as alternative livestock for exhibition or research.
- 1.25. "Second barrier" means a fence or structure in addition to the 8 foot game fence perimeter, designed in such a manner to provide additional protection to prevent ingress and egress of alternative livestock and wild cervids and nose to nose contact, as approved by the board.

## **Part 2. The Licensing System**

- 2.1. Each applicant for a license shall submit a signed, complete, accurate, and legible application which shall include, at a minimum: the form provided by the Board; the application fee set by the Board; unless provided on the application form, the name and address of the farm, the name under which the farm will operate (the doing business as name), the name or the person who is

the primary contact, the address and telephone number of the location where the records are to be kept; and any other information required on the form.

- 2.2. Each person applying as a corporation, shall submit a certificate of good standing from the secretary of state.
- 2.3. Each applicant shall submit to the Board the name under which the farm will operate. If the licensee operates under more than one name, each such name shall be listed with the Board.
- 2.4. The annual license fee for all alternative livestock licenses shall be \$150.00 per year or any portion of a year.
- 2.5. The annual fee for each name listed pursuant to ¶ 2.3 after the license name and one additional name shall be \$100.00.
- 2.6. Each applicant for renewal of a license shall annually submit a signed, complete, accurate, and legible application which shall include, at a minimum: the form provided by the Board; the application fee set by the Board; unless provided on the application form the name and address of the farm, the name under which the farm will operate (the doing business as name), the name or the person who is the primary contact, the address and telephone number of the location where the records are to be kept; and any other information required on the form.

### **Part 3. Records**

- 3.1. Licensed alternative livestock farms shall maintain accurate and legible office records of inventory of alternative livestock; animal purity documents as designated by the Wildlife Commission; and herd or individual animal health documents as designated by the Commissioner of Agriculture.
- 3.2. Inventory records shall be kept for each individual animal and shall include all of the following information:
  - (a) Ownership;
  - (b) Division of Wildlife identification number as assigned before July 1, 1994, and any identification number assigned by the owner;
  - (c) Tattoo number;
  - (d) United States Department of Agriculture alphanumeric test tag number or official Canadian alphanumeric test tag number if applicable;
  - (e) Age;
  - (f) Sex;
  - (g) Date of purchase or date of birth; and
  - (h) Date of death or date of change of ownership.
- 3.3. Any alternative livestock born on the property must be shown on the inventory record on or before April 30 of the year following the year of birth.

- 3.4. Any alternative livestock purchased must be shown on the inventory record promptly after acquisition.
- 3.5. Office records of alternative livestock farms licensed by the same person and within 15 miles by the nearest passable road may be combined and kept at one location.

**Part 4. Notification of changes.**

- 4.1. Any death of an alternative livestock animal shall be reported to the Board in writing postmarked within 2 business days. Such notification shall include: any identification number, any tattoo number, age, gender, and cause of death (hunt, on the farm kill, or other cause) of the dead animal. Non-hunting deaths must be submitted for CWD testing within 15 business days.
- 4.2 Any change in the information required in any application for a license or the renewal of an existing license, shall be submitted in writing to the Board within 15 days of such change.

**Part 5. Alternative livestock identification.**

5.1. Tattoos.

(a) All alternative livestock must be permanently identified with a tattoo number as follows:

- (1) CO (indicating Colorado) followed by a number as assigned by the Board (indicating the license number of the alternative livestock farm where tattooed) ("CO\*\*\*"); and
- (2) Any alphanumeric combination of letters or numbers consisting of not less than 4 digits (indicating the individual animal number) (hereinafter referred to as "ID Number").

(b) Each elk shall be tattooed:

- (1) on the left butt in the hairless area beside the tail;

CO\*\*\* ID Number

- (2) in either ear if both the CO\*\*\* and the ID Number are in the same ear; or
- (3) in both ears. If both ears are used, the CO\*\*\* shall be tattooed in the animal's right ear and the ID Number shall be tattooed in the animal's left ear.

(c) Each fallow deer shall be tattooed in the right ear.

CO\*\*\*ID Number

(d) Each alphanumeric character must be at least 3/8 inch high.

(e) No tattoo number shall be used on more than one animal of the same species. No animal shall have more than one Board assigned tattoo. Any animal tattooed before December 15, 1994 pursuant to these rules as the rules then provided, need not be re-tattooed.

- (f) All calves and fawns must be tattooed by January 31 following the year of birth unless a written exemption has been granted by the Board or the Brand Commissioner.
- (g) All other animals shall be tattooed within 72 hours of acquisition. Except for calves and fawns before January 31 following the year of birth, no untattooed animal shall be commingled with tattooed animals.
- (h) Except as required by ¶ 7.10 below, animals possessed as of the effective date of the Act shall be tattooed before any inventory inspection in 1995.
- (i) Another method of permanent identification may be used if approved by the Board before use.

5.2. Brands.

- (a) The Board may issue a Colorado livestock brand to each licensee. Such brand may only be applied to alternative livestock. Such brand may be applied by either hot iron or freeze brand. Nothing in this rule shall be construed to require mandatory branding of alternative livestock.
- (b) If a licensee owns a properly recorded Colorado brand used for non- alternative livestock, the Board may authorize such brand's use for alternative livestock.
- (c) Any branding of alternative livestock shall comply with Title 35, Article 43, C.R.S.

5.3. Visible tags or neckbands.

- (a) After December 31 of the year born, all alternative livestock shall be marked with a United States Department of Agriculture alphanumeric test tag, official Canadian alphanumeric test tag, or a visible eartag or neckband. Each visible eartag shall be at least 1 inch wide by 1 inch long and each neckband shall be at least 1 inch wide.
- (b) Any lost tag or neckband shall be replaced at the earliest opportunity.

**Part 6. Facilities.**

- 6.1. Alternative livestock facilities shall be fenced sufficiently to prohibit ingress or egress of cervids. At a minimum, fences shall extend a minimum of eight (8) feet above ground level with at least six (6) feet of mesh (maximum mesh size shall be 12-1/2' × 7'). The remaining two (2) feet may be smooth, barbed or woven wire with strands spaced not more than ten (10) inches apart. Construction shall begin no more than two (2) inches above the ground with the mesh portion of the fence beginning no more than 4 inches above the ground. All gates entering animal holding facilities which are holding animals shall be locked, or consecutive (double), or self-closing gates, Posts must be four (4) inch minimum diameter wooden or equivalent and spaced no more than 50 feet apart (60 foot spacing is allowed if there are at least two (2) steel posts between the wood posts). There shall be a post or stay (wood or steel) every 20 feet. Posts must be at least 8 feet above ground level. Corners and gate openings shall be braced wood or equivalent material. Such fences shall be maintained at all times such that their ability to prevent ingress or egress, as determined by the Board or its designee, is not impaired.

Beginning with the date of enactment of amendments to this Part 6, all new alternative livestock facilities shall be subject to the following requirements:

- (a) No new Alternative Livestock Facility license shall be granted without complying with the following procedures to assure that such facility will be constructed in such a manner as to mitigate adverse impacts on native cervid migration patterns and will not result in the preventable capture of wild cervids.
- (b) Applicants for licenses shall submit to the Board a facility plan designed to comply with (a) above. The Board shall give 10 days notice to the applicant and the Division of Wildlife of an on site meeting to consider the proposed facility.
- (c) The Applicant shall meet with representatives of the Board and the Division of Wildlife at the site of the proposed facility to discuss the facility plan and review the approximate location of the facility exterior perimeter. Any license granted by the Board to such applicant shall be conditioned upon compliance with Division of Wildlife directions to mitigate adverse impacts on native cervid migration patterns. The fact that longer but reasonably available and suitable migration paths will result from construction of the proposed facility shall not, by itself, constitute a basis for denial of the license application.
- (d) Any license granted by the Board to such applicant shall be conditioned upon compliance with Division of Wildlife directions intended to minimize any capture of wild big game animals at the time of closing the gates to the proposed facility, including direction on the time of year that the proposed facility gates will be closed. The applicant shall pay for costs associated with removal of wild cervids. Over all cost of implementation of the plan shall bear a reasonable relationship to the benefit to be received by the state. Any animals remaining within the enclosure after closure of the gates shall be removed consistent with a plan submitted by the applicant and approved by the Brand Board and Division of Wildlife. Such plan may include among other things; the permitted methods licensee shall use to encourage any remaining wild cervids to vacate the facility; the number of public hunters which may be licensed by the Division of Wildlife to expeditiously harvest any wild cervids remaining in the facility; other conditions relative to controlling access and impacts by public hunters on the facility and the time frame for completion of the removal process. Where complete removal is not possible the state must be fully compensated pursuant to C.R.S. 33-6-110.
- (e) New facilities constructed after the date of adoption of this regulation shall be constructed with a double fence or second barrier if such second barrier will be effective in preventing the ingress and egress of alternative livestock and wild cervids. Such second fence or barrier to be constructed at the licensee's expense shall be approved by the Brand Board with review and recommendation from the Division of Wildlife. The Brand Board may consider a variance request to the second fence or barrier requirement for new facilities when the proposed facility is located in a game management unit where chronic wasting disease is not known to exist in wild or captive cervid populations. The Brand Board may also consider a variance request in any game management unit in which the prevalence rate for chronic wasting disease in the wild elk population does not exceed 1%. In considering a variance request the Brand Board shall consider all relevant factors and determine that the risk to alternative livestock and wild cervids is negligible. Such factors include but are not limited to topography of the proposed facility, the quality of the first fence, risk of ingress and egress and potential for the disease to spread to the area of the proposed facility. Upon granting the variance and prior to licensing the Brand Board shall obtain a decision from the Division of Wildlife whether or not the Division of Wildlife finds

the risk shall require a second fence or barrier at the expense of Division of Wildlife, in such event the Brand Board shall require as a condition of the license an agreement by the applicant to grant the Division of Wildlife access and easement for the purpose of constructing and maintaining the second fence or barrier.

- (f) All facilities constructed after adoption of this part 6 must comply with applicable state and federal water regulations concerning run off water from animal concentration areas.
- 6.3. Internal handling facilities shall be capable of humanely restraining an individual animal for applying or reading any animal identification, taking blood or tissue samples, or other required testing. Any such restraint shall be properly constructed to protect inspection personnel while handling the animals.
- 6.4. The licensee shall provide an isolation or quarantine holding facility which is adequate to contain the animals and provide proper feed, water, and other care necessary for the physical well being of the animal for the period of time necessary to separate the animal and adequate to prevent nose to nose contact with other cervids.
- 6.5. The Board shall consider the ingress of any native big game or egress of any privately owned alternative livestock to be presumptive evidence that the pertinent licensee has inadequately constructed fence or improperly maintained fence. The Board shall issue a show cause order as to why the license for such facility should not be revoked. The Board may reschedule such hearing if such licensee promptly submits a plan to the Board and the Division of Wildlife for remedial action that the Board deems practical and worthy of consideration. The Board will give 10 days notice to the Division of Wildlife of (1) the date and time on which representatives of the Board will inspect the facility and evaluate the licensee's plan and (2) the rescheduled date on which the Board will conduct its hearing. The Board will consult with the Division prior to the scheduled date of such show cause hearing if the Division desires to provide the Board with its evaluation of licensee's plan. In the event that revocation of such license is not ordered by the Board, the Board may order such licensee to construct a second barrier or take other appropriate action.
- 6.6. Expansions or additions to any existing licensed facility perimeter fence must apply to the Board for authority to expand prior to construction. Applicable sections of this part 6 shall apply.
- 6.7. Expansions or additions of existing licensed facilities must be inspected by a duly authorized employee of the Board prior to release of alternative livestock or captive wildlife into the addition or expansion.

## **Part 7. Inspections.**

- 7.1. All facilities must be inspected within 90 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant for a new license or the renewal of an existing license to arrange for an appointment with the Board for such inspection. Any such appointment shall give the Board ample time to respond to the request for inspection.
- 7.2. All alternative livestock must be inspected for inventory purposes within 90 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant for a new license or the renewal of an existing license to arrange for an appointment with the Board for such inspection. Any such appointment shall give the Board ample time to respond to the request for inspection.

- 7.3. All alternative livestock must be inspected when any change of ownership occurs to determine and certify ownership. The following requirements shall be met for any change of ownership inspection:
- (a) It is the responsibility of the seller to arrange for an appointment with the Board for such inspection. Any such appointment shall give the Board ample time to respond to the request for inspection;
  - (b) The seller must have available at the time of inspection: records to certify ownership; completed animal purity documents as designated by the Wildlife Commission; and completed herd or individual animal health documents as designated by the Commissioner;
  - (c) The seller must have the alternative livestock to be inspected properly contained in facilities adequate to contain each individual animal for proper inspection;
  - (d) The animals shall be contained at the appointed inspection time and be accessible for inspection;
  - (e) All documents necessary to establish ownership, animal purity as designated by the Wildlife Commission, and animal health as designated by the Commissioner shall be available at the time and location of inspection; and
  - (f) Animals shall be inspected before being loaded or moved outside any perimeter fence.
- 7.4. Any animal purchased from an out-of-state source, shall be tattooed and inspected within 72 hours of arrival at a licensed farm before it is released into and combined with any other alternative livestock. All requirements of ¶ 7.3 shall apply to the inspection of such animals.
- 7.5. Any movement of alternative livestock to the outside of the perimeter fence requires inspection, unless moved to an alternative livestock farm licensed by the same person and within 15 miles by the nearest passable road or to any Colorado licensed slaughter plant. The following requirements shall be met for any movement inspection:
- (a) It is the responsibility of the owner to arrange for an appointment with the Board for such inspection. Any such appointment shall give the Board ample time to respond to the request for inspection;
  - (b) The owner must have available at the time of inspection: records to certify ownership; completed animal purity documents as designated by the Wildlife Commission; and completed herd or individual animal health documents as designated by the Commissioner;
  - (c) Completed herd or individual animal health documents as designated by the Commissioner shall accompany the alternative livestock during any interstate movement.
  - (d) A Colorado inspection certificate shall accompany any intrastate movement of alternative livestock, unless moved to an alternative livestock farm licensed by the same person and within 15 miles by the nearest passable road. A Colorado inspection certificate shall accompany any interstate movement of alternative livestock from a Colorado origin. Proof

of ownership shall accompany all interstate movement of alternative livestock to a Colorado destination.

- (e) The owner must have the alternative livestock to be inspected properly contained in facilities adequate to contain each individual animal for proper inspection;
- (f) The animals shall be contained at the appointed inspection time and be accessible for inspection;
- (g) All documents necessary to establish ownership, animal purity, and animal health shall be available at the time and location of inspection; and
- (h) Animals shall be inspected before being loaded or moved outside any perimeter fence.

7.6. Proof of ownership may be:

- (a) A Colorado inspection certificate;
- (b) A purchase invoice from a licensed public livestock market showing individual animal identification;
- (c) A duly executed bill of sale. For any bill of sale issued after July 1, 1994, only out of state bills of sale will be recognized;
- (d) Court orders;
- (e) Certification that the animal was born from animals owned by the seller; or
- (f) Any other document the Board may deem acceptable.

7.7. Except for inventory inspections pursuant to ¶ 7.2 above, all alternative livestock inspection charges shall be \$5.00 per head payable at the time of inspection and before an inspection certificate is issued.

7.8. There shall be no charge for inventory inspections pursuant to ¶ 7.2 above.

7.9. Except for inventory inspections pursuant to ¶ 7.2 above, all alternative livestock inspections shall include a service charge of \$15.00 per stop per owner payable at the time of appointment for inspection, whether or not an inspection actually takes place.

7.10. After July 1, 1994, any alternative livestock moved or changing ownership shall be tattooed pursuant to part 5 of these rules.

7.11. A hunt carcass tag must accompany each hunt killed alternative livestock when removed from the licensed alternative livestock farm. The tag must be completed showing all requested information and must be signed by the owner or agent of the licensee.

## **Part 8. Estrays.**

8.1. All native wildlife which become entrapped on a licensed alternative livestock farm must be separated from the alternative livestock promptly following discovery. In no instance shall

separation take place more than 72 hours from discovery of the entrapment. In addition, upon discovery of any entrapment of native wildlife on a licensed alternative livestock farm, the licensee shall notify the Colorado Division of Wildlife.

- 8.2. All alternative livestock which escape the perimeter of the alternative livestock farm shall be recaptured within 72 hours from discovery of the escape. Any escape of an alternative livestock animal shall be reported to the Colorado Division of Wildlife within 72 hours of discovery.

**Part 9. Alternative livestock auction facilities.**

- 9.1. The facility at which an alternative livestock auction takes place shall be a site designed to contain the animals with fencing of at least eight feet in height and shall meet one of the following requirements:
- (a) Located within the fenced perimeter of a licensed facility;
  - (b) In a totally enclosed building containing approved confinement facilities;
  - (c) At a site which is prior-approved by the Board; or
  - (d) By video auction if all inspections required by Part 7 of these rules are met.
- 9.2. Alternative livestock received, held or assembled for auction shall be kept separate from, and shall not be commingled with, an accredited herd. Separation shall be demonstrated by separate feed and water and physical separation by at least twenty feet, or by a solid partition sufficient to prevent nose-to-nose contact.
- 9.3. No alternative livestock auction shall take place at a facility which is under quarantine.
- 9.4. The facility at which an alternative livestock auction takes place shall have a. proper working facility to inspect the animals, read tattoos and conduct any necessary testing.
- 9.5. The auction facility shall sell alternative livestock as individual lots, either as individual animals or animals of the same seller.

**Part 10. Requirements for consignment at an alternative livestock auction.**

- 10.1. Every animal consigned for sale at an alternative livestock auction shall be from a herd of known tuberculosis status, specifically, accredited, qualified or monitored. The health certificate accompanying the consigned animal shall document the tuberculosis status of the herd of origin. The health certificate shall also document the presence of tattoos, the location of tattoos, the bangle tag number and the United States Department of Agriculture alphanumeric tag number.
- 10.2. Inspection by the Board is required of each consigned animal from a Colorado licensed facility prior to transportation to the alternative livestock auction, or prior to sale, even if the animal was not transported. The inspection certificate shall contain the name of the alternative livestock auction and the destination. The seller shall deliver the inspection certificate to the alternative livestock auction.
- 10.3. Every animal consigned for sale at an alternative livestock auction shall be accompanied by proof of purity, specifically, proof of testing, North American Elk Breeders Association papers or

Colorado Division of Wildlife herd purity certificate demonstrating that the animal is free from red deer hybridization.

- 10.4. Every animal coming to the auction from outside the state of Colorado shall meet all requirements for importation into Colorado. Further, every animal coming from outside the state of Colorado must be accompanied by certification of legal title. If the animal comes from an inspection state, it must be accompanied by an inspection certificate.
- 10.5. All records for animal health and purity purposes required by the Uniform Methods and Rules and/or these rules to accompany a consigned animal shall be maintained by the auction.

**Part 11. Tattoo requirements of animals sold through an alternative livestock auction.**

- 11.1. If an animal carries a legible tattoo of a minimum of four alphanumeric characters, the purchaser, if a Colorado licensed facility, shall tattoo the animal with CO and the license number of the alternative livestock farm.
- 11.2. If the animal carries a tattoo of less than four alphanumeric characters, or if the tattoo carried by the animal is a duplicate in an individual herd, the animal shall be re-tattooed by the purchaser pursuant to Part 5 of these rules.
- 11.3. The purchase invoice shall notify the Colorado licensed facility who purchases an animal without a tattoo that the purchaser is required to tattoo the animal and arrange inspection within 72 hours, pursuant to Rule Part 5.1.(g).

**Part 12. Requirements for purchase invoices.**

- 12.1. The purchase invoice utilized by an alternative livestock auction shall contain the following information:
  - (a) Lot number, tag number, United States Department of Agriculture number, tattoo number and location, sex, age and price of each animal;
  - (b) Name of the seller and consignor and the seller's address and phone number;
  - (c) Name of the purchaser and purchaser's agent and the purchaser's address and phone number;
  - (d) The inspection certificate number and the name of the Colorado or other state's inspector of the certificate accompanying the animal to auction; and
  - (e) The name of the Colorado licensed facility and the designation "intransit" for all animals which will be offloaded at a Colorado licensed facility for intransit care.
- 12.2. The purchase invoice shall contain the following statements, requiring the purchaser to initial in the box:
  - (a) If any of the animals purchased above is not tattooed and you are a Colorado licensed alternative livestock facility, you are required by the rules pertaining to the administration and enforcement of the Colorado Livestock Act to tattoo the animal and request inspection within 72 hours of purchase.

- (b) Any intransit animal held at a Colorado licensed facility over 30 days must be reinspected by a Colorado inspector prior to moving or transporting the animal to its final destination and all inspection fees shall be paid.

12.3. A copy of each purchase invoice from the auction shall be delivered to the Board.

**Part 13. Fees.**

13.1. An inspection fee of one dollar (\$1) per head shall be charged to each consignor at an auction.

**Part 14. RESERVED**

**Part 15. Grounds for Disciplinary Action.**

15.1. In addition to the unlawful acts and grounds for disciplinary actions set forth in the Act, the Board may issue letters of admonition or may deny, suspend, refuse to renew, restrict, or revoke any license if the applicant or licensee has:

- (a) Failed or refused to pay the fee for the cervidae disease fund, required by the rules adopted pursuant to § 35-50-114.5 C.R.S. The applicable rules are published in 8 CCR 1205-2.

**Part 16. Cervid (elk/fallow deer) Slaughter Rules.**

16.1. Any Colorado Licensed butcher and slaughter plant killing cervids shall notify the State Board of Stock Inspection Commissioners on the license application of the intent to butcher and/or slaughter cervids.

16.2. All cervids shall be tested for Chronic Wasting Disease (CWD) when slaughtered at any Colorado Licensed slaughter plant regardless of origin. The licensed plant shall submit the brain for testing to an authorized CWD testing lab as designated by the Colorado State Veterinarian within twenty-four (24) hours after slaughter. The cost of testing shall be paid by the licensed plant. The cost may be charged back to the animal owner.

- (a) All carcasses of cervids slaughtered shall be held at the slaughter facility until CWD results are confirmed and animal origin verified. If the carcass must be processed prior to CWD results being confirmed, all meat products must be held as per 16.2(b).

- (b) All carcasses and meat products shall be identified by specific identification which correlates to the identification of the sample at the CWD lab.

- (c) Any positive CWD cervid shall be reported to USDA-APHIS-FSIS for disposition.

16.3. All samples sent to any CWD testing lab (as designated by the Colorado State Veterinarian) shall have all animal identification noted with the sample (tattoo numbers, USDA alphanumeric number, and ranch tag color and number) and be accompanied by an official Colorado Alternative Livestock inspection certificate (this certificate may be faxed to the laboratory if not sent with the actual sample). All animal identifiers shall remain intact on the cervid head until after inspection and released by a Colorado authorized brand inspector. (Each alternative livestock owner shall make their own arrangements with the slaughter facility and the testing lab to preserve samples suitable to DNA verification.)

- 16.4. All cervids slaughtered at a licensed plant shall be inspected for identification and title by a Colorado authorized brand inspector and the fee shall be \$5.00 per head. Animals may be released at the discretion of the area inspector for inspection at the plant providing the animals do not cross the state line en route. The inspector in the area of the cervid's origin must call and inform the inspector for the slaughter facility that the animal has been released. A copy of the official inventory from the licensed farm must accompany the animal to the slaughter facility and specifically note the animals in the shipment.
- 16.5. Containment of live cervids shipped to any Colorado licensed slaughter facility.
- (a) The perimeter of a containment facility shall be constructed to meet minimum Board authorized standards as described in Board Rule 6.1.
  - (b) All perimeters, holding pens, and alleyway construction shall be the sole responsibility of the licensed slaughter plant and shall be properly constructed to contain the animals consigned to slaughter. Written approval of the above requirement by the local brand inspector must be on file at the Denver office prior to licensing the plant to slaughter cervids.
  - (c) The Colorado State Veterinarian or his designee shall have sole discretion in the disposition of any cervid and other cervid source mates shipped to any slaughter plant which test positive for CWD.
  - (d) The containment facility at the licensed slaughter facility which has held positive CWD animals or source herd mates shall not be used to hold live animals until the pens and alleyways are cleaned and disinfected as ordered by the Colorado State Veterinarian or his designee. The pens or alleys shall not be utilized until released in writing by the Colorado State Veterinarian.
- 16.6. Live cervids shipped into Colorado for slaughter from any destination shall be killed within 72 hours unless consigned to a terminal bio-secure facility.
- (a) All cervids shipped into Colorado for slaughter which are not slaughtered within 72 hours shall meet all current import requirements including records to certify ownership, animal purity documents as designated by the Wildlife Commission, and herd or individual animal health documents, and be properly tattooed and inspected upon arrival.
  - (b) All cervids shipped into Colorado for slaughter shall be held in separate pens by herd of origin.
  - (c) All out-of-state cervids shall be identified by a bangle tag or colored neck band or colored spray paint marking and the visual identification statement shall be shown on the Interstate Certificate of Veterinary inspection.
  - (d) Any escape shall be reported to the State Board of Stock Inspection Commissioners immediately.
- 16.7. Violations of these rules shall be punished as per CRS 35-41.5-114 or CRS 35-41.5-115.

**Part 17. Terminal Bio-Secure Enclosures.**

- 17.1. Terminal bio-secure enclosure is a terminal cervid holding facility for slaughter only arrivals. Once an animal enters this enclosure it must go directly to slaughter. All terminal bio-secure facilities must be approved in writing prior to animal entry by the Colorado State Veterinarian or his designee. A complete description, plat drawing, and location (including address if applicable) must be in writing and held on file at the Colorado State Board of Stock Inspection in conjunction with the letter of approval from the Colorado State Veterinarian.
- 17.2. Construction.
- (a) Minimum perimeter fence requirements shall comply with Division of Wildlife Rules Chapter 11. Double fenced with a minimum separation of fifteen (15) feet at the closest point and the interior fence meeting minimum State requirements as above.
  - (b) The terminal bio-secure enclosure must be self-contained with working facilities as per Board Rule 6.3 totally within the double fence.
  - (c) The terminal bio-secure facility must have loading facilities totally within the double fence perimeter.
  - (d) The enclosure must provide separate holding areas to keep animals separate by herd source and of sufficient size for industry accepted standard animal care with feeding and watering capabilities.
  - (e) The enclosure shall not exceed 40 acres total size
  - (f) The location of the terminal bio-secure enclosure must be such that no live water enters or exits the perimeter.
  - (g) If the terminal bio-secure enclosure is not located within a properly licensed Alternative Livestock Farm, it must obtain a separate license from the State Board of Stock Inspection Commissioners as an Alternative Livestock Farm or from the Colorado Division of Wildlife.
- 17.3. Animals entering an approved terminal bio-secure facility shall be slaughtered no later than thirty (30) days following entry.
- 17.4. All cervids (elk) entering Colorado consigned to an approved terminal bio-secure enclosure must be accompanied by a current certificate of veterinary inspection showing the Colorado entry permit number and proof of ownership verifying the shipper is the legal owner.
- 17.5. All cervids entering Colorado consigned to a terminal bio-secure enclosure must be identified and comply with Board Rule 16.6(c).
- 17.6. Inventory Control
- (a) All cervids entering a terminal bio-secure facility must be inspected into the perimeter by a Colorado authorized inspector within forty-eight (48) hours of arrival.
  - (b) The licensee accepting shipment into the terminal bio-secure facility shall be responsible for affixing a colored bangle tag clearly displaying the date of entry and a numeric or alphabetical character for individual identification within a source herd shipment. (For

example: A-6/7/01, B- 6/7/01, C-6/7/01, etc. or 1-6/7/01,2-6/7/01,3-6/7/01, etc.) Each source herd shall be identified by a different color and the same colors shall not be used within the enclosure at the same time.

- (c) Cervids leaving a terminal bio-secure facility must be shipped directly to a USDA approved licensed slaughter facility and may be inspected at destination by a Colorado authorized inspector as per Board Rule 16.4.
  - (d) The in-inspection inventories of a terminal bio-secure enclosure shall be kept separate and distinct from the Alternative Livestock Farm license inventory if located within a licensed facility.
- 17.7. Fees for in-inspection and exit inspection: the fees authorized by the Board for the official inspection into an authorized terminal bio-secure enclosure shall be \$2.00 per head with a \$15.00 minimum. The fees authorized for exit out of an authorized terminal bio-secure facility shall be as per Board Rule 16.4 for animals shipped direct to slaughter.
- 17.8. The terminal bio-secure facility which has held positive Chronic Wasting Disease (CWD) animals or source mates shall not be used to contain live animals until the pens and alleyways are cleaned and disinfected as ordered by the Colorado State Veterinarian or his designee. Release to utilize the terminal bio-secure enclosure shall be in writing by the Colorado State Veterinarian or his designee.
- 17.9. Any violations of the Section 17 shall be punished as per CRS 35.41.5-114 or 35.41.5-115.

**Part 18. RESERVED**

**Part 19. Concerning the Eradication of Chronic Wasting Disease among Alternative Livestock Herds.**

19.1. Revocation of Alternative Livestock Licenses

- (a) A positive diagnosis of CWD as determined by an approved laboratory of either a wild or private animal found within the perimeter fence of an alternative livestock facility shall subject the herd to quarantine by the State Veterinarian. The Board shall facilitate such quarantine by ordering a second barrier or depopulation by order of the state veterinarian over a reasonable period of time not to exceed nine months. The alternative livestock license of such herd shall immediately be placed in a provisional status and shall be renewed during the remainder of such quarantine only with the written consent of the State Veterinarian until such time as he or she shall release the quarantine. For the duration of such quarantine, the Board will not permit any alternative livestock to be brought into such facility. Any material violation of the terms of such quarantine will result in the revocation of the license of such facility. In the event that the State Veterinarian shall order the depopulation of such herd, the Board will consult with the State Veterinarian as to whether the license should be revoked by the Board or the licensee should be permitted to surrender its license following depopulation.
- (b) Following depopulation ordered by the State Veterinarian, restocking shall not be permitted without compliance of all state and federal laws and rules. The owner(s) of an alternative livestock facility may apply for a new license and re-stock the same facility

with alternative livestock under the terms of an approved Herd/Facility Plan issued by the U.S. Department of Agriculture or the State Veterinarian.

- (c) In the event an alternative livestock facility that has previously been depopulated due to the presence of CWD and repopulated in accordance with part (b) of this subsection, experiences a subsequent positive diagnosis the facility's license shall be revoked and no other license for the facility shall be issued to the same physical property.
- (d) Failure to comply with any provision of a herd or premise plan shall result in the revocation of the alternative livestock facility's license. Operators will be given 60 days to remove all alternative livestock from the facility in the event of revocation of license under this subsection.
- (e) Any owner(s) whose license is subject to revocation may request a hearing pursuant to §24-4-105 C.R.S.

## 19.2 Amendments to This Rule

The provisions of Part 19 of this rule shall be reviewed annually by the State Veterinarian to determine whether portions of this rule are obsolete due to the evolution of the science of CWD detection and prevention and recommendations made to the State Board of Stock Inspection.

## Parts 20. – 25. RESERVED

### Part 26. Statements of Basis, Specific Statutory Authority & Purpose

- 26.1. July 1, 1994 - Effective July 3, 1994, and August 11, 1994 - Effective September 30, 1994 (Parts 1–8)

The purpose of these rules is to establish standards and procedures for the enforcement of §§ 35-41.5-101 to 117, C.R.S. the Alternative Livestock Act. The authority for these rules is § 35-41.5-105, of the Alternative Livestock Act which requires the State Board of Stock Inspection Commissioners to administer and enforce the Alternative Livestock Act. Section 35-41.5-105(2) requires the State Board of Stock Inspection Commissioners to adopt any necessary and reasonable rule for the administration and enforcement of the Alternative Livestock Act.

- 26.2. December 15, 1994 — Effective December 15, 1994, and February 8, 1995 — Effective March 3, 1995 (Part 5)

This rule is adopted under the Alternative Livestock Act pursuant to § 35-41.5-105, C.R.S., and pertains to the administration and enforcement of the Alternative Livestock Act.

During the 1994 legislative session, Article 41.5 of Title 35 was enacted as the Alternative Livestock Act. The State Board of Stock Inspection Commissioners has adopted rules to administer and enforce the provisions of the Alternative Livestock Act. The identification of individual animals has been required by State Board of Stock Inspection Commissioners pursuant to the Alternative Livestock Act.

Part 5.1 of said rules established tattooing requirements which have in some instances proved to be unworkable. Some elk have been difficult to tattoo on the butt. Some butt tattoos have proven unreadable after even a short period of time. In addition, the area to be tattooed on a calf has

been too small for the amount of information required. Because of weather or other factors, some alternative livestock owners have been unable to meet the deadline that all calves be tattooed before January 31 following the year of birth.

The State Board of Stock Inspection Commissioners ("Board") has modified the tattooing requirements with this rule to allow tattooing elk either on the butt or in the ear. In addition, the Board modified the rules to allow an exemption from the requirement that calves and fawns be tattooed before January 31 following the year of birth. With this rule, all tattoos will have the same minimum size.

The purpose of these rules is to establish tattooing standards and procedures for alternative livestock. The authority for these rules is § 35-41.5-105, of the Alternative Livestock Act which requires the State Board of Stock Inspection Commissioners to administer and enforce the Alternative Livestock Act. Section 35-41.5-105(2) requires the State Board of Stock Inspection Commissioners to adopt any necessary and reasonable rule for the administration and enforcement of the Alternative Livestock Act. These rules allow the State Board of Stock Inspection Commissioners to comply with the Alternative Livestock Act.

No policy issues were encountered in making this rule.

26.3. March 19, 1995 — Effective April 30, 1995

26.4. May 8, 1998 — Effective May 8, 1998 July 8, 1998 — Effective August 30, 1998

These emergency rules pertaining to the administration and enforcement of the Alternative Livestock Act are adopted pursuant to § 35-41.5-105(2), C.R.S. (1997).

These rules are adopted on an emergency basis, as defined in the Administrative Procedures Act, § 24-4-103(6), C.R.S. (1997). Immediate adoption of these rules is imperatively necessary for the preservation of public health, safety or welfare and compliance with the requirements of § 24-4-103 would be contrary to the public interest. A bull elk was discovered in Nebraska that tested positive for Chronic Wasting Disease ("CWD"). The diseased elk was traced to Colorado licensed alternative livestock facilities. CWD is a transmissible spongiform encephalopathy. Immediate measures are required in order to detect and track any exposure of individual animals and other herds to CWD. Delay in instituting testing requirements for CWD, which would result from compliance with the publication and hearing requirements of §24-4-403, may result in diseased animals being moved thereby causing additional potential exposure to CWD.

Under present technology, no live animal test exists for detection of CWD. The testing required in these emergency rules reflects the state of the art for detection of CWD.

By vote on April 17, 1998, the Colorado Agricultural Commission required the following requirements concerning the control on infectious diseases, as set forth in § 35-41.5-105(2)(b), C.R.S. (1997).

These emergency rules shall be effective May 8, 1998.

26.5. July 8, 1998 — Effective August 30, 1998 (Part 7)

These rules are adopted pursuant to § 35-41-101(3), C.R.S. (1997) and § 35-53-130, HB 98-1101.

The purposes of these rules are to establish the annual transportation permit fee and to define the requirements of an annual transportation permit.

26.6. July 8, 1998 — Effective August 30, 1998 (Parts 9 – 15)

These amendments to the rules pertaining to the administration and enforcement of the Alternative Livestock Act are adopted pursuant to § 35-41.5-105(2), C.R.S. (1997).

The purposes of these amendments are to establish requirements for the public sale of alternative livestock, health monitoring requirements for alternative livestock and grounds for disciplinary actions.

26.7. February 10, 1999 — Effective March 30, 1999 (Parts 2 & 3)

This amended rule is adopted pursuant to the powers and duties of the Colorado State Agricultural Commission, § 35-1-106(1)(o), C.R.S. (1998).

The purposes of this amended rule are to: allow importation of alternative livestock into Colorado only from herds with known tuberculosis status; to update incorporation of federal standards; and to make the statutory change in the per head assessment.

26.8. August 6, 2001 — Effective August 6, 2001 (Part 16& 17) October 11, 2001 — Effective November 30, 2001

The statutory basis for the rules titled Cervid Slaughter Rules is the Alternative Livestock Act, § 35-41.5-101 through 117, C.R.S. (2001). The purpose of these rules is to protect the public health and animal health by detecting chronic wasting disease (CWD) in captive wildlife and alternative livestock presented in Colorado for slaughter and enact procedures to prevent the spread of CWD among animals.

26.9. October 11, 2001 — Effective November 30, 2001 (Part 18)

To minimize the risk of importing alternative livestock into Colorado which are infected, or exposed to the transmissible spongiform encephalopathy disease of cervidae known as chronic wasting disease (CWD). This rule requires that imported alternative livestock and their herd of origin have a minimum 36 months of CWD surveillance of all mortalities regardless of cause at the adoption of this rule.

26.10. April 22, 2002 — Effective April 22, 2002 (Part 19)

The statutory basis for these rules is the Alternative Livestock Act, §§ 35-41.5-101 through 117, C.R.S., and the Prevention and Eradication of Disease Act, §§35-50-101, 102, 136(3.2), C.R.S. and § 35-1-106(1)(o) C.R.S.

The purpose of this rule is to prevent the spread or recurrence of Chronic Wasting Disease through enhanced licensing requirements of alternative livestock facilities.

26.11. June 10, 2002 — Effective July 30, 2002

The purpose of these revisions to Parts 1 – 3 is to include portions of the rule that were inadvertently deleted through the publication process of the Colorado Code of Regulations. No

substantive changes will be made to the rules and regulations previously adopted by the State Board of Stock Inspection. The statutory basis for these rules is the Alternative Livestock Act, §§ 35-41.5-101 through 117, C.R.S.; the Prevention and Eradication of Disease Act, §§ 35-50-101, 102, 110, 136(3.2) and § 35-1-106(1)(o), C.R.S.; and the authority of the State Board of Stock Inspection § 35-41-101 C.R.S.

26.12 May 14, 2003 — Effective July 30, 2003

The statutory basis for these rules is the Alternative Livestock Act, §§ 35-41.5-101 through 117, C.R.S. and the authority of the Brand Board, 35-41-101, C.R.S.

Non-substantive revisions were made throughout the rule to enact certain “housekeeping” changes, such as the correction of grammatical and typographical errors, as well as organization. Part 26 was added to include Statements of Basis and Purpose previously adopted. Substantive changes were made to Parts 2, 3, 6, 14, 18 & 19. Parts 2, 3 and 14 were deleted and in separate rule-making are moved to rules of the Colorado Department of Agriculture, Division of Animal Industry. Part 18 was deleted due to the expiration of emergency rules that were not enacted to become permanent. Portions of Part 19 were moved to Part 1, and changes were made to enact provisions of the “Memorandum of Agreement Between the Colorado Department of Agriculture and the Colorado Department of Natural Resources, Division of Wildlife for Development of a Coordinated State Program to Address Chronic Wasting Disease.” The purpose of revisions to Part 6 of this rule are to amend the fencing and facility design requirements for new Alternative Livestock facilities constructed after the date of enactment of these amendments to prevent the spread of Chronic Wasting Disease among alternative livestock in Colorado by better isolating wild cervids from alternative livestock.

26.13 December 10, 2003 - Effective March 1, 2004

The statutory basis for these rules is the Alternative Livestock Act 35-41.5-101-117 C.R.S. and the authority of the Brand Board 35-41-101 C.R.S. Additions or changes to Parts 1, 6, 7, and 19 reflect language to clarify the intent of the rule, and to implement the applicable provisions of the Memorandum of Agreement (MOA) signed in June 2002, between the Division of Wildlife and the Department of Agriculture, for the purpose of preventing the spread of Chronic Wasting Disease.

Additions to Parts 1 and 7 clarify and improve enforcement of the act. In Part 6 several changes are intended to clarify specific authority and to implement the provisions of the MOA (6/2002) Parts 6.6 and 6.7 specifically address expansions or additions to existing facilities and insure compliance with the intent of the Board and the Alternative Livestock Act.

Part 19 revisions correct a conflict between these rules and Part 3.4 of the rules ‘Concerning the Prevention of Disease in Alternative Livestock’ 8 CCR 1201-17 adopted April 29,2003.

26.14 October 12, 2011 – Effective November 30, 2011

The statutory authority for these rules is the Alternative Livestock Act § 35-41.5-105(2)(c) and (g), C.R.S., and the general authority of the State Board of Stock Inspection Commissioners found at § 35-41-101(3), C.R.S.

The basis of these rules is to comport record-keeping requirements with industry practice and to modify the fee structure to reflect the actual cost of the program.

Changes to Part 2.5 reflect a reduction in fees in line with the actual cost of administering the program.

Changes to Part 3.3 comport with common practices within the elk industry with regard to tattooing, which cannot reasonably be accomplished until after December 31 of the year in which any elk calf is born. As such, the Board modifies the deadline for submission of records related to births and tattooing to a later date to allow producers to update records in accord with typical herd management practices, calving seasons, and related tattooing.