

THE CLASS OF 1964 POLICY RESEARCH SHOP

# HB 1299 AND NEW HAMPSHIRE CERVID IMPORTATION POLICY



## PRESENTED TO THE NH SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

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## EXECUTIVE SUMMARY

Cervids constitute a centrally important aspect of wildlife importation policy. In the past fifty years, the cervid-borne Chronic Wasting Disease (CWD) has been identified in twenty-nine U.S. states, threatening wild and domestic game while complicating wildlife management and deer importation policy. The prion disease is totally fatal, has no therapeutic treatment, and has been shown to drive decline in wild deer populations. New Hampshire remains CWD-free. However, the complex cervid importation policies of the state have prompted citizens and legislators to seek adjustments to the relevant statute, most recently in HB 1299 (see Appendix A). In this report, we articulate the key issues regarding cervid importation into New Hampshire in light of HB 1299 to provide legislators with the information necessary to make policy decisions on this issue. To that end, we answer five questions: (1) What are the state-level risks related to cervid importation? (2) How is cervid importation regulated in New Hampshire? (3) How would HB 1299 affect cervid importation policy? (4) How do other states manage cervid importation? and (5) Which legislative options could address these concerns?

First, we find that CWD is extremely difficult to remove from environments and it leads to declining cervid populations. The disease can pass between wild and captive populations, as well as between cervid species, but there is little evidence that it naturally infects other livestock or humans. There are also numerous other cervid diseases that can pose risks to livestock and humans, including bovine tuberculosis and COVID-19. Cervid importation could also negatively alter soil and biodiversity (see Section 2). Second, we find that, even if HB 1299 was codified, all cervid importation to New Hampshire would remain illegal. Although cervid importation policy is jointly regulated by two administrative bodies, one rule of the NH Department of Agriculture, Markets and Food imposes a de facto ban on nearly all cervid importation. Agr 2116.01 (a) requires New Hampshire to maintain a U.S. Department of Agriculture-recognized Herd Certification Program, which it currently does not (Section 3; see Appendix B for text of Agr 2116). Third, in addition to establishing a reasonable permitting window for the NH Fish and Game Department and an appeals process for denied applications, HB 1299 invokes a sufficient standard for importation which could create significant legal discrepancy between the authorities of the NH Department of Agriculture and the NH Fish and Game Department (Section 4; see Appendix A for text of HB 1299). Comparing the cervid importation policy of New Hampshire with that of other states, we find that the state is unique among its regional peers in distributing cervid importation authority between two departments. Finally, we present legislative options beyond HB 1299, including the creation of a United States Department of Agriculture (USDA)-recognized Herd Certification Program, removing the requirement for such a program, streamlining the permitting process, and implementing a formal ban on cervid importation.

# 1 INTRODUCTION

After state regulatory agencies denied his permit application to import Alaskan reindeer (*Rangifer tarandus*), a New Hampshire Christmas tree farmer approached Representative Tim Lang regarding legislative changes to wildlife-importation law in New Hampshire.<sup>1</sup> Before seeking legislative action, the resident initiated correspondences with the NH Department of Agriculture, Markets and Food (NH Department of Agriculture) and the NH Fish and Game Department that led him to believe that an importation would be a possible, albeit extensive, process.<sup>2</sup> The Christmas tree farmer applied for permits to import the animals and detailed a robust plan to keep the reindeer contained. Aware of concerns about the spread of Chronic Wasting Disease (CWD), the resident offered to purchase extra animals from the source herd to be euthanized and tested for the disease. Despite this plan and the absence of known cases of CWD in Alaska, the application was denied with no option for appeal. After reviewing the statutory language granting authority over wildlife importation to the NH Fish and Game Department, Representative Lang proposed HB 1299 to set a 60-day time limit for permit review and create an appeals process for denied applicants (see Appendix A).<sup>3</sup>

House Bill 1299 may affect all wildlife importation to New Hampshire, but deer are a central component for this issue. Representative Lang requested a report focusing on the risks of cervid importation and related policy options, a particularly relevant consideration given the nature of CWD, and the related regulatory ambiguities HB 1299 may introduce if codified. In this report, we identify key pathological, regulatory, and statutory considerations with respect to wildlife importation laws in New Hampshire. We first provide a literature review of the history and pathology of one of the most important concerns related to cervid policy: CWD, a deer-borne prion disease which has no therapeutic treatment and is 100 percent fatal. Second, we detail other risks and benefits associated with deer importation, including other disease concerns. Then, we provide an overview of the laws and regulations that govern cervid importations, focusing on the de facto ban written in the administrative rules of the NH Department of Agriculture. We then analyze how the proposed legislation may affect the legal and regulatory landscape of cervid importation. Next, we review alternative frameworks for importation in other states in New England. Finally, we provide legislative options to address the key issues surrounding cervid importation. We aim to synthesize key considerations to equip New Hampshire legislators as they evaluate cervid importation policy.

# 2 RISKS OF CERVID IMPORTATION

Cervid importation increases risks of introducing ecologically and agriculturally impactful diseases like CWD, in addition to zoonoses (diseases that can be transmitted to humans) like bovine tuberculosis, brucellosis, and COVID-19. Grazing and escape from captive facilities also constitute ecological concerns. This section provides detail on these risks and benefits, paying particular attention to CWD.

## 2.1 CWD Literature Review

CWD is a prion disease that primarily affects cervids. Prion diseases arise when certain misfolded proteins naturally found in mammals begin to cause similar proteins to misfold.<sup>4</sup> These proteins are abundant in the central nervous system.<sup>5</sup> CWD is the only prion disease known to affect both wild and farmed animals.<sup>6</sup> There are several routes by which the disease spreads. Infectious prions can be transmitted vertically (from parent to offspring) and horizontally (from one individual to another), although the latter is the most effective mode of transmission.<sup>7</sup> Horizontal transmission may occur through direct contact with the infected excreta (saliva, urine, feces, etc.) of CWD-positive individuals or through ingestion of environmental elements, such as plants and soil, that have been contaminated with infectious prions.<sup>8</sup> Once absorbed into the environment, CWD prions are resistant to most common methods of disinfection. They are difficult to remove with detergents and chemical disinfectants like ethanol, and they cannot be easily destroyed by heat or radiation.<sup>9</sup> CWD prions absorbed into the environment are also stable and remain infectious for years.<sup>10</sup> This combination of resistance and sustained infectivity render the management of CWD challenging once infected cervids enter an area.

To understand the prevalence and distribution of cases, testing methods are a critical component of CWD management. Several postmortem tests are considered gold standards for the identification of CWD.<sup>11</sup> However, newer tests for identifying prions, protein misfolding cyclic amplification (PMCA) and real time quaking-induced conversion (RT-QuIC), can detect much lower concentrations of infectious prions than the traditional postmortem tests.<sup>12</sup> They can be effectively applied antemortem, and PMCA has even been shown to detect infectious prions in the blood of asymptomatic cervids.<sup>13</sup> Although these newer tests are still considered experimental and are not employed in CWD surveillance, their ability to test living cervids offers a path toward more effective monitoring of existing herds and candidates for importation.<sup>14</sup>

### 2.1.2 Mortality and Severity

CWD, like other prion diseases, is distinguished by its extreme severity. The incubation time of CWD—the period between infection and appearance of clinical signs of the disease—is estimated to average between two and four years.<sup>15</sup> The disease is always fatal and, as of the writing of this review, there are no therapeutic treatments available.<sup>16,17</sup> Studies have shown that, at high rates of infection, the severity of the disease leads to considerable declines in cervid herd population.<sup>18,19</sup>

### 2.1.3 Transmissibility and Prevalence

CWD is spreading across North America, aided by human transportation of wild and farmed cervids. It has been detected in 29 American states and four Canadian provinces. The closest of these to New Hampshire are New York and Québec, although most CWD-positive populations have been identified in western states and provinces (Fig. 1).<sup>20</sup>

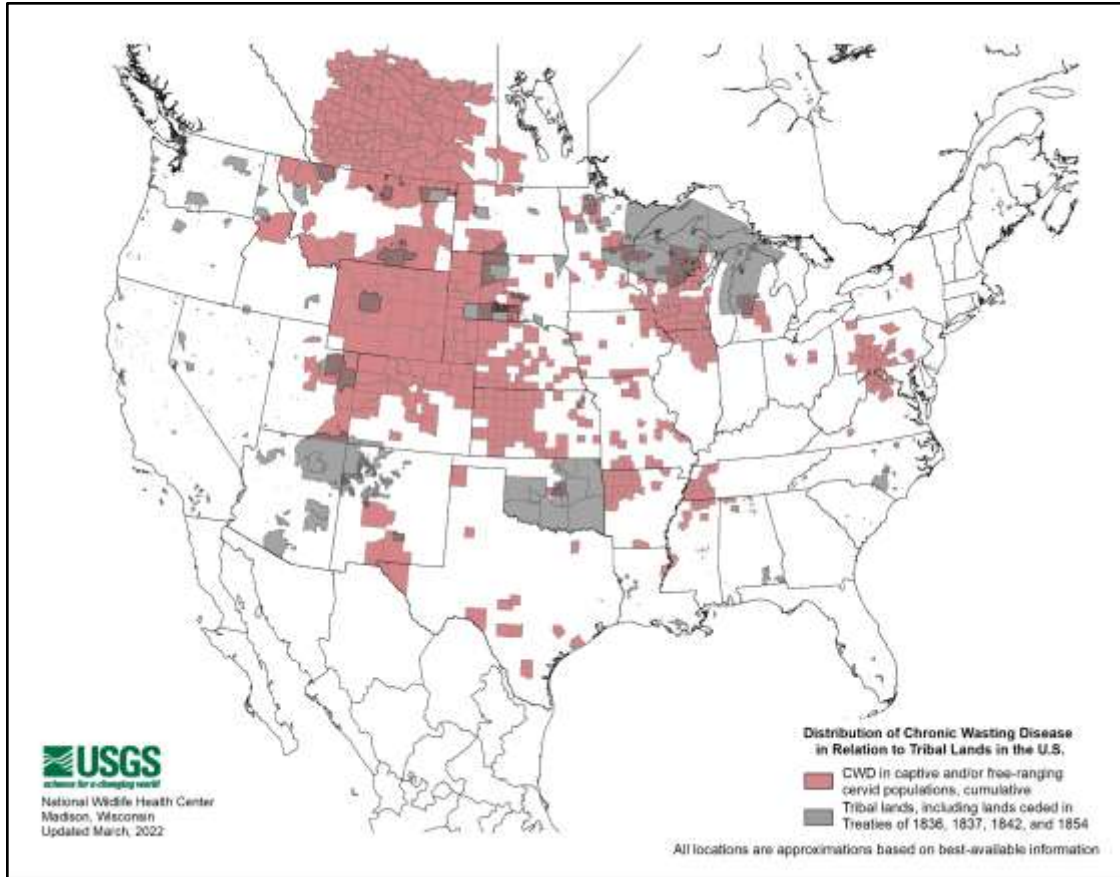


Figure 1: Distribution of known cases of CWD in North America as of February 2022.<sup>21</sup>

The list of states and provinces that have identified CWD within their borders is growing; the disease is highly transmissible between cervid species and has been shown to transfer between captive and wild populations.<sup>22,23</sup> Some susceptible cervid species in North America are white-tailed deer (*Odocoileus virginianus*), elk (*Cervus canadensis*), and moose (*Alces alces*).<sup>24</sup> The disease has also been identified in red deer (*Cervus elaphus*) and reindeer (*Rangifer tarandus*) in Europe.<sup>25</sup>

The potential for CWD to infect other species, including humans, is an active area of research. Under experimental conditions, some non-cervid species have been infected with CWD. Cattle, for example, have demonstrated susceptibility after intracerebral inoculation, although whether they can be infected naturally (e.g., by ingesting contaminated substances) is uncertain.<sup>26</sup> To gauge the risk of transmission to humans, some studies have inoculated non-human primates with contaminated tissue. They demonstrate that squirrel monkeys can be infected with CWD after either intracerebral or oral inoculation.<sup>27</sup> In vitro experiments have also shown that some strains of infectious cervid prions can convert natural human prion proteins to an infected state.<sup>28</sup> However, it does not follow from these findings that humans must be susceptible to CWD. As of the writing of this review, no cases of CWD have been identified among humans, even though humans often interface with deer and regularly consume them.<sup>29</sup> The current academic consensus is that the risk of transmission to humans is low, but it cannot be ruled out.<sup>30</sup>

## 2.2 Non-CWD Cervid Importation Risks

Although CWD is typically considered the largest risk involved in cervid importation, there are other pathogens, as well as non-disease risks, associated with the movement and possession of these animals. Cervids are susceptible to various infectious diseases, but CWD, bovine tuberculosis (bTB), and brucellosis are considered to present the greatest management challenges.<sup>31</sup> bTB, a chronic bacterial disease capable of infecting most mammals, attacks the respiratory system and causes gradual debilitation, emaciation, and intolerance to exercise. It is spread through close contact between animals.<sup>32</sup> Although bTB likely originated in cattle, there are documented cases of the disease in captive and wild deer in multiple regions of the United States and Canada. Cattle in Michigan were declared bTB-free in 1979, but some had contracted bTB by the mid-1990s. Scientific evidence suggests that this was caused by spillback from infected deer.<sup>33</sup> Managing bTB is particularly difficult with respect to cervids because most do not show signs until late stages of the disease. Further, individual animals can act as reservoirs for the disease, shedding the infectious bacteria while displaying no symptoms of infection. Cases of humans contracting bTB from cattle and cervids are rare, but transmission is possible.<sup>34</sup> The most likely method of transmission is the consumption of undercooked meat or unpasteurized milk.<sup>35</sup>

Brucellosis, a bacterial disease which can cause infertility in female cattle, spreads through contact with aborted fetal and placental materials. It was introduced to North American cervids by livestock. Although it has since been eradicated from domestic populations of livestock, it is still present among wild elk and bison herds in the Greater Yellowstone Ecosystem.<sup>36</sup> Brucellosis does not impact the physical health of elk, but it can depopulate cattle herds. It is also zoonotic and, if left untreated, can be debilitating to humans.<sup>37</sup>

Recently, concern has risen about the relationship between cervids and COVID-19. A peer-reviewed study published in the science journal *Nature* found that white-tailed deer are highly susceptible to COVID-19 infection.<sup>38</sup> In February 2022, scientists in Ontario discovered a highly divergent strain of COVID-19 in white-tailed deer. They also found a similar strain in a human who had close contact with deer in the area, which suggests deer-to-human transmission.<sup>39</sup> Numbers of infected deer vary by region. In 2021, the USDA Animal and Plant Health Inspection Service collected about 500 samples from cervids in Illinois, New York, Michigan, and Pennsylvania. Of those samples, 33 percent were positive for SARS-CoV-2 antibodies.<sup>40</sup> Two major concerns about COVID-19 in deer are that it could become the source of a new variant and that the animals could harbor the disease even if it becomes eradicated in human populations. In the Netherlands in 2020, COVID-19 spread from humans to mink, mutated, and infected humans as new variants (although a preliminary study suggests that the mink variant is less lethal to humans).<sup>41</sup> Infected white-tailed deer appear asymptomatic and it is unknown how long they can harbor COVID-19, but studies are underway to determine this.<sup>42</sup>

Escaped animals and their associated risk are concerns of importing any captive animals. Escape can result from natural disaster, human negligence, or non-compliance. In addition to increased disease risk, and especially at high densities, the grazing of captive deer has been found to negatively impact soil surfaces and nearby water quality, though to a lesser degree than grazing cattle.<sup>43</sup> There is also a risk of hybridization with other cervid species, domestic or wild. Hybrid species can increase genetic diversity but can also out-compete native species for resources.

### 3 CURRENT IMPORTATION RULES AND REGULATIONS

New Hampshire governs the importation of animals through the NH Fish and Game Department and the NH Department of Agriculture. The NH Fish and Game Department has broad authority to regulate the importation and possession of wildlife, and the NH Department of Agriculture has authority to set regulations to prevent the introduction of disease to the state.<sup>44</sup> Most animals are regulated by one of the two departments, but for cervids, possession is regulated by the NH Fish and Game Department and importation is governed by the NH Department of Agriculture.

#### 3.1 Cervid Possession Rules

New Hampshire law prohibits citizens from importing and possessing certain animal species without first obtaining a permit from the NH Fish and Game Department.<sup>45</sup> Fish and Game rules establish separate controlled, non-controlled, and prohibited species lists for both importation and possession. The NH Fish and Game Department lists most commonly farmed cervids as controlled for possession, including reindeer, elk (*Cervus canadensis*), red deer (*Cervus elaphus*), sika deer (*Cervus nippon*), and fallow deer (*Dama dama*).<sup>46</sup> Conservation officers in the Law Enforcement Division of the NH Fish and Game Department grant permits to residents for cervid possession in compliance with Fis 804. For deer possession, specific requirements include providing at least 2,000 square feet per animal and maintaining at least eight-foot-tall fencing around the enclosure.<sup>47</sup> The rules establish the broad stipulation that “No permit to possess shall be issued if there is any significant disease, genetic, ecological, environmental, health, safety, or welfare risks to the public or other wildlife species.”<sup>48</sup> According to Wildlife Division Chief Dan Bergeron, applications which adhere to the specific rules in Fis 804 are generally approved by conservation officers.<sup>49</sup>

#### 3.2 Cervid Importation Rules

The NH Fish and Game Department lists most commonly farmed cervids as non-controlled for importation. Reindeer, elk, red deer, sika deer, and fallow deer are not regulated by the Department for importation.<sup>50</sup> However, the two extant deer species in New Hampshire, moose (*Alces alces*) and white-tailed deer (*Odocoileus virginianus*), are listed as prohibited for importation. Beyond prohibiting the importation of live native deer, the NH Fish and Game Department does not regulate cervid importation.<sup>51</sup>

The NH Department of Agriculture does regulate importation of certain deer species. New Hampshire law gives broad rulemaking authority to the Department to enforce “whatever rules [the NH Department of Agriculture commissioner] deems necessary to prevent the introduction into this state of contagious or infectious diseases.”<sup>52</sup> The NH Department of Agriculture requires a permit to import reindeer, elk, red deer, and fallow deer. To import and possess any of these animals, an individual must obtain at least an importation permit from the NH Department of Agriculture and a possession permit from the NH Fish and Game Department (Notably, the importation of Sika deer is regulated by neither the NH Department of Agriculture nor the NH Fish and Game Department).<sup>53,54</sup>

Among other requirements, the NH Department of Agriculture requires that imported cervids receive a Certificate of Veterinary Inspection to ensure they have never been exposed to CWD-positive or CWD-suspected animals and are free of clinical signs of the disease. Further, rules require that the



herds of origin and destination are both registered with the relevant CWD monitoring programs for at least five years. The destination herd must be registered with a USDA-recognized program (see Appendix B).<sup>55</sup>

However, there is a de facto ban on cervid importation into New Hampshire. Although there are no explicit bans in either the statutory or administrative code, the current rules from the NH Department of Agriculture do not allow the importation of most cervids. This is because the state does not maintain an Approved State CWD Certification Program. Among other requirements previously mentioned, Agr 2116.01 (a) states that “Importation of cervidae shall only be allowed when both New Hampshire and the state of origin are in compliance with 9 C.F.R. Parts 55 and 81 and recognized by USDA as such” (see Appendix B).<sup>56</sup> The USDA 9 C.F.R. Parts 55 and 81 are sections of federal code that establish regulations related to CWD and the interstate movement of cervids, including the Approved State CWD Certification Programs (for relevant text from 9 C.F.R. Part 55, see Appendix C).<sup>57</sup> According to information provided by State Veterinarian Stephen K. Crawford, because New Hampshire does not have an Approved State CWD Certification Program, the state is not recognized by the USDA to be in compliance with 9 C.F.R. Parts 55 and 81.<sup>58</sup> Until New Hampshire establishes an Approved State CWD Certification Program in compliance with the USDA, it is not possible to fulfill the permit requirements of Agr 2116.01 (a).<sup>59</sup>

Although all regulatory requirements should be considered when adjusting wildlife importation law, it is crucial to recognize that this requirement of the NH Department of Agriculture renders cervid importations to the state illegal. Even if the NH Fish and Game Department granted all possession permits for cervids, importing cervids would still be illegal according to Agr 2116.01 (a).<sup>60</sup> Further, if HB 1299 were codified, cervid importation would remain illegal. Whether by creating a Herd Certification Program or by otherwise abrogating the code, any desired changes to cervid importation policy must address this administrative rule.

## 4 LEGAL IMPACT OF PROPOSED LEGISLATION

The proposed legislation enacts three changes. First, it establishes a 60-day limit for the NH Fish and Game Department to deny an application. If the time limit passes, the permit would automatically be granted. Second, the law creates a process whereby applicants can appeal denied applications to the Commission on Fish and Game. Finally, the law introduces ambiguous language which could remove the NH Department of Agriculture from the permitting process. Each of these issues are analyzed here.

### 4.1 Fish and Game Permitting Capacity

As mentioned, the proposed legislation would limit the duration of the application-review process of the NH Fish and Game Department to 60 days. This limit could prevent the NH Fish and Game Department from fully reviewing an application before it is approved by default. An application could be approved which would have been denied if the department had more time to gather necessary information. Or, out of caution, the department could deny an application it would otherwise have approved because it is unable to gather all necessary information within the required period.

Interviews with the NH Fish and Game Department indicate that such situations are unlikely. The time required to process an application varies by type, but evaluation often takes the department 30

days.<sup>61</sup> Factors that influence this time include departmental workload, comprehensiveness of on-site inspections required for appropriate deliberation, and time of year.

Although it is small, the proposed legislation introduces a new risk. Accepting an unqualified applicant by default may cause significant environmental or societal harm. This risk must be weighed against the benefit to residents of a guaranteed decision on their applications within 60 days of submission.

## 4.2 Appeals and the Fish and Game Commission

The proposed legislation establishes a process by which applicants who were denied permits may appeal the decision to the Fish and Game Commission. The Commission is a group that sets the general policy of the NH Fish and Game Department.<sup>62</sup> Whether the Commission is the appropriate body to manage appeals is an important consideration. To adjudicate adequately, commissioners must possess the authority to override denials of permit applications. They must also possess—or have access to—the expertise necessary to provide well-informed decisions.

In December 2021, the Commission voted unanimously in opposition to the proposed legislation.<sup>63</sup> The consensus among Commissioners for their opposition was that they may not possess the authority to overturn the rejection of applications, which is decided by the Executive Director of the NH Fish and Game Department.<sup>64</sup>

The Commission manages appeals similar to that established by the proposed legislation. If the Executive Director revokes a hunting license because its holder wounded or killed a human while hunting, the holder may appeal the revocation to a group that is comprised of the Commission and the Executive Director.<sup>65</sup> As under the proposed legislation, the statute establishing these appeals grants the Commission the authority to reverse a decision by the Executive Director. Managing appeals of any nature is, however, an exception to the normal responsibilities of the Commission, which involve broad decisions about the spending and policy of the Department.

The Commission also has access to the expertise necessary for competent adjudication. Commissioners may request assistance from biologists and other employees of the Department whose specialized knowledge is vital to rendering appropriate decisions about permit issuance.<sup>66</sup>

## 4.3 Possible Impacts on Department of Agriculture Authority

The language change of RSA 207:14 in HB 1299 may create a legal ambiguity between the authority of the NH Department of Agriculture and the NH Fish and Game Department by establishing that a permit for importation/possession from the NH Fish and Game Department is sufficient rather than necessary. Currently, both departments have the authority to prohibit animal importations, but neither department grants importation rights. For instance, RSA 207:14 establishes a requirement for individuals to receive a permit from the NH Fish and Game Department to import and possess controlled wildlife:

“No person shall import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, without first obtaining a permit from the executive director except as permitted under title XVIII” (for full text, see Appendix D).<sup>67</sup>

RSA 207:14 states that without a permit from the NH Fish and Game Department, possession and importation of controlled wildlife is prohibited. According to the statute, a permit from the NH Fish and Game Department is necessary, but not sufficient, for the importation of controlled wildlife species. The NH Department of Agriculture has authority under RSA 436:24 to set requirements as well, which citizens must also comply with in addition to those of the NH Fish and Game Department:

“[The NH Department of Agriculture commissioner] may adopt whatever rules he deems necessary to prevent the introduction into this state of contagious or infectious diseases.”<sup>68</sup>

Both departments have the authority to set certain standards which are *necessary* to meet to import an animal. Neither department can grant, on its own, *sufficient* authority to import an animal. By establishing separate necessary requirements, both the NH Fish and Game Department and the NH Department of Agriculture can co-regulate animal importation. The language of HB 1299 may change this structure by providing sufficient authority to import an animal with a permit from a single department. In contrast with RSA 207:14, it reads:

“Any person may import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, after first obtaining a permit from the executive director except as permitted under title XVIII.”<sup>69</sup>

If codified, this legislation may be interpreted to grant sufficient permission to individuals who have a permit from the NH Fish and Game Department to import animals, regardless of the requirements of the NH Department of Agriculture. To our knowledge, there are no animals which both the NH Fish and Game Department and the NH Department of Agriculture regulate for importation, including cervids. Although the NH Fish and Game Department has the authority to regulate cervid importation, the department lists cervids as non-controlled for importation, so no permit from the Department is necessary for importation. However, if the NH Fish and Game Department ever used its statutory authority to grant a permit for importation for an animal also regulated by the NH Department of Agriculture or another agency, the permit holder could argue that they are exempt from non-Fish and Game regulations.

If, for example, an individual submitted importation application for an elk to the NH Fish and Game Department and more than 60 days passed without response, in compliance with HB 1299, the permit would be automatically granted, even though the department does not regulate elk importation. With the permit, this individual could argue that they were granted authority to import the elk, regardless of the rules of the NH Department of Agriculture on disease prevention. By introducing what may be interpreted as a sufficient standard for animal importation amidst other standards of necessity, the proposed legislation creates ambiguity in the law that could result in a significant abrogation of the authority of the NH Department of Agriculture to regulate animal movement. Because of the apparent contradiction between the proposed legislation and the administrative codes, this issue could quickly emerge in litigation. If legislators sought to remove this ambiguity in the proposed law while maintaining the other intended statutory changes of HB 1299, they could simply replace the first sentence of HB 1299 with the current first sentence in RSA 207:14 I.

## 5 COMPARATIVE STATE CERVID IMPORTATION MANAGEMENT

The regulation of cervid importation varies by state. As of 2021, 19 states have banned all cervid imports and almost all restrict the importation of live cervids.<sup>70</sup> Compared with other states in northern New England, New Hampshire is unique in how it divides jurisdiction over importation and possession between the NH Fish and Game Department and NH Department of Agriculture. Analyzing the policies of nearby states can provide frameworks that New Hampshire could consider if it seeks to simplify its cervid importation process. Vermont and Maine have consolidated their permitting processes into one department while maintaining some jurisdiction and decision-making power for the other. This approach could help to simplify the cervid importation process for applicants in New Hampshire.

### 5.1 Massachusetts

Massachusetts bans the importation of any live deer or other member of the family *Cervidae* to prevent the spread of CWD.<sup>71</sup> The ban began in 2005. Massachusetts has mandatory CWD testing for all captive cervid mortalities and conducted random testing of killed free-range cervids until 2012, when federal funding ceased. Massachusetts now limits its testing of free-range cervids to those suspected of CWD. There have been no positive CWD tests in the state since testing began in 2002.<sup>72</sup>

### 5.2 Vermont

Vermont allows the importation of live cervids after acquiring permits from the Vermont Department of Agriculture. The Vermont Department of Fish and Wildlife regulates captive herds in the state in conjunction with the Vermont Department of Agriculture, but it does not require permits for cervid importation and possession. The departments work together to monitor and control the spread of CWD in the state.<sup>73</sup> Vermont does not have a statewide CWD monitoring program, but it does collect samples from hunter-harvested cervids. There have been no positive tests as of April 2021.<sup>74</sup>

### 5.3 Maine

Maine allows the importation of live cervids and splits departmental jurisdiction by species. The Maine Department of Agriculture provides importation and possession permits for sika deer, fallow deer, red deer, and elk while the Maine Department of Inland Fisheries and Wildlife provides for all other species of cervids, including reindeer. The most recent import of a live cervid into the state was in 2019.<sup>75</sup> The two departments collaborate to monitor and prevent the spread of CWD into the state. Maine funds a statewide CWD monitoring program and is enrolled in the Animal and Plant Health Inspection Service (APHIS) National Herd Certification Program. All imported cervids must come from an accredited CWD Certified Herd (01-001 CMR Ch. 206, § 4). Maine conducts approximately 500 to 600 CWD tests each year on hunter-harvested deer. There have been no positive tests as of April 2021.<sup>76</sup>

## 6 FURTHER LEGISLATIVE OPTIONS

New Hampshire legislators may consider several options to address the ambiguity of cervid importation policy—both the de facto ban and the complexity of obtaining the necessary documentation. To address the de facto ban on cervid importation, the legislature may consider establishing a herd certification program approved by the USDA (Sec. 6.1) or removing the requirement in the administrative rules of the NH Department of Agriculture to maintain such a program (Sec. 6.2). Avenues by which the legislature may address the complexity of importing cervids include streamlining jurisdiction over cervid policy among the departments (Sec. 6.3) and codifying a ban on cervid importation altogether (Sec. 6.4).

### 6.1 Creating an Approved CWD Herd Certification Program

Establishing an Approved State CWD Herd Certification program would eliminate the de facto ban on cervid importation to New Hampshire. Twenty-eight states are currently enrolled in the APHIS National Herd Certification Program (HCP), a federal-state-industry initiative created in 2014 to respond to CWD in cervid herds at a national scale.<sup>77</sup> States may enroll with the program by adopting certain CWD surveillance and enforcement policies, but individual herd owners may also enroll, even if their state does not maintain a recognized program. Rules from the NH Department of Agriculture require that both herd owners and the State of New Hampshire be enrolled in the program to grant an importation permit.<sup>78</sup> But, because New Hampshire has no HCP, no resident may be granted an importation permit. However, if the legislature funded and directed an HCP, cervid importation would be possible in compliance with the administrative rules of the NH Department of Agriculture.

New Hampshire must meet eleven requirements to gain USDA recognition, most of which call for restricting and monitoring the movement of animals that are positive for, are expected to have, or have been exposed to CWD.<sup>79</sup> New Hampshire already meets at least Parts 1 and 2 of these requirements, which ensure that the state has the authority to both restrict intrastate movement of animals and require testing and the results from CWD-suspected animals. Part 1 is fulfilled by RSA 436: 34-39, which gives the Commissioner of the NH Department of Agriculture broad authority to implement quarantine rules for domestic animals or captive wildlife which have been confirmed or are suspected to carry infectious disease.<sup>80</sup> Part 2 is likely fulfilled by RSA 436:50, which requires “All private tuberculin and other approved tests” to be reported to the Commissioner within five days.<sup>81</sup> To gain USDA recognition, including CWD among the approved tests in either NH statutes or administrative rules may be helpful.

Parts 3 through 11 of the requirements entail procedural changes that the legislature would need to fund and direct the respective department(s) to execute. Though Part 11 requires CWD-exposed and CWD-suspected animals to be tested, a broad-based, free testing regime is not required: the state must simply identify, test, and restrict CWD confirmed, exposed, and suspected herds based largely on information from voluntarily-enrolled herd owners. To fulfill the requirements of Part 11, the legislature may need to enact legislation which requires the testing of deceased CWD-suspected or CWD-exposed animals. The personnel-related demands of this legislation warrant financial consideration. To generate an accurate estimation of potential costs, the legislature would need to consult with the respective department(s) on the capacity of personnel to enforce the requirements of an HCP.

To fulfill these requirements and establish an HCP, the legislature may adopt statutory language similar to Title 7 M.R.S.A. §1821 of the State of Maine, which provides authority to the Maine Department of Agriculture to establish the recognized HCP (see Appendix D).<sup>82</sup> Or, the legislature may introduce legislation which (1) grants authority to the Commissioner of the NH Department of Agriculture to require the testing of deceased CWD-suspected or CWD-exposed animals, (2) requires the reporting of all CWD tests, and (3) directs the Commissioner of the Department of Agriculture to maintain a Herd Certification Program in compliance with 9 C.F.R Part 55.23 (a).<sup>83</sup>

The State could enroll in the HCP and, therefore, eliminate the de facto ban on cervid importation without a free public testing program. It is important for the legislature to be aware of this option if it considers funding an HCP. According to State Veterinarian Stephen Crawford, when the USDA stopped funding CWD testing, most herd owners ended their participation in voluntary surveillance.<sup>84</sup> The restrictive powers of an HCP are only useful insofar as they are based on high-quality testing information. If the state wishes to implement an HCP with intentions beyond removing the current legal barrier to importing cervids, making CWD testing widely available to herd owners warrants consideration. Ultimately, if legislators seek to clarify the process of cervid importation in line with the concerns which inspired HB 1299, creating an HCP for New Hampshire is a useful consideration.

## 6.2 Removing the CWD Herd Certification Program Requirement

Alternatively, legislators may consider removing the requirement for New Hampshire to maintain a USDA-recognized HCP. Legislators could amend RSA 436:14 to stipulate that the NH Department of Agriculture is prohibited from requiring New Hampshire to be enrolled in the HCP in its cervid importation permitting requirements. This would strike Agr 2116.01 (a), eliminating the requirement for New Hampshire to maintain an HCP.

This option could retain the requirement for *individual* herd owners involved in cervid importation to be enrolled in the national HCP program found in Agr 2116.02 (a), and yet remove the state-level requirements. Herd owners enrolled with the federal program must identify all animals with APHIS and make all deceased cervids available for testing. They may voluntarily undergo a yearly inventory conducted by an APHIS employee.<sup>85</sup> If the legislature strikes the state-level HCP requirement, it must determine whether the existing regulations of Agr 2116.02-.03 implement the desired balance between the risk of introducing CWD and ease of cervid importation.

To adjust this balance, the legislature may consider alternative requirements in lieu of the state-level HCP requirement. For example, New Hampshire could strike Agr 2116.01 (a), as mentioned, and adopt CWD-related regulations that tailor the desired balance between risk mitigation and ease of importation. The legislature may also consider banning cervid importation from CWD-positive states or establishing more specific requirements for the CWD history of the herd of origin. The CWD importation requirements of the Maine Department of Agriculture may serve as a template for further consideration (for full text of regulation, see Appendix F).<sup>86</sup> Requirements like these may provide an additional layer of protection while opening the possibility of cervid importation.

### 6.3 Streamlining Departments

One option for addressing ambiguity in cervid policy is to consolidate jurisdiction to one agency. Rather than dividing authority over permitting between agencies, housing matters of cervid importation and possession under one department would streamline the administrative rules. It may, therefore, offer a clearer path to those who seek permission to import cervids. As noted in Section 5.2, the Vermont Department of Agriculture has full jurisdiction over importation and possession permits while the Vermont Department of Fish and Wildlife monitors and regulates captive cervids in the state. As of late 2021, 24 American states and 10 Canadian provinces place jurisdiction over cervid importation with one of either their Fish and Game or Agriculture departments.<sup>87</sup>

This change would not, on its own, allow cervid importation into New Hampshire. It would only streamline rulemaking and permission-granting processes. Further action, as described above, would be required to allow residents to import cervids.

### 6.4 Total Ban on Cervid Importation

The legislature may also consider a complete cervid importation ban. Twenty American states, including Massachusetts and Connecticut, and three Canadian provinces, including Nova Scotia, enforce full bans.<sup>88</sup> Because the administrative rules of the NH Department of Agriculture render legal cervid importation impossible, this policy would not change the condition of cervid importation in New Hampshire. It would, however, convey a decisive stance on the issue, eliminating confusion about the ability of residents to import.

Although it may add a layer of protection, banning cervid importation does not guarantee that the state will be shielded from cases of CWD. As of the writing of this report, Alabama and Louisiana are the two most recent states to have identified CWD for the first time. Each has enforced a ban on cervid importation for decades.<sup>89</sup> The function of a full ban, therefore, would be to reduce the risk of—or at least delay—the introduction of CWD to New Hampshire, as well as to clarify importation policy.

## 7 CONCLUSION

The complex risks and regulations related to cervid importation in New Hampshire make it a particularly complicated topic, especially as it relates to HB 1299. CWD and other pathogens pose a substantial threat to wild and captive cervid populations, but the appropriate level of risk to assume is ultimately the choice of the State. When considering HB 1299 and cervid importation policy generally, it is important to recognize that CWD is a fast-spreading, invariably fatal prion disease that has the potential to devastate cervid populations. Equally important to recognize is that all cervid imports to New Hampshire are currently under an indirect ban because of an administrative rule which requires the state to maintain a USDA-enrolled Herd Certification Program. In its current form, HB 1299 does not directly address this issue: all cervid importation to the state would remain illegal if the bill were codified. However, beyond establishing a reasonable 60-day time limit and an appeals process for denied permits, the apparent sufficiency clause asserted in HB 1299 may induce significant contradictions between the joint authorities of the NH Fish and Game Department and the NH Department of Agriculture. This joint jurisdiction and the potential for contradiction are unique to New Hampshire among regional neighbors; Vermont, Maine, and Massachusetts each regulate the

importation of individual cervid species through a single department, if at all. To address the pathological and regulatory considerations related to cervid importations, legislators may consider several policy options, which include creating a Herd Certification Program, striking that requirement from the administrative rules of the NH Department of Agriculture, streamlining departmental jurisdiction, and imposing a total ban on cervid importation.

In New Hampshire, cervid importation is a complex issue which involves many stakeholders. To make informed policy, it is critical to consider the risks related to cervid importation, the current legal landscape, and relevant legislative solutions. We hope that this analysis provides clarity on the cervid importation processes and that legislators can use it to make informed decisions about HB 1299 and other policies.



## 8 APPENDICES

### Appendix A: House Bill 1299

#### ANALYSIS

This bill establishes a procedure for applying for a permit to import or display wildlife and establishes an appeal process for denial of such permits.

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Explanation: Matter added to current law appears in *bold italics*.  
 Matter removed from current law appears [~~in brackets and struckthrough.~~]  
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.  
 22-2205  
 04/08

#### STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to the process for the importation of wildlife and creating an appeal process for denials of permits.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Paragraph; Fish and Game Commission; Duties. Amend RSA 206:4-a by inserting after paragraph V the following new paragraph:

VI. Upon petition, and within 45 days of the appeal request, hear appeals of decisions made by the executive director to deny a permit requested under RSA: 207:14, I, and upon a majority vote of a quorum of commissioners, reverse such decision by written ruling issued within 14 days of the hearing.

2 General Provisions as to Fish and Game; Import, Possession or Release of Wildlife. Amend RSA 207:14, I to read as follows:

207:14 Import, Possession, or Release of Wildlife.

I. ~~(a) [No person shall import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, without first obtaining a permit from the executive director except as permitted under title XVIII. The executive director shall have the authority to determine the time period and any other conditions governing the issuance of such permit. The executive director may refuse to issue a permit if he determines that such issuance may pose significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species or wildlife]~~ *A person may import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, after first obtaining a permit from the executive director, except as otherwise provided in Title XVIII. The permit shall be granted within 30 days of the request, unless the executive director determines that issuing a permit may pose a direct and significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species, or wildlife.*

*(b) Any person who is denied a permit under subparagraph (a) may appeal the decision in writing to the fish and game commission within 60 days of the denial.*

3 Effective Date. This act shall take effect 60 days after its passage.

## Appendix B: New Hampshire Agr 2116

## PART Agr 2116 CERVIDAE

Agr 2116.01 Permit and CVI Required.

(a) Importation of *cervidae* shall only be allowed when both New Hampshire and the state of origin are in compliance with 9 C.F.R. Parts 55 and 81 and recognized by USDA as such.

(b) A CVI shall be required for the importation of *cervidae* as defined in Agr 2102.03 (g) into the state of New Hampshire.

(c) The permit shall be obtained prior to shipment and the permit number shall appear on the CVI.

(d) The CVI shall certify that:

- (1) Permanent official identification of each animal has been provided;
- (2) The accredited veterinarian has inspected all *cervidae* on the premises;
- (3) The *cervidae* have never been exposed to animals confirmed to have CWD or animals exposed to confirmed CWD animals; and
- (4) The *cervidae* are free from clinical signs of contagious and infectious diseases, including but not limited to CWD.

Source. #4852, eff 6-28-90; ss by #6011, eff 3-28-95; ss by #6959, eff 3-23-99; ss by #8423, eff 8-31-05 (formerly Agr 2115.05); ss by #8848, eff 3-21-07, EXPIRED: 3-21-15 (from Agr 2115.01)

New. #10975, eff 11-19-15

Agr 2116.02 Chronic Wasting Disease.

(a) Cervids shall only be imported into herds of destination which are participating in good standing in the USDA CWD program, 9 C.F.R. Parts 55 and 81.

(b) Herds of destination in New Hampshire shall be recognized by the regulatory body of the relevant CWD monitoring program to have achieved recognition or certification at a level consistent with at least 5 years of participation.

(c) Herds of origin shall have been certified by the regulatory body of the USDA or comparable state CWD monitoring program as having achieved a level consistent with at least 5 years of participation.

(d) The program status of the herd of destination shall be downgraded to the equivalent program status of the herd of origin if the program status of the herd of origin is less than the herd of destination.

(e) Once imported, an individual cervid shall never be transferred to another herd within the state of New Hampshire.

(f) Cervids may be imported directly to slaughter without leaving the conveyance if the herd of origin is in compliance with Agr 2116.02 (c), as written above.

Source. #8848, eff 3-21-07, EXPIRED: 3-21-15

New. #10975, eff 11-19-15

## Appendix C: U.S. C.F.R. Part 55.23

**§ 55.23 Responsibilities of States and enrolled herd owners.**

- (a) *Approval of State programs and responsibilities of States.* In reviewing a State program's eligibility to be designated an Approved State CWD Herd Certification Program, the Administrator will evaluate a written statement from the State that describes the State's CWD control and deer, elk, and moose herd certification activities and that cites relevant State statutes, regulations, and directives pertaining to animal health activities and reports and publications of the State. In determining whether the State program qualifies, the Administrator will determine whether the State:
- (1) Has the authority, based on State law or regulation, to restrict the intrastate movement of all CWD-positive, CWD-suspect, and CWD-exposed animals.
  - (2) Has the authority, based on State law or regulation, to require the prompt reporting of any animal suspected of having CWD and test results for any animals tested for CWD to State or Federal animal health authorities.
  - (3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding with APHIS that delineates the respective roles of the State and APHIS in CWD Herd Certification Program implementation.
  - (4) Has placed all known CWD-positive, CWD-exposed, and CWD-suspect animals and herds under movement restrictions, with movement of animals from them only for destruction or under permit.
  - (5) Has effectively implemented policies to:
    - (i) Promptly investigate all animals reported as CWD-suspect animals;
    - (ii) Designate herds as CWD-positive, CWD-exposed, or CWD-suspect and promptly restrict movement of animals from the herd after an APHIS employee or State representative determines that the herd contains or has contained a CWD-positive animal;
    - (iii) Remove herd movement restrictions only after completion of a herd plan agreed upon by the State representative, APHIS, and the owner;
    - (iv) Conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect and exposed animals and that identifies animals to be traced;
    - (v) Conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any out-of-State traces to the appropriate State promptly after receipt of notification of a CWD-positive animal; and
    - (vi) Conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.
  - (6) Effectively monitors and enforces State quarantines and State reporting laws and regulations for CWD.
  - (7) Has designated at least one State animal health official, or has worked with APHIS to designate an APHIS official, to coordinate CWD Herd Certification Program activities in the State.
  - (8) Has programs to educate those engaged in the interstate movement of deer, elk, and moose regarding the identification and recordkeeping requirements of this part.
  - (9) Requires, based on State law or regulation, and effectively enforces identification of all animals in herds participating in the CWD Herd Certification Program;
  - (10) Maintains in the CWD National Database administered by APHIS, or in a State database approved by the Administrator as compatible with the CWD National Database, the State's:
    - (i) Premises information and assigned premises numbers;
    - (ii) Individual animal information on all deer, elk, and moose in herds participating in the CWD Herd Certification Program in the State;
    - (iii) Individual animal information on all out-of-State deer, elk, and moose to be traced; and
    - (iv) Accurate herd status data.
  - (11) Requires that tissues from all CWD-exposed or CWD-suspect animals that die or are depopulated or otherwise killed be submitted to a laboratory authorized by the Administrator to conduct official CWD tests and requires appropriate disposal of the carcasses of CWD-positive, CWD-exposed, and CWD-suspect animals.

- (b) **Responsibilities of enrolled herd owners.** Herd owners who enroll in the CWD Herd Certification Program agree to maintain their herds in accordance with the following conditions:
- (1) Each animal in the herd must be identified using means of animal identification specified in § 55.25. All animals in an enrolled herd must be identified before reaching 12 months of age. In addition, all animals of any age in an enrolled herd must be identified before being moved from the herd premises. In addition, all animals in an enrolled herd must be identified before the inventory required under paragraph (b)(4) of this section, and animals found to be in violation of this requirement during the inventory must be identified during or after the inventory on a schedule specified by the APHIS employee or State representative conducting the inventory;
  - (2) The herd premises must have perimeter fencing adequate to prevent ingress or egress of cervids. This fencing must also comply with any applicable State regulations;
  - (3) The owner must immediately report to an APHIS employee or State representative all animals that escape or disappear, and all deaths (including animals killed on premises maintained for hunting and animals sent to slaughter) of deer, elk, and moose in the herd aged 12 months or older; Except that, APHIS employees or State representatives may approve reporting schedules other than immediate notification when herd conditions warrant it in the opinion of both APHIS and the State. The report must include the identification numbers of the animals involved and the estimated time and date of the death, escape, or disappearance. For animals that die (including animals killed on premises maintained for hunting and animals sent to slaughter), the owner must inform an APHIS or State representative and must make the carcasses of the animals available for tissue sampling and testing in accordance with instructions from the APHIS or State representative. In cases where animals escape or disappear and thus are not available for tissue sampling and testing, or when the owner provides samples that are of such poor quality that they cannot be tested for CWD, an APHIS representative will investigate whether the unavailability of animals or usable samples for testing constitutes a failure to comply with program requirements and will affect the herd's status in the CWD Herd Certification Program;
  - (4) The owner must maintain herd records that include a complete inventory of animals that states the species, age, and sex of each animal, the date of acquisition and source of each animal that was not born into the herd, the date of disposal and destination of any animal removed from the herd, and all individual identification numbers (from tags, tattoos, electronic implants, etc.) associated with each animal. Upon request by an APHIS employee or State representative, the owner must allow either of these officials or a designated accredited veterinarian access to the premises and herd to conduct an inventory. The owner will be responsible for assembling, handling, and restraining the animals and for all costs incurred to present the animals for inspection. The APHIS employee or State representative may order either an inventory that consists of review of herd records with visual examination of an enclosed group of animals, or a complete physical herd inventory with verification to reconcile all animals and identifications with the records maintained by the owner. In the latter case, the owner must present the entire herd for inspection under conditions where the APHIS employee, State representative, or accredited veterinarian can safely read all identification on the animals. During inventories, the owner must cooperate with the inspector to resolve any discrepancies to the satisfaction of the person performing the inventory. Inventory of a herd will be conducted no more frequently than once per year, unless an APHIS employee, State representative, or accredited veterinarian determines that more frequent inventories are needed based on indications that the herd may not be in compliance with CWD Herd Certification Program requirements. A complete physical herd inventory must be performed on a herd in accordance with this paragraph at the time a herd is enrolled in the CWD Herd Certification Program; Except that, APHIS may accept a complete physical herd inventory performed by an APHIS employee, State representative, or accredited veterinarian not more than 1 year before the herd's date of enrollment in the CWD Herd Certification Program as fulfilling the requirement for an initial inventory. In addition, a complete physical herd inventory must be performed for all herds enrolled in the CWD Herd Certification Program no more than 3 years after the last complete physical herd inventory for the herd;
  - (5) If an owner wishes to maintain separate herds, he or she must maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There must be a buffer zone of at least 30 feet between the perimeter fencing around separate herds, and no commingling of animals may occur. Movement of animals between herds must be recorded as if they were separately owned herds;
  - (6) New animals may be introduced into the herd only from other herds enrolled in the CWD Herd Certification Program. If animals are received from an enrolled herd with a lower program status, the receiving herd will revert to that lower program status. If animals are obtained from a herd not participating in the program, then the receiving herd will be required to start over in the program.

## Appendix D: New Hampshire RSA 207: 14

**TITLE XVIII  
FISH AND GAME**

**CHAPTER 207  
GENERAL PROVISIONS AS TO FISH AND GAME**

**Import, Possession, or Release of Wildlife**

**Section 207:14**

**207:14 Import, Possession, or Release of Wildlife. –**

I. No person shall import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, without first obtaining a permit from the executive director except as permitted under title XVIII. The executive director shall have the authority to determine the time period and any other conditions governing the issuance of such permit. The executive director may refuse to issue a permit if he determines that such issuance may pose significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species or wildlife.

II. The executive director shall adopt rules, pursuant to RSA 541-A, to administer this section and relative to the importation, possession, exhibition, sale or release of all marine species and wildlife, including, but not limited to:

- (a) Size, sex, number and quantity.
- (b) Transportation, within or through the state of New Hampshire.
- (c) Sale, inspection, processing, recordkeeping and marking.
- (d) Method of keeping.
- (e) Areas of release.
- (f) Method of release.
- (g) Method of taking.
- (h) Permit fee schedules.
- (i) Appropriate definitions.

III. The executive director may establish a list of marine species or wildlife or the eggs or progeny of such marine species or wildlife which may be exempted from any or all of the provisions of RSA 207:14.

IV. Except where otherwise provided, any person who violates this section or any rule adopted under this section shall be guilty of a violation and guilty of an additional violation for each marine species or wildlife possessed contrary to the provisions of this section.

**Source.** 1935, 124:1. RL 241:13. RSA 207:14. 1963, 164:1. 1969, 71:1. 1973, 304:1. 1979, 90:1. 1986, 214:2. 1990, 122:2. 1992, 171:3. 2003, 112:4, eff. Aug. 5, 2003.

Appendix E: Maine 7 M.R.S.A. §1821

**§1821. Maine chronic wasting disease surveillance program**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

**A. "Chronic wasting disease"** means any member of the family of transmissible spongiform encephalopathies to which cervids, as defined in [section 1333](#), are susceptible. [PL 2003, c. 386, §17 (AMD).]

**B. "Susceptible animal"** means any animal, whether domestic or wild, belonging to a species that is capable or believed to be capable of contracting chronic wasting disease. [PL 1999, c. 765, §8 (NEW).]

[PL 2003, c. 386, §17 (AMD).]

**2. Powers of commissioner.** The commissioner may prohibit the importation of a susceptible animal from a region, state or country where chronic wasting disease has been confirmed.

[PL 2003, c. 386, §17 (AMD).]

**3. Prevention of chronic wasting disease.** The commissioner shall monitor reports of confirmed cases of chronic wasting disease and communicate the contents of those reports to people involved in the production, care or management of susceptible animals. The commissioner shall monitor progress in the development of diagnostic tests and vaccinations for the disease and communicate the availability of tests and vaccines to people involved in the production, care or management of susceptible animals.

[PL 2003, c. 386, §17 (AMD).]

**4. Maine chronic wasting disease surveillance program; rules.** The commissioner shall develop a chronic wasting disease surveillance program. The commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, shall adopt rules to establish the requirements for participation in the program. Rules adopted pursuant to this subsection are routine technical rules as defined in [Title 5, chapter 375, subchapter 2-A](#).

[PL 2003, c. 386, §17 (NEW).]

## Appendix F: 01 001 Me. Code R. 206 § 4 M. 5.

**Chronic Wasting Disease Requirement**

- a. Cervids shall not be imported into the State of Maine unless all of the following requirements are met, as verified on the certificate of veterinary inspection:
- 1) Consignor's herd has participated in an accredited CWD Certified Herd program in good standing for the past 60 months;
  - 2) Consignor's cervid herd is located more than 25 miles from a CWD Infected Zone;
  - 3) No cervids in the consignor's herd have ever tested positive for CWD;
  - 4) No cervids in the consignor's herd have been classified as CWD Suspect; and
  - 5) No cervids in the consignor's herd have been classified as CWD Exposed within the past 60 months.
  - 6) No cervids in the consignor's herd demonstrate clinical signs of CWD.

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