

Chronic Wasting Disease Emergency Rule Updates

July 19, 2021

An emergency rule filed on June 22, 2021 was necessary because of the recent discovery of chronic wasting disease (CWD) in six deer breeding facilities, five of which have extensive direct or indirect epidemiological connectivity with nearly 300 other deer breeding facilities and release sites in upwards of 90 counties, introducing a significant possibility that additional captive and free-ranging deer populations have been exposed to CWD. This concern has been amplified with the recognition that CWD was likely present at least one year prior to discovery in two of these facilities.

This emergency action replaces the initial rule filed on June 22, 2021 and is necessary to address technical imperfections in the original filing, as well as to add provisions intended to address concerns from the regulated community. The department has specified an expiration date of October 19, 2021 for the initial period of effectiveness of this replacement emergency adoption in order to preserve the 120-day period of effectiveness established by statute for initial emergency filings. Staff will present these rules to the Texas Parks and Wildlife Commission at the August 25, 2021 Commission Meeting Work Session. Substantive changes to the rules include:

- 1. Changes in the definitions of “exposed deer” and “Tier 1 facility”** - The original emergency rule created a conflict between the definition of “exposed deer” and the definition of “Tier 1 facility,” inadvertently creating the unintended consequence of not including all affected deer and breeding facilities epidemiologically connected to positive facilities. The definitions of “exposed deer” and “Tier 1 facility” have been modified to ensure that every facility that is holding or has held an exposed deer that had been in a Trace facility is classified as a Tier 1 facility. This change will make an additional 28 deer breeding facilities subject to the provisions of the emergency rule.
- 2. A change in the definition of “last known exposure”** – The definition of “last known exposure” was modified to more accurately reflect CWD exposure risk for Tier 1 facilities still holding exposed deer.
- 3. The option for deer breeders to request a customized epidemiological assessment and testing plan for each affected facility** - The replacement emergency rule allows any permittee subject to the provisions of the emergency rule to request an epidemiological assessment to determine whether a custom CWD testing plan could be an effective alternative to specific testing requirements prescribed by the emergency rule.
- 4. The authorization of transfer of fawns to a nursing facility from a Trace or Tier 1 Facility** - The replacement emergency rule will allow the transfer of fawns from Trace and Tier 1 facilities to nursing facilities, provided each nursing facility receives deer from only one breeding facility in the permit year, and the Trace or Tier 1 facility is otherwise Movement Qualified.
- 5. Clarification that CWD zone rules still apply** - The replacement emergency rule clarifies that the regulations governing the movement of deer within CWD zones also applies to any facility designated by the department as a Category A, Category B, or Tier 1 breeding facility under the provisions of the emergency rule.

Note: The immediate net effect of the updated emergency rule will be a reduction in the number of Tier 1 facilities to 208. The estimate on June 22 was 214. The number of Tier 1 facilities is expected to decline with the implementation of the updated emergency rule.