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TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 220

Department or Agency: Alabama Department of Conservation and Natural Resources

Rule No.: 220-2-.167

Rule Title: Chronic Wasting Disease Management Zone Rule

Intended Action Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Christopher M. Blankenship
Chris Blankenship

Date

Thursday, March 20, 2025 MAR 20, 2025

LEGISLATIVE SVC AGENCY

ALABAMA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Conservation and Natural Resources

RULE NO. & TITLE: 220-2-.167 Chronic Wasting Disease Management Zone Rule

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

To update the following:

- (1) Information on submitting samples for chronic wasting disease (CWD);
- (2) Information on the baiting or supplemental feeding of wildlife within the CMZ.
- (3) Information on licensed game breeder facilities or permitted cervid facilities within the CMZ being placed on non-movement qualified status until testing can determine CWD prevalence.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Interested persons may present their views in writing to the Director of Wildlife & Freshwater Fisheries Division at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of Wildlife & Freshwater Fisheries Division, and then by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Monday, May 5, 2025.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Monday, May 5, 2025

CONTACT PERSON AT AGENCY:

Charles F. Sykes, Director,
Wildlife & Freshwater Fisheries
Division, 5th Floor, 64 N. Union
Street, Montgomery, Alabama
36130, 334-242-3465.

Christopher M. Blankenship

Chris Blankenship

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

Chronic Wasting Disease Management Zone Rule.

(1) Hunters **SHALL** submit samples for chronic wasting disease (CWD) testing from all deer harvested on any Wildlife Management Area (WMA), Special Opportunity Area (SOA), Community Hunting Area (CHA), State Waterfowl Refuges, or Physically Disabled Hunting Area (PHDA) located within a CWD High Risk Zone (HRZ) or Buffer Zone (BZ) at the WMA Check Station, or Drop-off Sampling freezer locations, or a scheduled DCNR Mobile Sampling location.

(2) Hunters **SHALL** submit samples for CWD testing from all deer harvested within the High Risk Zone (HRZ) of the Chronic Wasting Disease Management Zone (CMZ) at DCNR mobile sampling locations or Drop-off Sampling freezer locations on scheduled dates announced by press release and posted to the website below. All other days, hunters are encouraged to submit samples for CWD testing. ~~www.outdooralabama.com/CWD-Info~~www.outdooralabama.com/CWD-Info. As an incentive to increase CWD samples submitted for testing on scheduled dates, hunters shall receive a CWD Sampling Permit to harvest one additional antlered deer from within a CMZ for each CWD sample submitted for testing from deer harvested within the HRZ. No more than two additional CWD Sampling Permits will be issued per hunter above the season bag limit, combined for the HRZ and BZ. CWD Sampling Permits are non-transferrable. CWD Sampling Permits are only available at WMA Check Stations and DCNR Mobile sampling locations on scheduled testing days.

(3) Hunters **SHALL** submit samples for CWD testing from all deer harvested within the Buffer Zone (BZ) of the CMZ at DCNR mobile sampling locations or Drop-off Sampling freezer locations on scheduled dates announced by press release and posted to the website below. All other days, hunters are encouraged to submit samples for CWD testing. ~~www.outdooralabama.com/CWD-Info~~www.outdooralabama.com/CWD-Info. As an incentive to increase CWD samples submitted for testing on scheduled dates, hunters shall receive a CWD Sampling Permit to harvest one additional antlered deer from within a CMZ for each CWD sample submitted for testing from deer harvested within the BZ. No more than two additional CWD Sampling Permits will be issued per hunter above the season bag limit, combined for the HRZ and BZ. CWD Sampling Permits are non-transferable. CWD Sampling Permits are only available at WMA Check Stations and DCNR Mobile sampling locations on scheduled testing days.

(4) All deer harvested in the CMZ must be properly recorded and reported through the Game Check System pursuant to Regulation 220-2-.146.

(5) No cervid or cervid body parts taken from the HRZ shall be transported outside of the HRZ. This restriction shall not apply to meat of a cervid species that has been completely deboned; cleaned skull plates with attached bare antlers, if no visible brain or spinal cord tissue is present; unattached bare antlers or sheds; raw capes, if no visible brain or spinal cord tissue

is present; upper canine teeth, if no root structure or other soft tissue is present; and finished taxidermy products or tanned hides.

(6) No cervid or cervid body parts taken from the BZ shall be transported outside the CMZ. This restriction shall not apply to meat of a cervid species that has been completely deboned; cleaned skull plates with attached bare antlers, if no visible brain or spinal cord tissue is present; unattached bare antlers or sheds; raw capes, if no visible brain or spinal cord tissue is present; upper canine teeth, if no root structure or other soft tissue is present; and finished taxidermy products or tanned hides.

(7) Deer processors or taxidermists shall apply for a DCNR Carcass Disposal Transport permit when transporting outside of the designated zones, as applicable. www.outdooralabama.com/CWD-Info

(8) Cervid rehabilitation shall not be permitted within a CMZ nor shall Cervid be transported out of a CMZ for rehabilitation purposes.

(9) Hunters may find DCNR Best Management Practices for carcass disposal at the following link: www.outdooralabama.com/CWD-Info.

(10) There shall be no baiting or supplemental feeding of wildlife within the CMZ. Grain, salt products, minerals, or consumable natural and manufactured products may not be placed or put out for wildlife with the following exceptions:

(a) Seed or grain used solely for normal agricultural, forest management, or wildlife food plot production purposes.

(b) Feed solely placed inside an active hog trap.

(c) Feed for attracting birds and squirrels with common bird and squirrel feeders placed within 100 feet of a residence or occupied building.

(d) Feed as permitted by the Commissioner of the Department of Conservation and Natural Resources.

(e) Following any positive that results in a new CMZ or an expanded area within an existing CMZ, deer hunting by the aid of bait shall be allowed within the new CMZ or expanded area until the last day of the current CMZ deer season.

(11) Any licensed game breeder facility or permitted cervid facility within CMZ will be placed on non-movement qualified status until testing can determine CWD prevalence. Facility operators will be required to check the integrity of the perimeter fencing daily. Each captive cervid facility will be treated as an individual population. The population for a captive cervid facility will be estimated as the average of the last two inspection counts for licensed game breeder facilities, and the average of the last two inventories reported for permitted facilities. If a captive cervid facility has been operating for less than two years, then the current inventory

will be used as the estimated population count. An initial sample of approximately 10% of the estimated population of the facility will be used to determine CWD prevalence within the facility. Sampling of captive cervid facilities will be initiated within 10 miles of the location of the CWD positive detection, and progress outward to the CMZ as deemed necessary by the Commissioner. The 10% prevalence sample must be taken within 60 days after a CWD positive detection. Captive cervids considered eligible for sampling must be at least 12 months of age or older and must have been reported on the facility's prior year inventory. If CWD is not detected in any licensed game breeder facility or permitted cervid facility within the CMZ after initial prevalence testing is complete, then movement may be allowed within the CMZ only, and only upon notification by authorized Division personnel.

Author: Christopher M. Blankenship

Statutory Authority: Code of Ala. 1975, §§9-2-2, 9-2-6, 9-2-7, 9-2-12, 9-11-244.

History: New Rule: Published May 31, 2022; effective July 15, 2022. **Amended:** Published November 30, 2023; effective January 14, 2024. **Amended:** Published _____; effective _____.

Penalty: As provided by law.

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No:	<u>220</u>
Department or Agency:	<u>Alabama Department of Conservation and Natural Resources</u>
Rule No:	<u>220-2-.167</u>
Rule Title:	<u>Chronic Wasting Disease Management Zone Rule</u>
Intended Action:	<u>Amend</u>

 This rule has no economic impact.

 Yes This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

The rule is required to prevent/slow the transmission of CWD, a contagious, fatal, neurodegenerative disease that affects deer, elk, and other cervids. CWD has been detected in multiple deer in Lauderdale, Colbert, and Franklin Counties area which is defined as the "CMZ." CWD reduces the number of deer who survive to adulthood, thereby reducing deer population. In other states, it has caused a detrimental effect on the hunting industry once it becomes prevalent. Ala. Code § 9-11-244 specifically authorizes the Commissioner to suspend baiting in a disease outbreak. Moreover, all licensed deer breeders in Alabama acknowledged that all deer (even those deer that they bred, pen-raised, purchased, and sold) are the property of the State of Alabama. This rule allows the State to protect and manage the deer herd in Alabama to slow the progress of CWD which helps protect private hunting, subsistence hunting, and the commercial hunting industry in Alabama.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

CWD spreads through contact with contaminated body fluids and tissue or indirectly through exposure to CWD in the environment (such as contaminated soil and bait food). Transport of live or harvested deer is a major cause of spreading CWD in new areas. Limiting the transport of deer, and congregate feeding through baiting, helps slow the spread of CWD and the introduction of CWD to other areas of the state. Introduction of CWD to other areas of the state (like transporting deer from a breeder in the CMZ to high fence or other

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breeder in Washington or Houston Counties) would negatively impact deer breeders, high fence owners, and hunters in those counties. In the absence of transport, it could take decades for deer in other counties to be exposed. With transport, it could take only months to expose the deer in other areas of the state. Prohibiting baiting within the CMZ and limiting the transport of deer outside the CMZ is the least restrictive means to help prevent/slow the spread of CWD.

3. EFFECT OF THIS RULE ON COMPETITION:

N/A

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

There will be no effect on cost of living. There is a possibility of increased cost of doing business. A licensed deer breeder within the CMZ may have to increase monitoring and testing of deer within their facility and will have to limit transport of deer from the CMZ to other un-exposed areas of the state.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

N/A

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Hunting licenses fees, Pittman-Robertson funds; and to a small extent, DCNR deer breeder permit fees.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON EFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The short term economic impact has already been experienced because the 2024/2025 deer season has ended. The long-term economic impact is as follows:

For hunters who purchased bait-feeding systems, those systems cannot be used next season.

For licensed deer breeders located in the CMZ, those breeders will have to increase monitoring of their facility and may have to increase testing of deer within their facility. Breeders located within the CMZ are prohibited from transporting deer outside the CMZ to prevent the introduction/exposure of CWD into other areas of the state. The prohibition of transport outside the CMZ may reduce or limit the market in which CMZ breeders can sell their deer. However, the market would likely self-regulate without the rule; high fence owners outside the CMZ would likely not purchase deer from breeders inside the CMZ

because of the possibility of introducing CWD to their existing herd and possible contamination of their property. Therefore, the economic impact is less a result of the proposed rule and more a natural result of potential purchasers choosing not to risk exposure of their current herd.

Licensed deer breeders within the CMZ will bear some of the costs of compliance with the rule. Those breeders acknowledged, at the time they entered the business, that the deer they breed, raise, and purchase or sell are property of the State of Alabama, and they assumed the risk of increased testing and regulatory compliance when they entered the market in exchange for profiting from the sale of a state resource.

Those who will benefit from the rule: all deer breeders located outside the CMZ high fence owners, private hunters, subsistence hunters, the commercial hunting industry and related businesses, the State of Alabama, and all other deer.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

See response to number 7.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

Environmental concern: CWD can persist in an area indefinitely and continue to spread and infect deer through a contaminated environment. This poses serious problems for wildlife managers and the implications for free-ranging deer are significant. The disease could substantially reduce deer populations by lowering adult survival rates.

Public health concern: No case of human disease has been directly linked to consuming venison harvested from a CWD-positive area. However, the CDC recommends that humans do not eat meat from a deer that has tested positive.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

See response to number 9.

Signature of certifying officer

Christopher M. Blankenship

Chris Blankenship

Date

Thursday, March 20, 2025