

COMPREHENSIVE CWD MANAGEMENT RULES
DEER BREEDER PROVISIONS
EMERGENCY ADOPTION PREAMBLE

1. Introduction.

The Texas Parks and Wildlife Department adopts, on an emergency basis, new §65.101, concerning Emergency Provisions. The emergency action is necessary to respond to sudden situational conditions that are delaying throughput times for required chronic wasting disease (CWD) testing effort at the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL).

White-tailed deer and mule deer are species of public resources authorized to be regulated by the department under the Parks and Wildlife Code. Parks and Wildlife Code, Chapter 43, Subchapter L, specifically requires the department to regulate the possession of deer held in captivity pursuant to a deer breeder permit. Department rules at 31 TAC Chapter 65, Subchapter B, condition the transfer of breeder deer from and between facilities on the results of mandatory CWD testing performed by TVMDL. At the current time, the volume of test samples that have been and are being received at TVMDL has resulted in a processing bottleneck that has created a backlog significant enough to warrant concern due to interference with and perturbations resulting from the inability of deer breeders to transfer deer to release sites due to delayed test results. The department has determined that if the regulated community is unable to transfer deer within the seasonal cycle that typically and historically occurs, there could be significant consequences that threaten captive deer populations (which are a public resource), such as increased mortalities and overcrowding. Therefore, the emergency rule is being adopted to address this threat to a public resource held in captivity.

The rule is adopted on an emergency basis under Parks and Wildlife Code, Chapter 43, Subchapter L, which authorizes the Parks and Wildlife Commission to establish regulations governing the possession of white-tailed and mule deer under a deer breeder's permit; Parks and Wildlife Code, §12.027, which authorizes the Texas Parks

and Wildlife Commission and the department's executive director to adopt emergency rules if there is an immediate danger to a species authorized to be regulated by the department, and under Government Code, §2001.034, which authorizes a state agency to adopt such emergency rules without prior notice or hearing.

2. Rule Text.

§65.101. Emergency Provisions.

(a) To the extent that any provision of this section conflicts with any provision of this division, the provisions of this section prevail.

(b) A deer breeding facility is MQ provided:

(1) the facility was designated MQ as of March 31, 2022;

(2) all tissue samples required under this division to maintain MQ status for the current reporting year were submitted to TVMDL on or before April 7, 2022; and

(3) all provisions of this division necessary for the facility to maintain MQ status other than the receipt of "not detected" CWD test results have been met.

(c) A breeder deer may be transferred from a deer breeding facility to a release site that has met all the requirements of this division, provided:

(1) the deer breeding facility from which the deer is transferred is MQ;

(2) an ante-mortem rectal or tonsil tissue sample has been taken from the deer within the eight months immediately preceding the release and was submitted to TVDML on or before March 31, 2022;

(3) the deer is at least six months of age at the time the test sample required by this subsection is collected; and

(4) the permittee has, prior to any transfer of deer, provided the department's wildlife permitting office with a written list of the unique numbers of the deer to be transferred.

This agency hereby certifies that the adoption has been reviewed by legal counsel

and found to be a valid exercise of the agency's authority.

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