

NOTICE OF INTENT
Louisiana Department of Agriculture and Forestry
Office of Animal Health and Food Safety
Board of Animal Health

(LAC 7:XXI.1705-1725.Alternative Livestock-White Tailed Deer and Other Captive Cervids)

In accordance with the Administrative Procedure Act, R.S. 49:950, *et seq.*, notice is hereby given that the Department of Agriculture and Forestry ("Department"), through the Office Animal Health and Food Safety, and the Board of Animal Health intends to amend LAC 7:XXI.1705-1725 relative to white tailed deer and other captive cervids in order to align the needs for disease control and facilitate commerce for the alternative livestock industry. The proposed revisions to LAC 7:XXI.Chapter 17 aligns the need for disease control and facilitates commerce for the alternative livestock industry. The proposed rules clarify requirements for the commissioning and decommissioning of farm raised white tailed deer pens, update definitions used in Chapter 17, amends the requirements for approval a license and sets forth requirements to be followed in the event of a change of ownership of a farm. The proposed amendments remove the harvesting permit fee and provide that a late fee of \$125 may be assessed if the annual farm raising license fee is not timely paid. The proposed rules modify the obligations of a farm-raising licensee with respect to identification of farm raised alternative livestock and also require licensees to keep records for 60 months instead of 36 months. The proposed rules allow licensure of an area not less than 250 acres and remove a maximum number of acres. The proposed rule removes the requirement of obtaining a harvesting permit prior to harvesting or killing farm raised alternative livestock. These revisions will remove outdated provisions and maintain consistency with the goals of the department and the industry.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Animals and Animal Health

Chapter 17. Alternative Livestock—White-tailed Deer and other Captive Cervids
(Formerly Chapter 15)

§1705. Definitions
(Formerly §1503)

A. For purposes of these rules and regulations the following words and phrases shall have the meaning given herein.

Alternative Livestock—any imported or domestically raised exotic deer and antelope, elk or farm-raised white-tailed deer.

Chronic Wasting Disease (CWD)— A transmissible spongiform encephalopathy of cervids.

Commissioner—the commissioner of agriculture and forestry.

* * *

Department—the Louisiana Department of Agriculture and Forestry.

Elk— any animal of the species and genus *Cervus canadensis*.

* * *

Quarantine— the requirement, resulting from an order of the department or the state veterinarian's office, to secure and physically isolate an animal or animals in a specified confined are.

White-tailed Deer— any animal of the species and genus *Odocoileus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998), amended by the Department of Agriculture and Forestry, Board of

Animal Health, LR 38:961 (April 2012), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:971 (May 2014); LR 42:

**§1707. Issuance of Farm-Raising License; Renewals
(Formerly §1505)**

A. ...

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's requirements and inspection.

C. Any changes in any information submitted in the original application, occurring during or after the application process, shall be submitted in writing to the department. The department must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application before such change or modification, may go into effect.

D. – G. ...

H. A farm-raising license is non-transferrable without written approval from the department. In the event of a change in ownership of a farm, the new owner or operator shall submit a transfer application to the department. The transfer application shall detail any changes in the approved farm operation plan. The transferee shall meet all requirements set forth in this Chapter in order for the transfer to be approved.

1. Upon receipt of the transfer application and all additional requested information, the department shall issue approval or denial of the transfer request within thirty (30) days. If a transfer is denied, the applicant may, within 7 days of receipt of the denial, file an appeal of the department's decision with the Board of Animal Health. The appeal will be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:972 (May 2014); LR 42:

**§1709. Fees
(Formerly §1507)**

A. – A.2. ...

B. Delinquent Fees

1. Any farm raised license renewal not received by August 31 may be assessed a late fee of \$125.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised harvest tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1709.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of \$5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state or federally approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101 and R.S. 3:3107.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998), LR 39:3060 (November 2013), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:972 (May 2014); LR 42:

**§1711. Farm-Raising Licensing Requirements
(Formerly §1509)**

A. – A.11. ...

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;
2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:
 - a. a minimum height, above the relevant ground, of 8 feet;
 - b. enclose an area of not less than 250 acres to be eligible for harvesting as provided by §1709 of these rules and regulations. Applicants seeking eligibility to harvest on farms with enclosures of less than 300 acres must demonstrate good cause why an enclosure of a different size is not inconsistent with the intent of part I of chapter 19-A of title 3 of the *Revised Statutes*; No farm less than 300 acres will be approved unless more than 60% of the farm is wooded or heavy brush.
 - c. a minimum gauge wire of 12 1/2;
 - d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department, however, welded wire fences shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but, such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;
3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;
4. have adequate space and if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;
5. have no condition which may cause noncompliance with or substantial difficulty in complying with part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:973 (May 2014); LR 42:

**§1713. Grounds for Refusal to Issue or Renew a Farm-Raising License
(Formerly §1511)**

A. – A.4. ...

5. the proposed farm does not pass the department's inspection;

A.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:974 (May 2014); LR 42:

**§1715. Obligations of the Farm-Raising Licensee
(Formerly §1513)**

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:
 - a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear;
 - b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;
 - c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;
 - d. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

- a. by means of an electronic implant or by a permanent ear tattoo and ear tag;
- b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear;
- c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;
- d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;
- e. the identification number or electronic implant code, and the location thereof, shall be listed on the health certificate and the bill of sale or certificate of transfer.

A.3. – A.4. ...

B. Record Keeping

1. Each licensee shall maintain records, for not less than 60 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

B.1.a. – B.1.f. ...

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass, or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status. A copy of the bill of sale shall be submitted to the department within 10 business days of the transaction.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. – C.2. ...

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify, orally and in writing, the department of the breach or opening and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall make all reasonable efforts to remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer may include the following steps;

- a. Upon completion of fencing and enclosure, LDAF shall inspect the enclosure for the presence of native white-tailed deer and inspection of enclosure;
- b. If the inspection reveals the presence of native white-tailed deer, the licensee shall attempt to eradicate the deer concurrent with one legal hunting season;
 - i. The licensee may enroll in LDWF's DMAP for harvest tags to facilitate eradication.
- c. Final inspection of the premises for the presence of native white-tailed deer shall be performed by the department, with input from LDWF. The final decision regarding licensure shall be made by the department.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department, at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department.

5. A licensee upon cessation of operations, or upon revocation or nonrenewal of the farm-raising license shall make all reasonable efforts to remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the farm-raised alternative livestock to be made in a manner different from the farm operation plan. Farm-raised alternative livestock on the farm may be transferred to another licensed farm or eradicated concurrent with one legal hunting season. If, at the end of one legal hunting season, farm-raised alternative livestock remain on the property, the licensee may request LDAF harvest tags as needed.

a. Prior to decommissioning of the farm and removal of the enclosure, the licensee shall test 10% of cervids 12 months and older for CWD using a USDA approved method of testing.

b. Prior to decommissioning of the farm and removal of the enclosure, LDWF and LDAF shall conduct a final inspection of the farm to ensure that all reasonable efforts to remove and dispose of all farm-raised alternative livestock on the farm have been made. Final approval for decommissioning of the farm and removal of the enclosure shall be granted by LDAF.

D.6. – D.8. ...

9. A licensee shall allow authorized representatives of LDAF to inspect the farm at any time and all books and records at any reasonable time.

D.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1674 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:974 (May 2014); LR 42:

§1717. Health Certificates and Health Requirements (Formerly §1515)

A. – A.3. ...

4. have written proof of a negative tuberculin skin test or a serological test for tuberculosis that meets the following requirements;

a. the tuberculin skin test or serological test for tuberculosis is one of the official tuberculosis tests approved by the U.S. Department of Agriculture for use on the species of alternative livestock for which permission to enter the state is being sought;

b. the test was administered and read in accordance with the USDA requirements for the administering and reading of that test;

B. – F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 39:3247 (December 2013), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:975 (May 2014); LR 42:

§1719. Harvesting or Killing of Farm-Raised Alternative Livestock (Formerly §1517)

A. – B. ...

C. The commissioner may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of part I of chapter 19-A of title 3 of the *Revised Statutes*. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Except as provided by §1709.C.3 of these regulations, any farm-raised alternative livestock harvested or killed, shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill and the tag shall remain with the carcass at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:977 (May 2014); LR 42:

§1721. Prohibitions

(Formerly §1519)

A. No farm-raised alternative livestock shall be released into the wild.

B. Farm-raised white-tailed deer meat shall not be bought, sold, traded, or moved in commerce in any way except when taken to state or federally approved slaughter house. Whitetail deer antlers and capes may be sold if the farm of origin is not under quarantine by the Department.

C. Farm-raised alternative livestock sold for slaughter, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state or federally approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for *Brucellosis* or tuberculosis.

E. Failure to comply with any provision of part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:977 (May 2014); LR 42:

§1723. Enforcement

(Formerly §1521)

A. The department's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing or reviewing farm-raising licenses and to insure compliance with part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. Authorized representatives of the department may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escapes from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured or killed by authorized representatives of the department or by LDWF or any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:977 (May 2014); LR 42:

§1725. Penalties

(Formerly §1523)

A. ...

B. The commissioner may, in addition to suspending or revoking any farm-raising license, impose upon any person charged with violating any provisions of part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine, a fine for up to \$100 per violation for each violation such person is found guilty.

C. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:978 (May 2014); LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

- (1) the stability of the family;
- (2) the authority and rights of persons regarding the education and supervision of their children;
- (3) the functioning of the family;
- (4) family earnings and family budget;
- (5) the behavior and personal responsibility of children;
- (6) the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- (1) the effect on household income, assets, and financial security;
- (2) the effect on early childhood development and preschool through postsecondary education development;
- (3) the effect on employment and workforce development;
- (4) the effect on taxes and tax credits;
- (5) the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- (1) the effect on the staffing level requirements or qualifications required to provide the same level of service;
- (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- (3) the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to John Walther, Assistant Commissioner of Animal Health and Food Safety, Department of Agriculture & Forestry, 5825 Florida Blvd., Suite 4000, Baton Rouge, LA 70806 and must be received no later than 12:00 p.m. on the October 5, 2016. No preamble is available.



Mike Strain, DVM
Commissioner of Agriculture and Forestry