

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1401

NOTICE OF RULEMAKING - CORRECTION TO TEMPORARY AND PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the temporary and pending rule under Docket No. 02-0419-1401 in the November 5, 2014, Idaho Administrative Bulletin, Volume 14-11.

An oversight was made during the amending of IDAPA 02.04.19, Rules Governing Domestic Cervidae, to achieve consistency with the 2014 legislative amendments to Idaho Code Section 25-3708.

The phrase "imported from outside the state" was not removed from IDAPA 02.04.19.090.01 the current temporary and pending rule. This has created an inconsistency between the rule and I.C. § 25-3708. I.C. § 25-3708(1) now states that the domestic cervidae assessment "fee shall apply to . . . all domestic cervidae that die or have been harvested on the farm or ranch during the same calendar year." Therefore, Idaho law now requires a fee to be assessed on all animals that die on a cervidae facility in the same calendar year.

The current temporary and pending rule language states that the assessment fee "shall include . . . all domestic cervidae imported from outside the state that die during the same calendar year." Therefore, the rule indicates that the assessment fee will only apply to domestic cervidae that were imported onto a facility *and* die in the same calendar. This overlooks domestic cervidae that were already present on the facility and die during the relevant calendar year.

The 2014 amendment to Idaho Code 25-3708(1) states unequivocally that all domestic cervidae that die or were harvested on a farm during the same calendar are to be assessed the fee. The statute does not limit the fee to only those domestic cervidae that were imported and died in the same year. The phrase "imported from outside the state" must be removed from the current temporary and pending rule text to make the rule consistent with Idaho Code 25-3708(1).

The Subsection with the correction is being reprinted following this Notice as it was adopted by the agency.

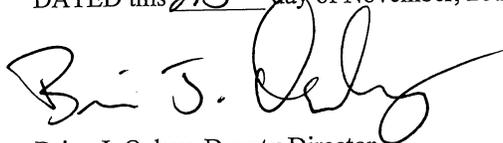
EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: This action is authorized pursuant to Sections 67-5224 and 67-5228, Idaho Code and Section 25-3704 Idaho Code. The corrected text of the pending and temporary rule is being reprinted here as adopted by the agency.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the November 5, 2014, Idaho Administrative Bulletin, Volume 14-11, page 37. The original text of the temporary and proposed rule was published in the September 3rd, 2014, Idaho Administrative Bulletin, Vol. 14-9, pages 48 through 55.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

DATED this 28th day of November, 2014.

A handwritten signature in black ink, appearing to read "Brian J. Oakey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
PO Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208)334-2170

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 02-0419-1401

090. FEES.

01. Annual Assessment Fee. A fee, not to exceed ~~five, ten~~ dollars (\$510) per head per year on elk or three dollars (\$3) per head per year on fallow deer and reindeer, is ~~to be~~ hereby assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. The fee shall include all domestic cervidae present at the ranch as of December 31 and all domestic cervidae ~~imported from outside of the state~~ that die during the same calendar year. This fee is due January first of each year. The annual assessment fee may be reduced if program revenue accumulates to a balance of at least one hundred thousand dollars (\$100,000) in excess of the projected annual cost of operating the program, as determined by the Department on July 1 of each year. (4-7-11) (9-1-14)T