

From: Clint Evans [<mailto:elk4sale@att.net>]
Sent: Tuesday, June 24, 2014 10:41 PM
To: 'RoseLake ElkRanch'; Dr. Scott Leibsle
Cc: Brian Oakey; 'Jeff Siddoway'; 'Rulon Jones'
Subject: RE: Rule changes per IDAPA 02.04.19

I agree with Gary Queen. When HB431 was passed and signed by the Governor, I expected that the changes would go into effect immediately because of emergency clause in the Bill. The Bill clearly states what is to be changed and shouldn't have to go to negotiated rule making. I think that during our recent conference call it was clear that the Elk Breeders want the rules to reflect the exact changes that are outlined in HB431.

Clint Evans
Elk Springs Ranch

From: RoseLake ElkRanch [<mailto:elktalk83810@hotmail.com>]
Sent: Tuesday, June 24, 2014 4:23 PM
To: scott.leibsle@agri.idaho.gov
Cc: Brian Oakey; Clint Evans; Jeff Siddoway; Rulon Jones
Subject: Rule changes per IDAPA 02.04.19

Re: negotiated rule making on IDAPA 02.04.19

Dr. Barton and Dr. Leibsle;

Please let it be known to all concerned that as a member of the elk ranching community of this state that I, Gary Queen am opposed to the Idaho State Department of Agriculture (ISDA) Division of Animal Industries bringing the promulgation of the proposed rule changes pursuant to House Bill 431 which passed the 2014 Idaho State Legislature and was signed into law by Governor Otter into a negotiated rule making. In fact there is nothing that needs to be negotiated as the statutory changes which were sought by the ISDA and brought to pass by the Idaho Elk Breeders via HB431, are clear; the legislative history and synopsis of the bill clearly state the changes to be made, and the changes are clearly reflected by "the act" which created a new subsection 25-3704 (A) and amends sections 25-3705 and 25-3708.

Let this serve as a reminder to all in attendance to the negotiated rule making session(s) that the rule promulgated must only reflect the intent of the statute changes and the wording is clear that unless a cervidae facility is part of a CWD positive, exposed, trace, source or suspect herd, that a minimum of 10% of the disposed animals must be tested, as per the new section, with the exception of facilities that intend to export interstate and those facilities would fall under federal regulations and would follow the Federal UM&R whereby 100% testing on those facilities would be required.

The same applies for facility that intend to export animals interstate that those facilities must also be inspected as per the federal requirements verses a facility that only wants to remain in intrastate commerce need only inspections at least once every five (5) years.

Obviously (and covered by other rules already in place, i.e. IDAPA 02.04.19 - 500) an exception to these situations would be if the ISDA (the department) or a particular operator of a facility had other concerns, i.e. a continued problem with ingress or egress... then this can be addressed in an individual herd plan per IDAPA 02.04.19 - 500.02.

Last but not least, the Department has concerns of funding and previously asked that the industry propose changes that would allow for more funding for the cervid program which is what the entire intent of HB431 was about. The very reason for less testing, fewer inspections and the raise of the assessment fee was to lessen the burden on the Department's resources, or lack thereof. This is the reason for section 4 of HB431, the emergency clause. This is the reason that I believe that a negotiation of these rule changes was neither feasible or necessary. Due to the emergency clause an "emergency rule" should have been promulgated as is the prerogative of the administrator.

With that said let me also bring to light that Chapter 37 Title 25-3704 gives the administrator of the division the authorization "to make, promulgate and enforce general and reasonable rules, not inconsistent with law, for the prevention, introduction or dissemination of disease among domestic cervidae of this state"(emphasis mine). This is why the industry, negotiated the original rules that are presently in place, which provide for individual facility herd plans whereby ingress or egress may be addressed where it poses a problem. Therefore nothing in this rule making needs to address anything further than the changes made to 25-3704, 25-3705 and 25-3708 of Idaho Code. and must only reflect the changes made to statute which are clear.

Sincerely,

Gary Queen - manager/operator
Rose Lake Elk Ranch
Cataldo, ID

cc; Brian Oakey, Clint Evans, Senator Jeff Siddoway , Rulon Jones, David Miller



REC'D JUN 26 2014

IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

C.L. "Butch" Otter / Governor
Virgil Moore / Director

June 23, 2014

REC'D JUN 26 2014

Dr. Scott Leibsle, Deputy Administrator
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701

Dear Dr. Leibsle:

Thank you for the opportunity to comment on rules regarding domestic cervidae and Idaho Department of Agriculture negotiated rulemaking on the restriction against importation of domestic cervidae from areas where meningeal worm is endemic.

The mission of the Idaho Department of Fish and Game (IDFG) is to preserve, protect, and perpetuate the wildlife and fisheries resources in the state... and to provide continued supplies of wildlife and fish for hunting, fishing and trapping. The Public Trust Doctrine would dictate that the wildlife of Idaho, held in trust for the people of Idaho, should be protected from things that may be harmful. Our assessment is that it is likely that introduction of either CWD or meningeal worm could harm wild cervids in the state and we strongly recommend not pursuing rules that would increase potential for introduction.

With reference to diseases, the primary concern of IDFG is the establishment of new or undesirable pathogens in free-ranging wildlife, including cervids. Concerns include the immediate effect of new pathogens on cervid populations as well as the long term consequences of disease on populations. One of the driving forces behind the concern over diseases in free-ranging cervids is that once a disease becomes established, it becomes very difficult, if not impossible, for management actions to modify the effects of disease or to control disease in wild animals. Access to wild animals is difficult, treatment options are limited, and the application of management actions to control disease is very expensive.

The IDFG is acutely aware of the concept of 'moving the zoo' – meaning that all animals have some resident pathogens. As animals interact, they can share those pathogens. If the newly exposed animals have no way to effectively deal with the new pathogens, disease problems can develop in individuals, herds, or populations of wildlife. When animals are moved by humans, they bring their resident pathogens along with them. The IDFG continues to be very concerned about the potential importation of Chronic Wasting Disease (CWD) and meningeal worm

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Dr. Scott Leibsle
June 23, 2014
Page 2 of 3

(*Parelaphostrongylus tenuis*) due to the transport of domestic cervids by domestic cervidae facilities from outside of Idaho and the transmission and establishment of these diseases into Idaho wild cervids. These and other diseases could cripple the state's hunting industry which contributes millions of dollars to the state's economy annually.

In states where CWD was been known to occur for long periods of time (CO, NE, SD, WI, IL, WV), localized population reduction has been used to reduce transmission of the disease. These efforts have resulted in lowered prevalence, but not the elimination of CWD. Chronic Wasting Disease continues to persist in both captive and wild cervid populations in at least 20 states and 2 Canadian provinces, and many of those states first discovered the disease in captive cervids.

The IDFG has a CWD action plan that is focused on three objectives in the unlikely event of the detection of CWD in Idaho: 1) Risk reduction, 2) Surveillance, and 3) Containment. The surveillance efforts include an intensive effort to sample 1,200 elk and deer harvested in Idaho annually. Early detection of the disease is critical to find the first or first few cases of CWD in an area. Once CWD becomes established, the models predict persistence of the disease for long periods of time and likely will never be eliminated, even with aggressive management actions.

By reducing the requirement for testing of domestic cervidae from 100% to 10%, the risk of introduction of this disease increases substantially. Compliance with existing rules should be more important from a disease control standpoint than reducing the testing percentage to match the current poor compliance of the domestic cervid industry in the state. We urge ISDA to maintain the 100% requirement for testing all domestic cervids in the state that are found dead, slaughtered, or harvested.

Meningeal worm is a nematode parasite of white-tailed deer (*Odocoileus virginiana*) in the eastern half of the United States, typically depicted as east of the 100th meridian. Suitable intermediate and definitive hosts for this parasite exist in many areas west of the 100th meridian, including Idaho. The parasite can cause significant disease and death in a wide range of alternative hosts including cervids (moose, elk, caribou, fallow deer, black-tailed, and mule deer), bovids (many African antelope species), ovids and caprines (domestic sheep, bighorn sheep, domestic goat), and camelids (camels, llamas, alpacas). Meningeal worm is one of the major factors limiting populations of moose in areas of eastern North America.

Several surveys for meningeal worm in white-tailed deer in Idaho have been done in the past. To date, the parasite has not been detected in wild cervids in Idaho. Since IDFG prohibits the importation of white-tailed deer into Idaho, the risk of introduction of this parasite from white-tailed deer should be near zero. Since white-tailed deer in surrounding states do not have the parasite, migration of wild white-tailed deer into Idaho should also be zero risk.

Dr. Scott Leibsle
June 23, 2014
Page 3 of 3

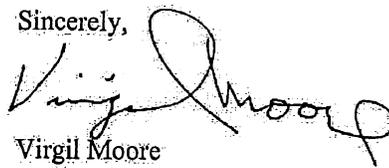
To minimize the risk of introduction of this parasite into Idaho, ISDA rules prohibit the importation of elk and other cervids from east of the 100th meridian. It is imperative that the prohibition be maintained. It is known that elk from east of this line have been transported to states west of the 100th meridian, treated, and then reclassified as residents of the new state for importation into Idaho and other states. It is also known that some elk, especially those exposed to small numbers of larvae, can survive the infection and pass viable eggs. Once infected, there are no known pharmaceutical agents available to kill adult worms in the meninges of infected animals. Methods to detect variable and low numbers of larvae in feces of infected elk (e.g., Baerman test) are unreliable. A few infected elk shedding a few larvae could infect native white-tailed deer which could amplify the larval production and put large numbers of wild cervids at risk from this devastating parasite. An ELISA test (Prairie Diagnostic Services, Regina, Saskatchewan, Canada) was briefly, but is not currently, available leaving no commercially available diagnostic test. It is also known that treatment of infected animals with anthelmintics can reduce or temporarily eliminate larval shedding but because the adult worms are not killed, larval shedding will continue after treatment.

Risk reduction is needed to minimize the potential for the introduction of CWD and *P. tenuis* into Idaho. The major risk to wild deer and elk by CWD and *P. tenuis* is the importation of captive deer or elk from herds or areas that are affected by these diseases.

It is likely that introduction of either CWD or meningeal worm would harm wild cervids in the state. It is important that CWD and meningeal worm are not introduced to Idaho through importation of animals. To date, neither has been detected in Idaho, most likely due to the requirements by ISDA for both CWD and meningeal worm. Rule changes that remove or decrease protections for these diseases on the captive side potentially endanger the health of wild cervids in the state. We must continue to do everything we can to work together to minimize the risk of entry of either of these diseases into Idaho.

My staff will be attending the negotiated rulemaking meeting on July 1. Thank you for the opportunity to comment.

Sincerely,



Virgil Moore
Director

cc: Dr. Mark Drew, Steve Nadeau, Brad Compton

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From: Eldon Golightly [<mailto:EGolightly@plmw.com>]
Sent: Monday, July 07, 2014 3:19 PM
To: Dr. Scott Leibsle
Subject: RE: 2014 Domestic Cervidae Rulemaking

Dr. Scott Leibsle

Good afternoon. I have reviewed the proposed changes and agree with the changes. I am very much in favor of us Elk Producers carrying our costs so that the Department of Agriculture is adequately funded and that we work together in a strong and unified effort. Thanks for our efforts.

Eldon C. Golightly



IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

C.L. "Butch" Otter / Governor
Virgil Moore / Director

July 25, 2014

Dr. Scott Leibsle, Deputy Administrator
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701

REC'D JUL 30 2014

Dear Dr. Leibsle:

Thank you for the opportunity to comment on rules regarding domestic cervidae and Idaho Department of Agriculture (ISDA) negotiated rulemaking on the restriction against importation of domestic cervidae from areas where *Parelaphostrongylus tenuis* (meningeal worm) is endemic, and thank you for extending the comment period to August 1.

The mission of the Idaho Department of Fish and Game (IDFG) is to preserve, protect, perpetuate and manage the wildlife and fisheries resources in the state... and to provide continued supplies of wildlife and fish for hunting, fishing and trapping. Our assessment is that it is likely that introduction of either Chronic Wasting Disease (CWD) or meningeal worm could harm wild cervids in the state and we strongly recommend maintaining appropriate safeguards to the unintentional, but preventable, introduction of both CWD and meningeal worm.

Our concerns and comments relative to CWD were provided in our June 23, 2014 letter. Those have not changed. However, we have one additional recommendation relative to the draft proposed rules for CWD (02.04.19 - Rules Governing Domestic Cervidae). We recommend the term "hunting" in subsection 010.31 be replaced with "shooting." Use of the term hunting may create confusion among customers of domestic cervidae farms as to whether a hunting license is required.

The IDFG continues to be very concerned about the potential importation of meningeal worm. This parasite is a significant concern for moose managers in northern states where white-tailed deer occur sympatrically. Minnesota just recently eliminated moose hunting due to declines of over 50% in their populations in the last 3 years, in part due to substantial impacts from meningeal worm.

During the negotiated rule making meeting at ISDA on July 1, there was a statement made that meningeal worm was not a concern in elk because "elk are a dead end host and do not pass the parasite's eggs or larvae through the feces." There was also the question expressed whether Idaho had the appropriate gastropods to serve as intermediate hosts. We provided you several peer reviewed publications on *P. tenuis* that clearly identify elk as being able to not only pass on *P. tenuis* eggs in the feces, but that they can survive low level infections and pass them undetected with

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Dr. Scott Leibsle
July 25, 2014
Page 2

current testing abilities. Also, Idaho has several species of the gastropods that are known to be infected with *P. tenuis* in the eastern U.S., and they are widespread throughout the state.

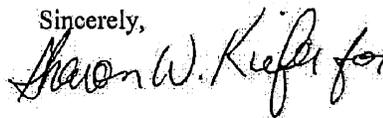
Additionally, we contacted several western states and asked them if they had *P. tenuis* and what protocol and policies they had for protecting against the importation of the parasite through domestic cervidae. Of note, we spoke with and reviewed Dr. James Maskey's 2008 dissertation on *P. tenuis* in North Dakota. Dr. Maskey identified *P. tenuis* west of the 100th meridian all the way to the northwestern border of North Dakota. His advice was to "abandon the 100th meridian rule and push for no importation of deer or elk from any state that has *P. tenuis*." (attached e-mail). Montana biologists are concerned that it may now be present in the northeastern corner of that state. Colorado does not have the 100th meridian ban but does not allow importation of white-tailed deer. Currently, Wyoming does not have any game farms and does not allow importation of domestic cervidae. Utah does not import from east of the 100th meridian. Washington prevents importation from many states with known CWD and *P. tenuis*, and any animal that is infected with or exposed to any infectious or communicable disease. Oregon, the most restrictive state, does not allow importation of any species of cervidae from anywhere.

To minimize the risk of introduction of this parasite into Idaho, ISDA rules prohibit the importation of elk and other cervids from east of the 100th meridian. Based on more recent research and input from other states, we recommend that not only is it important the current prohibition be maintained, but the rule should be updated to reflect the current distribution of *P. tenuis* in any states that extend west of the 100th meridian.

It is known that elk from east of this line have been transported to states west of the 100th meridian, and then reclassified as residents of the new state for importation into Idaho and other states. States like Colorado that do not have strict import rules act as a location for exportation into Idaho given the 100th meridian rule. This loophole should be addressed. Importation into Idaho from Colorado, or any state that allows imports from states with *P. tenuis* should be addressed in any new revision.

Thank you for the additional opportunity to provide information to address potential misinformation and help clarify the risk to Idaho's wildlife. Should you have specific follow-up questions, please contact Steve Nadeau at 208-287-2839.

Sincerely,



Virgil Moore
Director

VM:SN:clc
cc: Dr. Mark Drew, Steve Nadeau, Brad Compton

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From: James J. Maskey [mailto:jmaskey@umary.edu]

Sent: Wednesday, July 09, 2014 9:38 AM

To: Nadeau, Steve

Subject: RE: Western states *P. tenuis*

Steve,

I've attached a map of the distribution of *P. tenuis* in North Dakota. As you can see, we do have it in the state west of the 100th meridian, although it is fairly rare (prevalence in Unit 3A1 was 0.7%). We have seen a recent increase in prevalence and possibly geographic range in ND, and this seems to be related to the wet climate cycle we've had and also increasing deer numbers at the time (since this study we've had declining white-tailed numbers). I would suggest that you abandon the 100th meridian rule and push for no importation of deer or elk from any state that has *P. tenuis*. Going forward, I would also echo what Murray Lankester had to say about doing surveillance. The only way to reliably determine that you have *P. tenuis* is to examine white-tailed deer heads, as larvae from feces may be from other closely-related species (e.g. *P. andersoni*). Also, it is way easier to recover worms from white-tailed deer than from moose or other hosts, as worms in deer are on the surface of the brain or meninges or in venous sinuses and are relatively easy to spot, whereas in moose, they are typically embedded in the brain or spinal cord and require histological sectioning to detect.

Hope this is useful,

Jim

James J. Maskey, Ph.D.

Assistant Professor

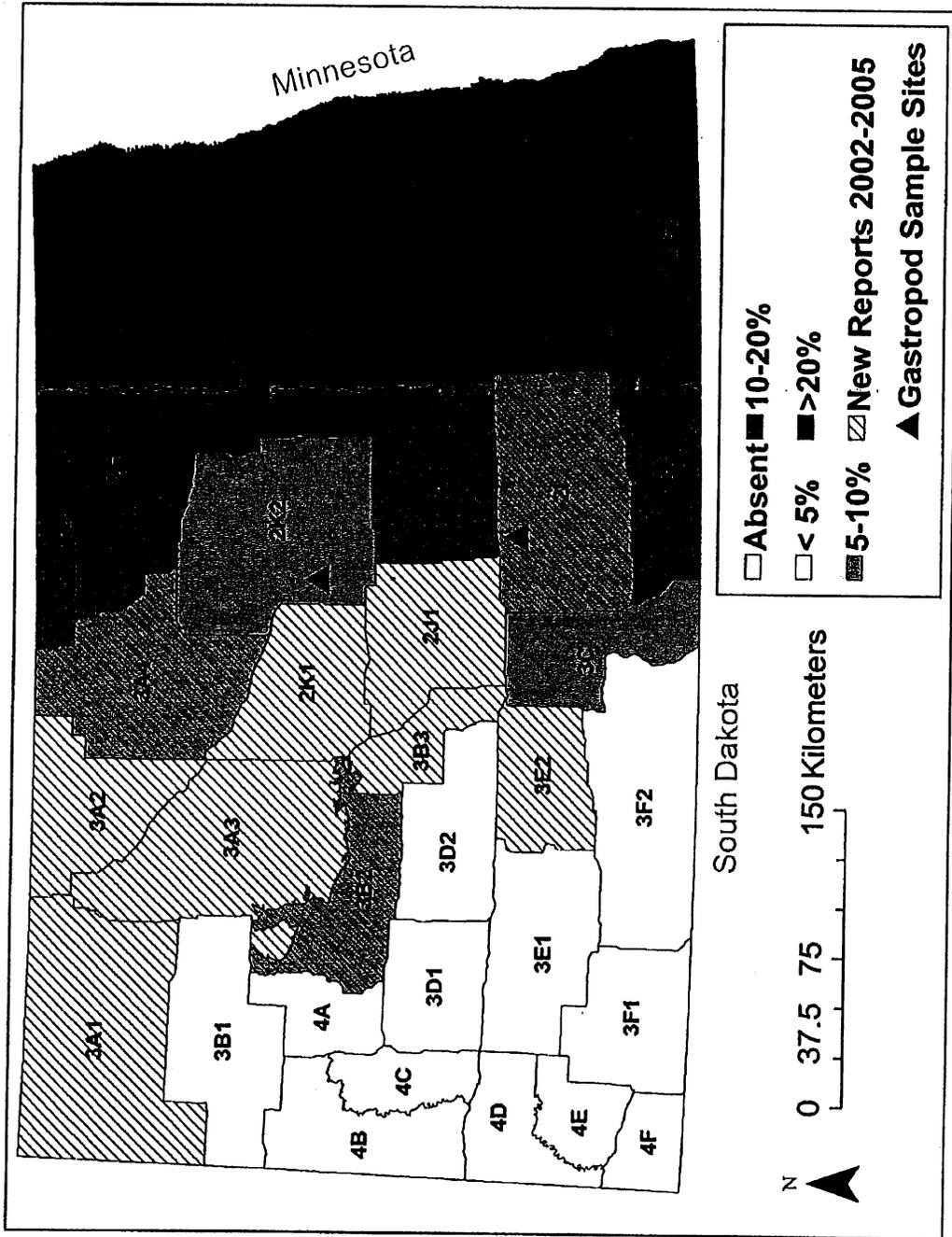
Department of Biology

University of Mary

7500 University Drive

Bismarck, ND 58504

(701) 355-8380



From: Eldon Golightly [<mailto:EGolightly@plmw.com>]

Sent: Monday, July 07, 2014 3:19 PM

To: Dr. Scott Leibsle

Subject: RE: 2014 Domestic Cervidae Rulemaking

Dr. Scott Leibsle

Good afternoon. I have reviewed the proposed changes and agree with the changes. I am very much in favor of us Elk Producers carrying our costs so that the Department of Agriculture is adequately funded and that we work together in a strong and unified effort. Thanks for our efforts.

Eldon C. Golightly

Sean Costello

From: Dr. Scott Leibsle
Sent: Wednesday, September 03, 2014 12:44 PM
To: Sean Costello
Subject: FW: Effective Date

Could you please add Mr. Ferguson's comments to the rulemaking record for 02.04.19? Thanks

. I am opposed as to the transfer fees being imposed on a rancher that sells his herd to another and both parties pay the \$10.00 fee due at the end of the year. I do not believe that this was ever the intent was to have both parties pay the \$10.00 fee. It is true that it was agreed on the import but it was never clear as to whether the rancher had to again pay the fee of \$10.00 at the end of the year again. I am opposed to the transfer fee. As it requires little or no work on the part of the department as the Rancher reporting the animals has that responsibility.

I have been a elk rancher since 1984 and have written or been involved in the writing of all of the Statutes and rules of the cervidae program. Please ensure that my current email and address is in your records and that I receive all information on anything having to do with the cervidae program.
michael@yellowstonebearworld.com Michael Ferguson P.O. Box 413 Rexburg Idaho 83440 208-390-0197

I am concerned that this information has been so easily misplaced in your archives.

Thank You

Sincerely

Michael Ferguson

Velvet Ranch

From: Dr. Scott Leibsle [<mailto:Scott.Leibsle@agri.idaho.gov>]
Sent: Tuesday, September 02, 2014 5:14 PM
To: Michael Ferguson
Cc: 'Stan Boyd'; Cody Burlile
Subject: RE: Effective Date

Dear Mike –

Thanks for your message. Sorry for the confusion on the rules...I'll do my best to clear things up for you. First of all, when you are talking about an "emergency rule", we are talking about the same thing when I describe a "temporary rule". This is a rule that is temporarily implemented, prior to legislative consideration, due to a clear and immediate demand by the stakeholders (the term emergency would also apply).

The HB 431 Cervidae Bill went into effect on July 1st, 2014 with all the other statutes that were signed by the governor this spring. However, due to the nature of the language in the Bill, only the import/export/transfer fees went into effect immediately on July 1st (and were not retroactive). The remainder of the provisions in HB 431 (i.e. – increased annual assessment fee, reduction in CWD surveillance, reduction in inspection frequency) have to be also implemented via rule change to IDAPA 02.04.19 by the legislature this winter, UNLESS a temporary rule is implemented, for the provisions to go into effect. The agency WAS successful in implementing these changes as a temporary rule as of September 1, 2014. So, effective immediately for all cervidae producers – 1) CWD surveillance on "Harvested" elk, 16m of age or older, shall be no less than 10% (all other elk deaths must still be tested

at 100%); 2) Cervidae facilities will be inspected no less than every 5 years unless requested by the Producer or deemed necessary by the Administrator; 3) Annual assessment fees for elk are \$10 per head per year.

You are correct that the changes are not retroactive...however, you seem to indicate that you think ISDA is "double-dipping", which is not the case. Simply put – the import/export/transfer fees are an entirely new set of fees (in addition to the annual assessment fees) that were created to give additional operating capital for ISDA to run the program. Thus, any cervidae that were imported/exported/transferred prior to July 1st, are NOT subject to the new additional fees. However, if you imported/exported/transferred ownership AFTER July 1st, 2014 – the new fee would apply and the SELLER would be responsible to pay \$10 per head for the transaction. The reason this fee was created (and how it was justified to the Legislature) was because it takes a significant amount of paperwork, time and organization for ISDA to properly track and document a single elk when it changes hands from one producer to another...especially if it is being imported from out-of-state. To offset this cost to the program, these transfer fees were created. The fact that both the annual assessment fee and the import/export/transfer fees are both due at the end of the year does not mean they are the same fee...it's a totally different fee. So, ISDA is NOT double-charging both the seller and the buyer for the same elk....the buyer is being charged a \$10 per head annual assessment fee because the animal was present on the facility on Dec. 31st, while the seller is being charged a \$10 processing fee on that animal to transfer ownership to the buyer.

Sorry for the long explanation...I hope it cleared things up. If not, please call me in the office tomorrow and I would be happy to try and explain it better over the phone. My direct line is 208.332.8614. As far as being involved in the proposed rulemaking...all active cervidae producers who had a valid email on file with ISDA received all of the rule proposals and comments from me directly, via email. I don't know if your email is on file or not, but if it's not...that's probably why you didn't receive any information from me. However, all rule negotiation proposals, publications and meeting dates are published on ISDA's website under "Current Rulemaking" as well the State of Idaho's Administrative Bulletin. If you would still like to submit a written comment on the proposed rules, I would be more than happy to add it to the rulemaking record, so at least the Legislature will get a chance to review it this winter. Thanks again for your email.

Regards,

Scott Leibsle

Scott R. Leibsle DVM, DABVP

Deputy Administrator/ Bureau Chief Animal Health
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712
208-332-8540
scott.leibsle@agri.idaho.gov

From: Michael Ferguson [<mailto:michael@yellowstonebearworld.com>]

Sent: Tuesday, September 02, 2014 12:41 PM

To: Dr. Scott Leibsle

Cc: 'Stan Boyd'

Subject: Effective Date

Scott:

I am not sure of the protocol of the effective date but I see no retroactive date to the first of January 2014. If this is the case the State will be double dipping from the importation, export or transfer. I do

not see anywhere in the past transfer was ever part of the rule. Please provide documentation as to when this went in effect. From the minutes of the rule making and the rule I see July 1st 2014 as the effective date. I am opposed as to the transfer fees being imposed on a rancher that sells his herd to another and both parties pay the \$10.00 fee due at the end of the year. I do not believe that this was ever the intent was to have both parties pay the \$10.00 fee. It is true that it was agreed on the import but it was never clear as to whether the rancher had to again pay the fee of \$10.00 at the end of the year again. Therefore creating a windfall for the department by collecting the fees twice in one year. Please provide documentation of that effect. I am curious why I am not on the list being sent the letters for the proposed rule making.

Thanks
Mike Ferguson

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