



# STATE OF IDAHO

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DEPARTMENT OF AGRICULTURE  
DIVISION OF ANIMAL INDUSTRIES

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July 3, 2014

To: Domestic Cervidae Stakeholders

Re: Rules Negotiations

Dear Stakeholder,

On July 1, 2014, the Idaho State Department of Agriculture (ISDA) hosted a negotiated rules meeting in Boise to discuss revisions of two rules pertaining to the domestic cervidae industry. The first negotiation involved IDAPA 02.04.21, Rules Governing the Importation of Animals, and the elimination of a restriction that prohibited the import of domestic cervids from regions identified as endemic for the meningeal worm parasite, *P. tenuis*. As a result of the negotiations, ISDA has determined that it is necessary to gather additional information regarding the distribution and transmission of *P. tenuis*. Therefore, ISDA will be extending the comment period for this rulemaking to **August 1, 2014**. Please continue to submit written comments to ISDA regarding this rule and, if possible, provide any scientific evidence that may substantiate those comments.

The second negotiation involved IDAPA 02.04.19, Rules Governing Domestic Cervidae. Changes to this rule are necessary to establish consistency with the recently enacted House Bill 431 and to further specify ISDA's authority. Enclosed with this letter is a draft of the currently proposed rule changes which are a product of the negotiations from the July 1 meeting.

Please examine the changes and provide written comment to ISDA no later than **July 8, 2014**. The highlighted areas of the documents represent sections of the rule where language has been altered. The language that is underlined is proposed language that will be added to the rule. Language that has a ~~strike through~~ will be removed. Here is a brief summary of the proposed changes:

- 1) The annual assessment fee for elk will be \$10 per head per year and \$3 per head per year for reindeer and fallow deer;
- 2) The annual assessment fee may be reduced if a minimum of one hundred thousand dollars (\$100,000) is accumulated in program revenue, in excess of the projected annual cost for operating the program;
- 3) The new movement fees established in statute (\$10 for each animal imported, exported or transferred) are due on December 31<sup>st</sup>, but ISDA requests those fees to be submitted within 5 days of the movement of the animals;

- 4) Cervidae facilities will be inspected no less than once every five (5) years, unless requested by the producer or the Administrator determines more inspections are necessary to mitigate the spread of disease or in response to a producer being non-compliant with the rules;
- 5) No less than 10% of elk (16m or older) sent to slaughter will be tested for CWD. **The 10% includes viable and testable samples only.** Samples submitted that are not testable **will not** count towards the 10%;
- 6) No less than 10% of elk (16m or older) that are **harvested** will be tested for CWD. **The 10% includes viable and testable samples only.** Samples submitted that are not testable **will not** count towards the 10%;
- 7) 100% of a producer's elk (16m or older) that die for **any reason other than harvested or slaughtered** will be tested for CWD. Producers may apply for a testing waiver if, for instance, a dead animal is found well after the brainstem has decayed beyond the point of testing;
- 8) The administrator may adjust the required number of CWD sample submissions for a producer within a ranch management plan, based upon a risk assessment. Risk assessment will be based on, but not limited to, history of ingress or egress, compliance with the law and rules and exposure to other domestic cervids of unknown CWD status

**\*\*PLEASE NOTE\*\*** - The above provisions, if approved, will not go into effect until the close of the legislature in 2015, unless the changes are submitted as a temporary rule. ISDA's goal is to submit these rule changes as a temporary rule, so all provisions will be in effect for 2014. However, if the temporary rule is not approved, then the language that currently exists in this rule will remain in effect for 2014. Specifically, the industry will be required to test 100% of ALL elk for CWD, all producers will be required to have a facility inspection this year and the annual assessment fee will remain at \$5 per head of elk. The only provisions of the statutory amendment now in effect, are the movement fees (\$10 per head for import, export or transfer). ISDA will make every effort to implement the proposed changes for 2014 to avoid another potential program shutdown. So, please provide comment on these rules changes by July 8, 2014.

For updates and information regarding either of these rules, please go to [www.agri.idaho.gov](http://www.agri.idaho.gov) and click on "Current Rulemaking" in the upper-right hand corner. Scroll down to the "Division of Animal Industries" and there will be a list of links next to each rule describing the status of each rule change. If you have any questions or comments, please contact me directly at 208.332.8614 or email me at [scott.leibsle@agri.idaho.gov](mailto:scott.leibsle@agri.idaho.gov). Thank you for your participation in the rulemaking process.

Regards,



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Deputy Administrator  
ISDA Division of Animal Industries

# DRAFT OF PROPOSED LANGUAGE

## IDAPA 02 TITLE 04 CHAPTER 19

### 02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

#### 010. DEFINITIONS.

- 01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2004, to perform functions required by cooperative state-federal animal disease control and eradication programs. (4-6-05)
- 02. Administrator.** Administrator of the Division of Animal Industries or his designee.(4-2-03)
- 03. Approved Laboratory.** NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)
- 04. Approved Slaughter Establishment.** A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)
- 05. Area Veterinarian in Charge.** The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)
- 06. Breed Associations and Registries.** Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)
- 07. Certificate.** An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (4-2-03)
- 08. Cervid Herd.** One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (4-2-03)
- 09. Cervidae.** Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (4-2-03)
- 10. Chronic Wasting Disease.** A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)
- 11. Commingling.** Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (4-2-03)
- 12. Custom Exempt Slaughter Establishment.** A slaughter establishment that is subject to facility

inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)

**13. CWD-Adjacent Herd.** A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams. (4-6-05)

**14. CWD-Exposed Animal.** A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (4-2-03)

**15. CWD-Exposed Herd.** A herd of cervidae in which no animals are exhibiting signs of CWD, but: (4-2-03)

**a.** An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (4-2-03)

**b.** A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (4-2-03)

**c.** Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. (4-6-05)

**16. CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)

**17. CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)

**18. CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)

**19. CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)

**20. Department.** The Idaho State Department of Agriculture. (4-2-03)

**21. Death Certificate.** A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (4-6-05)

**22. Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)

**23. Director.** The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)

**24. Disposal.** Final disposition of dead cervidae. (4-2-03)

**25. Division.** Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)

**26. Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)

**27. Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)

**28. Electronic Identification.** A form of unique, permanent individual animal identification such as radio

frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (4-6-05)

**29. Escape.** Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)

**30. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-6-05)

**31. Harvest.** Any healthy domestic cervid that is intentionally and lethally removed from a domestic cervidae facility, by an owner, designated employee or customer of the facility, strictly for the purposes of either hunting or meat production. ( )

**312. Herd of Origin.** A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)

**323. Herd Status.** Classification of a cervidae herd with regard to CWD. (4-2-03)

**334. Intrastate Movement Certificate.** A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho.(4-2-03)

**345. Individual CWD Herd Plan.** A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-7-11)

**356. Limited Contact.** Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)

**367. National CWD Herd Certification Program.** A federal-state-industry cooperative program administered by APHIS and implemented by participating states that establishes CWD surveillance and testing standards that owners must achieve before interstate transport of cervids will be permitted.(3-20-14)

**378. Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)

**389. Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)

**3940. Operator.** A person who has authority to manage or direct a domestic cervidae ranch.(4-2-03)

**401. Owner.** The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)

**412. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)

**423. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)

**434. Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)

**445. Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)

- 456. Ranch Management Plan.** A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. (4-7-11)
- 467. Reidentification.** The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)
- 478. Restrain.** The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)
- 489. Restricted Movement Permit.** An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds.(4-2-03)
- 4950. Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)
- 501. State Animal Health Official.** The Administrator, or his designee. (4-2-03)
- 512. Status Date.** The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)
- 523. Trace Back Herd.** An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)
- 534. Trace Forward Herd.** A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)
- 545. Traceback.** The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)
- 556. Wild Cervidae.** Any cervid animal not owned by a person. (4-2-03)
- 567. Wild Ungulate.** Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)
- 578. Wild Ungulate Cooperative Herd Plan.** A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (4-6-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**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)(\_\_\_\_)

**02. Import, Export and Movement Fees.** The fees imposed in Idaho Code Section 25-3708(2) through (4) are due no later than December 31 of each year, but the Department requests all movement fees be submitted within five (5) business days of the movement of the domestic cervids.

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. DOMESTIC CERVIDAE RANCH FACILITY REQUIREMENTS.**

All domestic cervidae ranches are required to have facilities, including but not limited to perimeter fence, restraining system, gathering system, water system, and if required, a quarantine facility. (4-2-03)

**01. Maintenance.** All facilities shall be maintained, at all times that domestic cervidae are present, to prevent the escape of domestic cervidae or ingress of wild cervidae. (4-2-03)

**02. Inspections.** To ensure compliance with this chapter, state or federal animal health officials shall inspect all premises where domestic cervidae are, or will be, possessed, controlled, harvested, propagated, held, or kept. (4-2-03)

**a.** Each domestic cervidae ranch shall be inspected ~~at least annually~~ no less than once every five (5) years. Domestic cervidae ranches may be inspected more frequently if requested by the owner or if specified in a ranch management plan. The Administrator may require additional facility inspections as necessary to aid in the prevention, control or eradication of disease or to ensure compliance with the provisions of this chapter or other state or federal rules applicable to domestic cervidae. (4-2-03)( )

**b.** All facilities relating to the handling or raising of domestic cervidae shall be inspected. (4-2-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**209. RANCH MANAGEMENT PLAN.**

**01. Voluntary Ranch Management Plan.** A domestic cervidae ranch may apply, on a form prescribed by the Administrator, to enter into a voluntary ranch management plan. The ranch management plan will be developed cooperatively by the owner or authorized agent and the Administrator. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. A voluntary ranch management plan may, notwithstanding other rule requirements to the contrary, establish inventory verification requirements and CWD sampling requirements specific for a domestic cervidae ranch. Failure to adhere to an approved voluntary ranch management plan is a violation of these rules. (4-7-11)

**02. Mandatory Ranch Management Plan.** A domestic cervidae ranch shall be required to develop and implement an approved ranch management plan if the ranch is found in violation of Sections 060, 204 or 500 of these rules. The ranch management plan must be completed and implemented within six (6) months of the disposition of the violation. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. Failure to comply with the mandatory ranch management plan is a violation of these rules. This requirement will become effective July 1, 2012 (4-7-11)

**03. Risk Assessment for Ranch Management Plans.** The Administrator will conduct a risk assessment for each ranch management plan. A ranch management plan will not include a double fencing requirement but may require that double gates be installed. The Administrator will consider the following factors when conducting a risk assessment at a domestic cervidae ranch: (4-7-11)

**a.** Risk of egress. The risk of egress may be evaluated based on, but not limited to, history of domestic cervidae escape during the previous five (5) years, recovery rate of escaped domestic cervidae, length of time domestic cervidae were outside of the perimeter fence, annual average precipitation, topography, altitude and tree density. (4-7-11)

**b.** Risk of ingress. The risk of ingress may be evaluated on, but not limited to, history of ingress during the previous five (5) years, annual average precipitation, topography, altitude, tree density and proximity to wildlife

migration corridors.

(4-7-11)

c. Compliance with CWD sample submission. The Administrator may, based on a risk based assessment of the facility, waive up to twenty percent (20%) adjust the number of the tissue sample submissions required under this rule. The waiver adjustment will be based on, but not limited to, the following:

(4-7-11)( )

i. ~~If Whether The~~ domestic cervidae on the ranch have ~~not had contact comingled~~ with any animals domestic cervids of unknown CWD status.

(4-7-11)( )

ii. ~~If Whether The~~ domestic cervidae ranch ~~must be~~ has been in compliance with all requirements of Title 25, Chapter 35, Idaho Code, and these rules.

(4-7-11)( )

iii. ~~If Whether The~~ domestic cervidae ranch ~~must have no~~ has had documented cases of ingress of wild cervids or egress of domestic cervidae within the eighteen (18) months of the request for a waiver prior to the risk assessment.

(4-7-11)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

## 500. SURVEILLANCE FOR CWD.

01. **Slaughter Surveillance.** Brain tissue from ~~one hundred percent (100%) no less than ten percent (10%)~~ of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments shall be submitted by the owner of the slaughtered cervidae to official laboratories to be tested or examined for CWD as provided for in these rules.

(4-2-08)( )

02. **Domestic Cervidae Ranch Surveillance.** Unless a domestic cervidae ranch is operating with a ranch management plan approved by the Administrator, brain tissue from ~~one hundred percent (100%) no less than ten percent (10%)~~ of all domestic cervidae sixteen (16) months of age or older that ~~die or~~ are Harvested on domestic cervidae ranches shall be submitted by the owner or operator of the domestic cervidae ranch to official laboratories to be tested or examined for CWD, as provided for in these rules, ~~except Reindeer and fallow deer unless the Reindeer or fallow deer are part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd for CWD testing.~~ In addition to the Harvested tissue samples, brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die for any reason other than being Harvested shall also be submitted for CWD testing. Reindeer and fallow deer shall be exempt from CWD testing unless the reindeer and fallow deer are part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd. ~~by The~~ owner or operator of the domestic cervidae ranch shall submit all tissue samples to an official laboratories to be tested or examined for CWD, as provided for in these rules, ~~except Reindeer and fallow deer unless the Reindeer or fallow deer are part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd.~~ In the event a domestic cervidae ranch cannot submit a viable brain sample, the domestic cervidae ranch shall submit, on a form approved by the Administrator, a waiver request within forty eight (48) hours of determining that a viable brain sample cannot be submitted.

(4-7-11)( )