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Lloyd Knight
Rules Review Coordinator
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
Boise, ID 83712

June 17 , 2022

Re: Negotiated Rulemaking for the Governing Domestic Cervidae: IDAPA 02.04.19

Dear Mr.. Knight:

Thank you for considering our comments on the negotiated rulemaking for the Rules Governing Domestic Cervidae: IDAPA 02.04.19.

Since 1973, the Idaho Conservation League has had a long history of involvement with Idaho's environmental issues. As Idaho's largest state-based conservation organization we represent over 50,000 supporters who have a deep personal interest in ensuring that our natural resources are protected throughout the state. The Idaho Conservation League (ICL) seeks to minimize the risk of spread of Chronic Wasting Disease (CWD) within wild, as well as domestic cervidae, and to combat this disease as effectively as possible.

We thank the Idaho State Department of Agriculture (ISDA) for considering this rulemaking and for the opportunity to submit comments. Please feel free to contact us if you have any questions or require additional information.

Sincerely,

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General Support for the Proposed Language

ICL would like to express general support for the proposed changes brought forth by the Idaho Wildlife Federation (IWF) and their petition. Including 100% testing of domestic elk and reindeer at a facility within twenty-five (25) miles from a confirmed case of CWD in wild cervids is a prudent measure that is in alignment with CDW testing requirement for imported animals.

During the two public meetings ISDA held on this matter, some Idaho elk producers opposed the proposed testing language primarily citing concerns of economic hardship and unnecessary over-regulation. As to the issue of economic hardship, it is ICLs understanding that CWD tests cost approximately \$30-35 dollars per test, while hunts for premiere bulk elk can fetch values as high as \$16,000 dollars, with smaller and female elk going for ~\$5-6,000. ICL understands any rulemaking that would increase economic hardship to those affected must go through an economic evaluation, and we encourage you to include this as part of the rulemaking record. While the time and effort to collect brain stem sampling for CWD (including training, record keeping, etc.) should also be factored into the costs to domestic elk producers, it would stand to reason the comprehensive cost for increased testing likely would not prove to be an overburden in comparison to its benefits. ICL anticipates any economic evaluation conducted by ISDA will likely bear this out.

As to the issue of unnecessary over-regulation, numerous studies (including those posted to the ISDA webpage for this rulemaking) highlight the importance of minimizing the spread of CWD in order to limit wild cervidae population decline. As stated within a 2017 research article, "Chronic wasting disease is difficult or impossible to eradicate with current tools, given significant environmental contamination, and at present our best recommendation for control of this disease is to minimize spread to new areas and naïve cervid populations" (DeVivo MT et. al., 2017). Implementation of the proposed testing regulations would help to detect CWD in domestic elk populations which could (and perhaps already are) serving as vectors for CWD transmission to and between wild cervidae populations due to wild population ingress and egress that is well documented by the IWF. Based on these facts, it would seem reasonable to assume that the proposed testing regulations are not an example of over-regulation but a reasonable and prudent measure to reduce the risk of CWD spread in Idaho before it gets worse.

Incubation Period of CWD and its Effects on Transmission.

ICL would like to formally submit the following study on CWD transmission; Longitudinal Detection of Prion Shedding in Saliva and Urine by Chronic Wasting Disease-Infected Deer by Real-Time Quaking Induced Conversion submitted to the Journal of Virology in 2015 authored by Henderson et. al. (see reference below). As stated in the study, "We (the researchers) detected prion shedding as early as 3 months after CWD exposure and sustained shedding throughout the disease course. Given the average course of infection and daily production of these body fluids, an infected deer would shed thousands of prion infectious doses over the course of CWD infection" (Henderson MD et. al., 2015). This study also documented and ranked the severity of

observable CWD symptoms in infected and prion shedding individuals. Their findings suggest that infectious prion shedding occurs when little to no observable symptoms are present. This obviously highlights the benefits increased CWD testing of domestic elk would likely have.

Overall Decline in Domestic Elk CWD Testing.

According to public records obtained by ICL from the ISDA, overall testing rates of domestic elk within Idaho decreased from 52% in 2017 to 46% in 2018 to 25% in 2019, and finally to 23% in 2020. In addition, public ISDA records show numerous instances of testing exemption requests being filed months after the death of individual elk, as opposed to the current 48 hour notification requirement. The decrease in overall CWD testing and improperly filed testing exemptions are concerning as they have occurred during the time leading up to when CWD was first spreading and officially reported among wild cervidae populations in Idaho in late 2021. As part of this rulemaking, we specifically request ISDA to disclose the overall rate of Elk CWD testing in 2021, and to provide information on the number of CWD Sample Submission Waiver Requests processed in 2021.

Procedures and Needed Justification to Enact a Temporary Rule.

During the June 14th negotiated rulemaking meeting, ISDA stated that at this time any inclusion of the proposed testing language, or a variation, would likely not be enacted through an immediate temporary rule and instead would not be adopted until the adjournment of the 2023 Idaho legislative session. A temporary rule is appropriate when time is of the essence and a situation calls for immediate action that cannot be delayed, and from a statutory perspective would “protect[]...public health, safety, or welfare” (Idaho Code 67-5226). As the above points and studies illustrate, CWD has already been detected in Idaho and the most effective path to combat CWD is to monitor populations and to limit its spread as best and as quickly as possible. As such, ICL requests that the ISDA reconsider their decision to forego promulgation of a temporary rule, and to justify why the ISDA is not considering the proposed testing language as a temporary rule?

Formal Support and Incorporation by Reference of the Idaho Wildlife Federation’s Comment

ICL offers its formal support to and incorporation by reference of the comments submitted by the IWF on this rulemaking.

References

- DeVivo MT, Edmunds DR, Kauffman MJ, Schumaker BA, Binfet J, Kreeger TJ, et al. (2017) Endemic chronic wasting disease causes mule deer population decline in Wyoming. *PLoS ONE* 12 (10): e0186512. <https://doi.org/10.1371/journal.Pone.0186512>
- Henderson DM, Denkers ND, Hoover CE, Garbino N, Mathiason CK, Hoover EA. 2015. Longitudinal detection of prion shedding in saliva and urine by chronic wasting disease-infected deer by real-time quaking-induced conversion. *J Virol* 89:9338–9347. doi:10.1128/JVI.01118-15.