

Meeting Date: July 25, 2019

Agenda Item No. 5 F

Agenda Item: Ban import of live mule deer, white-tailed deer, moose and wild origin elk

Bureau Chief Approval: ES

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Background:

In 2016, the Department revised the Chronic Wasting Disease Strategy (issued in 2002 and previously revised in 2010 and 2012). The 2016 Strategy updated information on CWD research, prevention, and response to date, and revised strategies for pre- and post-detection surveillance, communication, and post-detection management.

As an outgrowth of the 2016 strategy, the Commission eventually proposed administrative rule changes to reduce the risk for CWD in Idaho. These involved restrictions on carcass transport/import from CWD areas, private feeding of wildlife in CWD management zones, use of natural urine as an attractant, and import of live mule deer, white-tailed deer and elk. The legislature rejected the rule restricting import of live deer and elk based on concerns related to domestic cervids regulated by the Idaho State Department of Agriculture under state law. The other rules related to CWD took effect upon legislative adjournment in April 2019.

At the Commission’s direction, the Department revisited rulemaking on a rule to ban the importation and possession of live mule deer, white-tailed deer, and moose in Idaho, with additional clarification that the rule would not apply to domestic cervids regulated by the Idaho State Department of Agriculture until Idaho Code Title 25.




Statutory Authority and/or Policy Issues:

Idaho Code 36-104 grants authority to the Commission to set seasons and promulgate IDAPA rules. Idaho Code 67-52 (Idaho Administrative Procedure Act) governs the process for considering, adopting, and implementing IDAPA rules.

Public Involvement Process:

A notice of Intent to promulgate rules (negotiated rulemaking) was published in the Administrative Bulletin on June 5, 2019, with a 21-day public comment period. The Department’s website provided an avenue for submitting comment. One hundred and one (101) public comments were received, of which 96 were from Idaho residents. Eighty-nine (89) individuals who commented supported the import prohibition (88%) while 12 did not support it (12%).

Do you support the Department of Fish and Game in prohibiting the import of live mule deer, white-tailed deer, moose and wild-origin elk (wildlife not regulated by the Idaho State Department of Agriculture) to reduce the risk of CWD being brought into Idaho?

Yes		89	88%
No		12	12%
Neutral		0	
		101	

No commenter indicated an interest in negotiated rulemaking and comments did not suggest negotiated rulemaking would be constructive in significantly narrowing issues or achieving consensus.

Justification:

Based on staff review of comments, and without parties interested in negotiated rulemaking, negotiated rulemaking appears infeasible.

Staff Recommendation:

Staff recommends the Commission determine negotiated rulemaking infeasible and adopt the following proposed rule:

13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, RELEASE, AND SALE OF LIVE WILDLIFE.

No person may import into, export from, sell, or transport, cause to be transported, or release within the state of Idaho any living wildlife, including eggs thereof, without having first obtained a permit from the Department. (6-30-19)T

01. Exemptions for Import, Export, Transport, Possession or Sale. No permit is required from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): (6-30-19)T

a. Agricultural or domestic animals. (6-30-19)T

b. Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. (6-30-19)T

c. Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. (6-30-19)T

d. Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). (6-30-19)T

e. Domestic Game birds produced in captivity and lawfully obtained, as shown by proof maintained and presented in accordance with Section 36-709, Idaho Code. (6-30-19)T

f. Birds of prey, provided actions comply with IDAPA 13.01.14, “Rules Governing Falconry.” (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

03. Restriction on Permit Issuance. The Department will not issue any permit for import, export, transport, release or sale of live wildlife or eggs thereof, if the wildlife or eggs thereof would pose a threat to the state of Idaho, including threat of disease, genetic contamination or displacement of or competition with existing species. Because of the threat of chronic wasting disease, the Department will not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture, including mule deer, white-tailed deer, moose, and wild-origin elk. (X-XX-XX)

Sample Motion:

Move to adopt the rule to allow the Department to not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture including mule deer, white-tailed deer, moose and wild-origin elk.