

Meeting Date: November 14, 2019

Agenda Item No. C (1),(2),(3)

Agenda Item: Ratification of Pending Rules:

Bureau Chief Approval: ES

(1)Public Input Review, (2)Omnibus Rulemaking – Action,

(3)Independent Rulemaking - Action

Prepared by: Paul Kline, Deputy Director - Policy and Programs
Kathleen Trever, Deputy Attorney General

(1) Public Input Review (informational)

Background:

- ❖ Independent Rulemaking – 5 Rule Dockets
 - a) Rulemaking Schedules (Attachment 1 for rules #1-#4 and Attachment 2 for rule #5).
 - Rules addressed in this schedule:
 1. Managing nonresident participation in general season big game hunts.
 2. Reducing tag buyer congestion for highly competitive general season capped hunts.
 3. Banning the import of live mule deer, white-tailed deer, moose and wild-origin elk.
 4. Authorizing 8 & 9 year olds to hunt turkey with a Hunting Passport and requiring Upland Game permits for expanded stocked pheasant hunting opportunity off of WMAs.
 5. Modifying gear requirements (diverters, break-aways and loop stops) for trapping wolves.
 - Commission approved rulemaking at April 11, 2019 conference call meeting.
 - Notice of intent to promulgate rules published in June 5, 2019 Bulletin.
 - First 21-day comment period June 5-26, 2019.
 - For rules #1-#4:
 - Commission adopted Proposed Rule language at July 26, 2019 meeting.
 - Proposed Rules published in September 4, 2019 Bulletin.
 - Second 21-day comment period September 4-25, 2019.
 - Forty-eight (48) comments received during the second public comment period (Attachment 3). Most comments were directed at the proposed rule to manage nonresident participation in general season big game hunts.
 - For rule #5, wolf snare rule:
 - Negotiated rulemaking meeting held July 22, 2019.
 - Commission adopted Proposed Rule language on August 12, 2019 conference call.
 - Proposed Rules published in October 2, 2019 Bulletin.
 - Second 21-day comment period October 2-23, 2019.
 - One hundred-one comments received during the second public comment period (Attachment 3). Fifty-seven people commented on the diverter requirement (54 (95%) in favor of removing the requirement). Fifty-three people commented on the requirement for break-aways and loop stops (45 (85%) in favor of requiring only one device, not both). Fifteen commenters urged the removal of language allowing the Commission to require diverters in areas that experience high bi-catch. Twenty-seven commenters urged the Commission to abolish trapping.
 - Next steps:
 - All five Proposed Rules are before Commission to consider adopting as Pending Rules (**Action**).
 - Pending Rules will be published in the January 1, 2020 Bulletin.

- ❖ **Public Input Review for Omnibus Rulemaking**
 - a) **Rulemaking Schedule (Attachment 4 for Omnibus rulemaking).**
 - Commission adopted Temporary and Proposed rules on May 17, 2019.
 - Proposed rules published in special Bulletin on June 19, 2019.
 - First 21-day comment period June 19-July 9, 2019.
 - No comments received during this open comment period.
 - Public Hearing held Tuesday October 1, 2019.
 - One comment received in support of omnibus rulemaking language.
 - One comment received from the Idaho Office of Species Conservation supporting proposed efficiency edits to IDAPA 13.01.06 (endangered species classifications).
 - Next steps:
 - Proposed Omnibus Rules are before the Commission to consider adopting as Pending Rules (**Action**).
 - Pending Rules to be published in the November 20, 2019 Bulletin.

(2) Ratification of Pending Rules for Omnibus Rulemaking (Action**)**

Background:

If the Commission wants any rules it has adopted as proposed rules to take effect as final rules, it must adopt/ratify them as pending rules to submit them for legislative review.

The omnibus rulemaking is to adopt, as edited, existing and previously approved and codified chapters of IDAPA 13. The temporary/proposed rules adopted by the Commission were published in the June 19, 2019 [Idaho Administrative Bulletin \(Special Edition\), Vol. 19-6SE](#), pages 1619-1750, Dockets Nos 13-0000-1900 and 13-0000-1900F.

Edits were made to all IDAPA 13 chapters of proposed rules for compliance with the Red Tape Reduction Act. Variation between pending and proposed rule content in all chapters includes deletion/revision of Sections 002-006 consistent with changes in standardized formatting as directed by the Office of Administrative Rules. Variation in language includes the following:

- 13.01.02.150 (new section) is a relocation of language from proposed rule 13.01.08.250.01 because of mentored hunting subject matter.
- 13.01.04.263 (rules for military personnel eligibility) reorganized based on nonresident eligibility and continued eligibility of Idaho residents stationed elsewhere.
- 13.01.04.306 (new section) is a relocation/consolidation of duplicative sections for tag requirements for disabled hunters and companions in Proposed rule section 13.01.08.201 (big game) and 13.01.09.104 (game birds)
- 13.01.04.550 and 13.01.04.560 (new sections) is a relocation of language for nonresident tag quotas and sale of unsold nonresident tags, separated from Proposed Fee Rule 13.01.04.600 because of distinct subject matter
- 13.01.06 changes reflect updates in taxonomy, including bighorn sheep, cackling goose, pacific marten and integration of subspecies and other color phases of cutthroat trout and rainbow trout; edit to clarify “forest grouse” as used in proclamations
- 13.01.06.150 does not include the proposed rules’ definitions or list of threatened or endangered species; the agency has determined that statutory and rule provisions make this classification duplicative in effect of other protected classifications for game and nongame species, and those provisions will expire with the expiration of the temporary rule
- 13.01.08.404 – 407 (new Sections) is a relocation of language related to muzzleloader, archery, and short-range only seasons from proposed rule section 13.01.08.410 to improve clarity.

- 13.01.09.300.01 includes revised language related to take of forest grouse to be consistent with immediately preceding version of final rule.
- 13.01.10.100 includes revised language for allowance for captive possession of unprotected, predatory, and native reptiles or amphibians for consistency with 13.01.06.300 and to be consistent with immediately preceding version of final rule 13.01.10.
- 13.01.11.200.01 includes revised language related to requirement for attendance of fishing lines to be consistent with immediately preceding version of final rule.
- 13.01.14.100 includes provision for clarity as to application of migratory bird treaty act in accordance with Section 36-1102, Idaho Code.
- 13.01.16.400 does not include provisions concerning raccoon because they are outdated with statutory change to classify raccoons as predatory wildlife in Section 36-201, Idaho Code; that language will expire with expiration of temporary rule.
- 13.01.19.104 do not include provisions that are outdated (e.g., reporting is now automated); that language will expire with expiration of temporary rule.
- 13.01.19.200 (new section) includes language moved from proposed rule Section 13.01.04.260 for telephonic/electronic licensing because subject matter more relevant to license vendor rules.

Statutory Authority and/or Policy Issues:

The IDAPA provision for adopting Pending Rules and the Legislative review process is in Idaho Code 67-5224. Adoption as pending rules is a required step in the process for rules to become effective as final rules.

Public Involvement Process:

Public involvement has occurred through previous Commission meetings, Negotiated rulemaking and publication of Temporary/Proposed Rules in the Administrative Bulletin. An independent public hearing was held to review Proposed Rule language for Rule Docket 13-0117-1901 (wolf snare gear requirements). An independent public hearing was also held to review Proposed Rule language for Omnibus rulemaking.

Justification:

This is a required step in the IDAPA rulemaking process for rules to remain in effect.

Staff Recommendation:

Staff recommends the Commission ratify as Pending Rules all chapters of IDAPA 13 as attached.

(3) Ratification of Pending Rules for Independent Rulemaking (Action)

Background:

If the Commission wants any rules it has adopted as proposed rules to take effect as final rules, it must adopt/ratify them as pending rules to submit them for legislative review. The Commission adopted 5 dockets of Proposed rules in 2019, independent of omnibus rulemaking:

Rules Governing the Taking of Big Game Animals

- 1) **Docket No. 13-0108-1903, Proposed Rule:** Reduce tag buyer congestion for highly competitive, capped general season tags. Establishes a waiting period (e.g., up to five (5) days) for controlled hunt applicants to buy big game tags for limited availability, capped zone hunts.
- 2) **Docket No. 13-0108-1904, Proposed Rule:** Manage nonresident participation in general season big game hunts. Establishes Commission authority to manage the number of nonresident, general season deer and elk tags to no less than 10% of the average total participation level by unit or zone over the most recent five (5) year time period.

Rules Governing the Taking of Game Birds

- 3) **Docket No. 13-0109-1902, Proposed Rule:** Allows Hunting Passport holders eight (8) and nine (9) years in age to possess a turkey tag for general season turkey hunts, youth-only general hunts, turkey landowner permission hunts and depredation hunts. Provides authority to the Commission to designate where possession of an Upland Game Bird Permit is required to hunt and possess stocked pheasants.

Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife

- 4) **Docket No. 13-0110-1901, Proposed Rule:** Provides Commission authority to ban the importation of live mule deer, white-tailed deer, moose and wild-origin elk (not regulated by the Idaho State Department of Agriculture) to reduce the risk of chronic wasting disease (CWD) being introduced in Idaho.

Rules Governing the Use of Bait and Trapping for Taking Big Game Animals

- 5) **Docket No. 13-0117-1901, Proposed Rule:** Establishes gear requirements for snares when trapping wolves. Removes the requirement to use diverters on snares when trapping and requires use of both a cable stop on the snare loop and a break-away device on the cable.

Statutory Authority and/or Policy Issues:

The IDAPA provision for adopting Pending Rules and the Legislative review process is in Idaho Code 67-5224. Adoption as pending rules is a required step in the process for rules to become effective as final rules.

Public Involvement Process:

Public involvement has occurred through previous Commission meetings, Negotiated rulemaking and publication of Temporary/Proposed Rules in the Administrative Bulletin. An independent public hearing was held to review Proposed Rule language for Rule Docket 13-0117-1901 (wolf snare gear requirements). An independent public hearing was also held to review Proposed Rule language for Omnibus rulemaking.

Justification:

This is a required step in the IDAPA rulemaking process for rules to remain in effect.

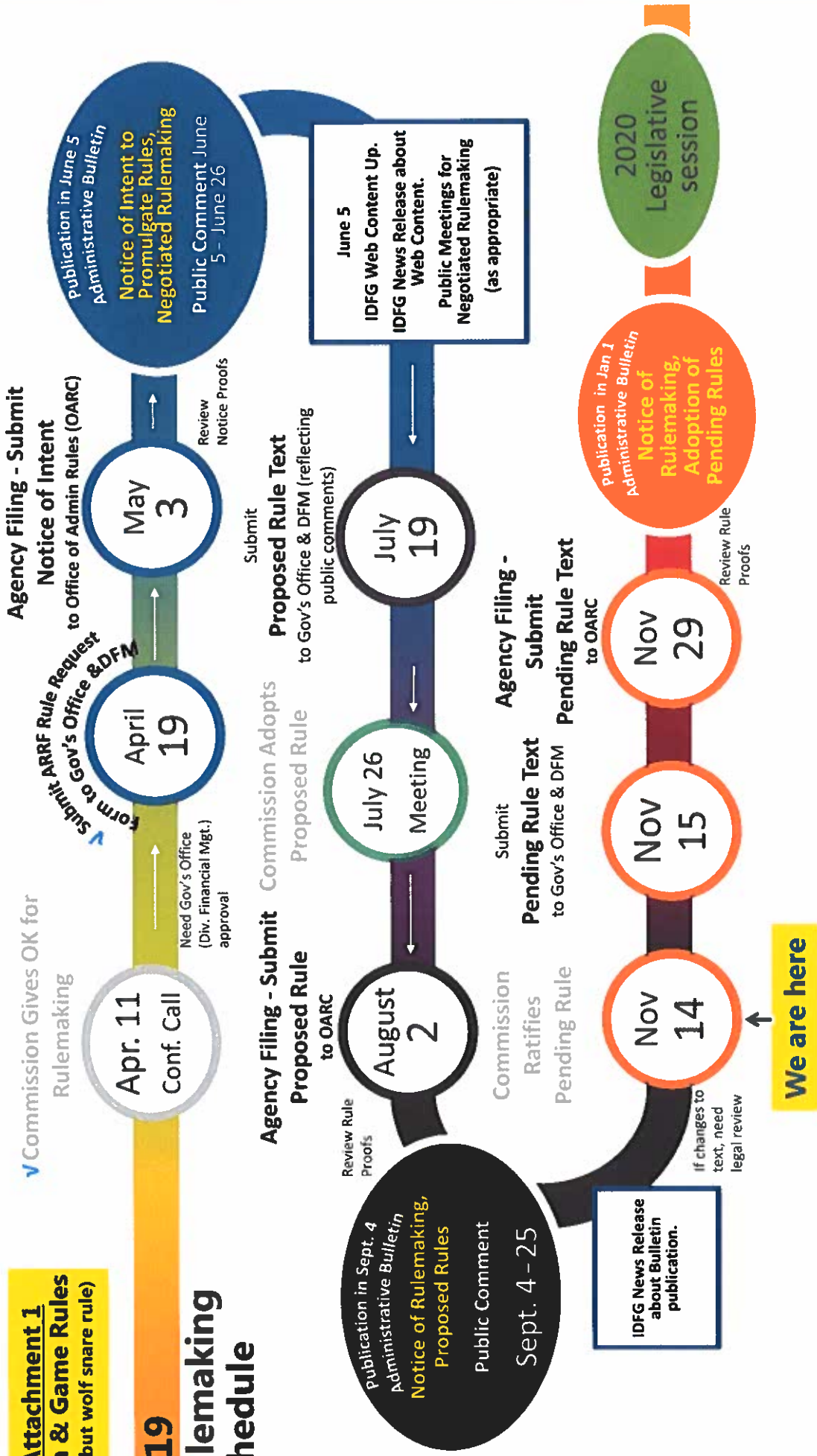
Staff Recommendation:

Staff recommends the Commission ratify as Pending, Rule Docket Nos. 13-108-1903, 13-0108-1904, 13-0109-1902 and 13-0110-1901 as reviewed below and as previously adopted as Proposed Rules by the Commission. Text for these rules (attached herein) remains the same as what the Commission adopted as Proposed Rules at their July 26, 2019 meeting.

For Rule Docket No. 13-0117-1901 (gear for wolf snares), staff presents two options for the Commission to consider based on public input: 1) Pending rule language with a requirement for both a break-away device and loop stop or 2) Pending rule language with a requirement for either a break-away device or a loop stop. In both options, the Pending Rule language removes the diverter requirement on a statewide basis, while allowing the Commission to require diverters on a selective geographic basis if the Commission determined their use was warranted based on non-target catch of animals whose capture may be avoided by diverter use.

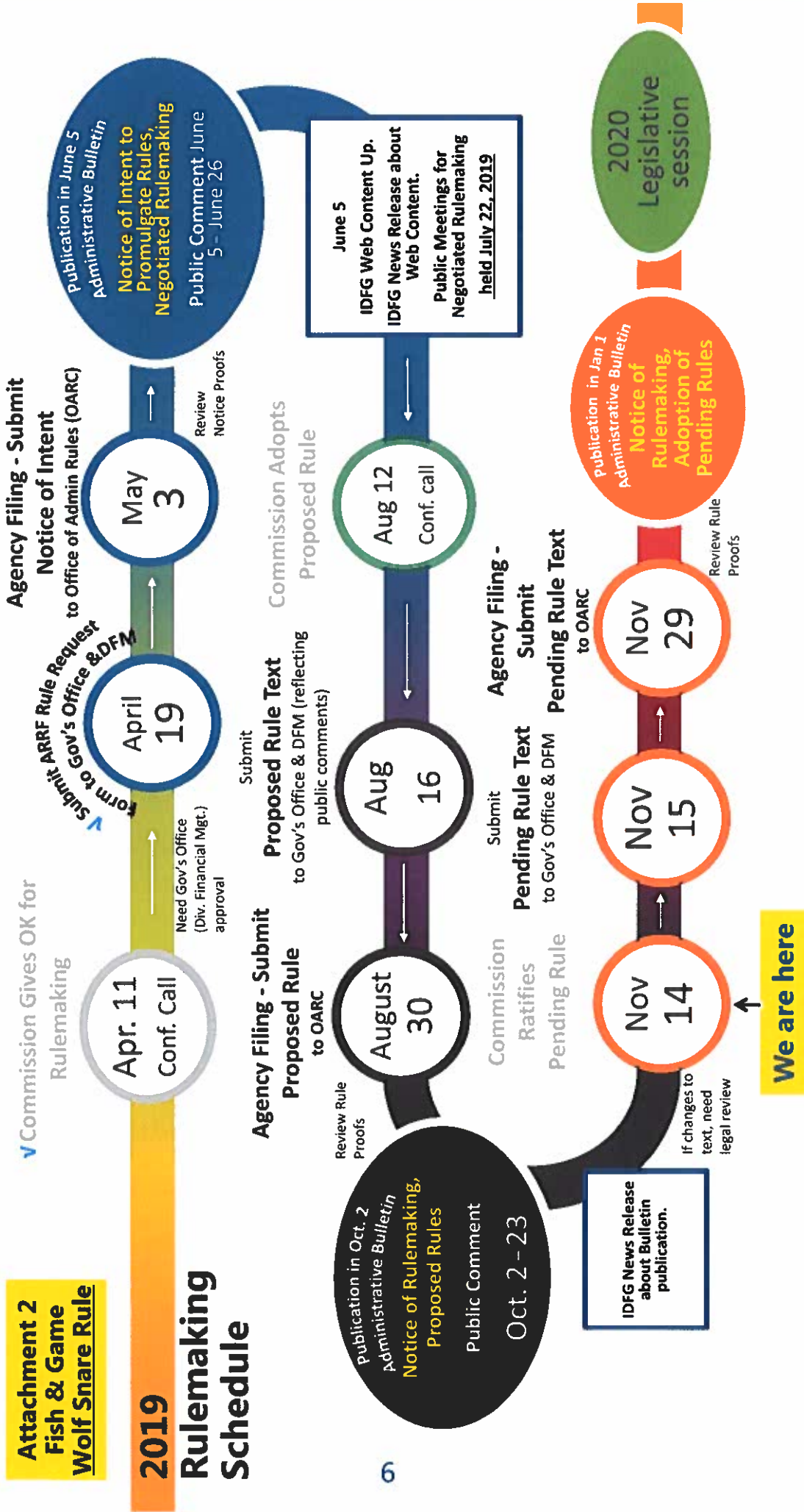
Attachment 1
Fish & Game Rules
 (all but wolf snare rule)

2019
Rulemaking
Schedule



**Attachment 2
Fish & Game
Wolf Snare Rule**

**2019
Rulemaking
Schedule**



ATTACHMENT 3 – SUMMARY OF PUBLIC COMMENTS

RESULTS OF FIRST 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH JUNE 5, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF INTENT TO PROMULGATE RULES

Managing nonresident participation in general season big game hunts				
Comments	366			
Idahoans	354		Do you support the Commission to have the ability to manage nonresident participation in general season deer and elk hunts?	
			Yes	333 91%
			No	24 7%
			Neutral	9 2%

RESULTS OF SECOND 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH SEPTEMBER 4, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF RULEMAKING – PROPOSED RULES

Comments Received = 48 (39 respondents commented on this Proposed Rule).
 Comments in support of Proposed Rule to manage nonresident participation = 28 (72%).
 Comments in opposition of Proposed Rule to manage nonresident participation = 11 (28%)

Representative supporting responses: *“I think it is time Idaho catches up with all the other states in charging non residents more to hunt big game. I agree with there needing to be a cap on non resident hunters to help with congestion in areas.”*

“I’m writing in regard to the proposed rule changes. I support limiting non-residents in general units and raising their prices.”

Representative opposing responses: *It’s interesting that non-residents already pay 10x higher rates than residents. And if you were truly interested in reducing hunter stress on the state, why would you sell off all remaining Non Res OTC Archery Elk tags starting August 1 to residents? Doesn’t that defeat your objective? Why not hold onto the remaining Non Res OTC tags to reduce the number of total hunters. Additionally, Non Res tags only represent 30% of the tags for now but almost 60% of the revenue.*

“Please don’t move forward with such a drastic increase in non res prices. I love hunting Idaho and the proposed changes will make me think heavily about going somewhere else.”

RESULTS OF FIRST 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH JUNE 5, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF INTENT TO PROMULGATE RULES

Reducing tag buyer congestion for highly competitive capped hunts				
Comments	160			
Idahoans	153		Do you support allowing hunters who do not apply for controlled hunts to have a limited time advantage (such as 5 days) in purchasing general tags in capped zones (with hunters who applied for controlled hunts not able to buy general tags during this time)?	
			Yes	59 43%
			No	85 53%
			Neutral	6 4%
			Does buyer congestion for and rapid sell-out of high demand capped zone hunts reduce your interest in hunting?	
			Yes	63 39%
			No	76 48%
			Neutral	21 13%

RESULTS OF SECOND 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH SEPTEMBER 4, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF RULEMAKING – PROPOSED RULES

Comments Received = 48 (11 respondents commented on this Proposed Rule).
 Comments in support of Proposed Rule to require a waiting period = 8 (73%).
 Comments in opposition of Proposed Rule to require a waiting period = 3 (27%)

Representative supporting responses: *"After looking over your proposed rule changes I support all of them!"*

Representative opposing responses: *"...I don't believe this delay is appropriate or effective. Potentially, this just moves the craziness to 5 days after the start, but even more important, I don't think it's right to penalize someone for applying for a limited draw. "*

RESULTS OF FIRST 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH JUNE 5, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF INTENT TO PROMULGATE RULES

Ban the import of live mule deer, white-tailed deer, moose and wild-origin elk				
Comments	101			
			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?	
Idahoans	96			
			Yes	89 88%
			No	12 12%
			Neutral	0 0%

RESULTS OF SECOND 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH SEPTEMBER 4, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF RULEMAKING – PROPOSED RULES

Comments Received = 48 (7 respondents commented on this Proposed Rule).
 Comments in support of Proposed Rule to prevent import of live cervids = 7 (100%).
 Comments in opposition of Proposed Rule to prevent import of live cervids = 0 (0%)

Representative supporting responses: *"After looking over your proposed rule changes I support all of them!"*

RESULTS OF FIRST 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH JUNE 5, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF INTENT TO PROMULGATE RULES

8 and 9 yr old Hunting Passport for turkey				
Comments	131		PASSPORT TURKEY	
			Do you support allowing eight (8) and nine (9) year old Hunting Passport hunters to hunt turkey (not including controlled hunts)?	
Idahoans	130			
			Yes	85 65%
			No	45 34%
			Neutral	1 1%
Upland game permit requirement				
			UPLAND GAME PERMIT	
			Do you support giving the Fish and Game Commission flexible authority to require possession of a WMA Upland Game Permit to hunt properties in addition to current WMA locations to provide additional hunting opportunity for stocked pheasants?	
			Yes	78 60%
			No	25 19%
			Neutral	28 21%

RESULTS OF SECOND 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH SEPTEMBER 4, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF RULEMAKING – PROPOSED RULES

Comments Received = 48 (8 respondents commented on the Proposed Rule for 8 & 9 yr old turkey hunts).

Comments in support of Proposed Rule = 7 (88%).

Comments in opposition of Proposed Rule = 1 (12%)

Comments Received = 48 (6 respondents commented on the Proposed Rule for Upland Game Bird Permits).

Comments in support of Proposed Rule = 6 (100%).

Comments in opposition of Proposed Rule = 0 (0%)

Representative supporting responses: *"After looking over your proposed rule changes I support all of them!"*

Representative opposing responses: *"...changing the age to 8 is really too young even if an adult is with the child. Even at 10, my son (who could do 30 push-ups) struggled to hold a shotgun or rifle."*

RESULTS OF FIRST 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH JUNE 5, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF INTENT TO PROMULGATE RULES

Modifying gear requirements on snares for trapping wolves			
Comments	311		
Idahoans	289	Do you support keeping snare configuration requirements as they currently exist?	
		Yes	101 32%
		No	190 61%
		Neutral	20 6%
		311	
		Do you support removing the rule requiring diverters on wolf snares?	
		Yes	188 60%
		No	113 36%
		Neutral	10 3%
		311	
		If you support removing the rule requiring diverters on wolf snares, would you support a requirement to require both a break-away device and a minimum loop stop on snares?	
		Yes	174 56%
		No	75 24%
		Prefer not to answer	62 20%
		311	
Have you ever used snares for trapping wolves?			
Yes	93 30%		
No	173 56%		
Prefer not to answer	45 14%		
311			

RESULTS OF NEGOTIATED RULEMAKING MEETING HELD July 22, 2019

On July 22nd from 2-4 Mountain Time, a negotiated rule making meeting was held at the IDFG HQ office in Boise with call in options available at all regional offices to discuss the modification of requirements for snares related to diverters, stops, and breakaway devices while wolf trapping. Seventeen people participated in the meeting with 12 at the Boise office, two at both the Coeur d'Alene and Lewiston offices, and one at the Pocatello Office. Upon conclusion of the meeting consensus was not reached. Of those attending, five people supported removing diverters and requiring a breakaway device, minimum loop stop, or both. The remaining 15 people did not support removal of diverters and many supported additionally requiring both a minimum loop stop and a breakaway device in addition to diverters.

RESULTS OF SECOND 21d PUBLIC COMMENT PERIOD ASSOCIATED WITH OCTOBER 2, 2019 PUBLICATION IN THE ADMINISTRATIVE BULLETIN – NOTICE OF RULEMAKING – PROPOSED RULES

Comments Received = 101 (57 respondents provided commented on the Proposed Rule to remove the diverter requirement).

Comments in support of removing diverter requirement = 54 (95%).

Comments in opposition of removing diverter requirement = 3 (5%)

Comments Received = 101 (53 respondents commented on the Proposed Rule to require break-away and loop stop devices).

Comments in support of Proposed Rule requiring both devices = 8 (15%).

Comments in opposition of Proposed Rule requiring both devices = 45 (85%)

Comments Received = 101 (15 respondents provided comments in opposition of the Proposed Rule to provide the Commission authority to reinstate a diverter requirement to address higher than desirable bi-catch).

Comments Received = 101 (27 respondents provided comments urging the Commission to abolish trapping).

Representative supporting responses in favor of removing diverter requirement and modifying requirement to use both a loop stop and break-away: *"I'm writing to comment on the wolf snare diverters. I'm crossing my fingers these diverters go away and get replaced with a breakaway or deer stop instead. Studies show these diverters are not working as well as they hoped in diverting by catch. Trappers from Canada and Alaska just laugh at this technique of using diverters and shake their heads on why we don't just use a simple break away."*

"PLEASE MAKE WOLF SNARING MIMIC THAT OF ALL OTHER SNARING IN THE STATE:

No Diverter requirement

No option for commission to require a diverter

Require EITHER a deer stop OR a breakaway device within the loop."

Representative opposing responses: *"Please keep the requirement for diverters in place statewide for wolf snares. The way Idaho treats wolves is already egregious enough. Making rules more lax in places*

around the state would only further Idaho's mistreatment of wolves and other animals that often are caught incidentally by snares."

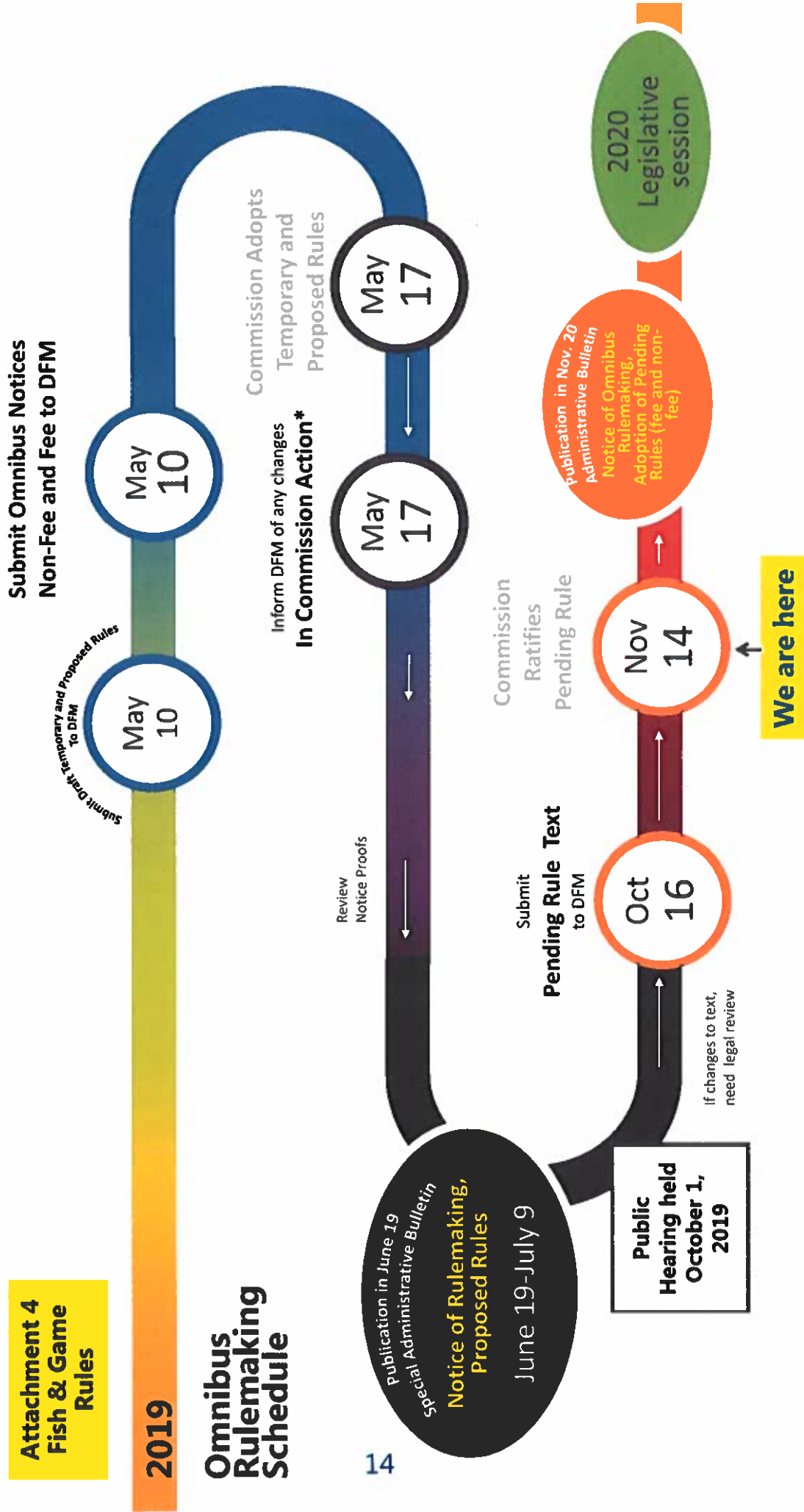
"I disagree with the removal of diverters, The main driver for the use of diverters was to mitigate the take of non-target species. In Idaho we should continue to use diverters. The initial use of diverters in Idaho was based on a study out of Alaska, studying how moose encounter a wolf snare, and incorporating two modifications to the snare (diverter/breakaway) resulted in fewer moose catches and fewer injuries to moose while reliably retaining wolves. If the ultimate goal is to mitigate take of non-target species, such as elk moose etc. it would make sense to retain the use of diverters".

"I support the proposal requiring all wolf snares have both a break-away device and a cable stop incorporated within the loop and the ability for IDFG to reinstate the use of diverters in areas where in uptake of non-target species becomes problematic."

**Attachment 4
Fish & Game
Rules**

2019

**Omnibus
Rulemaking
Schedule**



Agenda Item C(2) – Ratification of Pending Rules for Omnibus Rulemaking

Non-Fee Rule Chapters

The complete text of all IDAPA 13 chapters identified below is being published (with exceptions noted):

IDAPA 13

- 13.01.01, *Rules of Practice and Procedure of the Fish and Game Commission*
- 13.01.02, *Rules Governing Mandatory Education and Mentored Hunting*
(Except 13.01.02.200 and 13.01.02.201, which are being reauthorized as fee rules)
- 13.01.03, *Public Use of Lands Owned or controlled by the Department of Fish and Game*
- 13.01.04, *Rules Governing Licensing*
(Except 13.01.04.601, which is being reauthorized as a fee rule)
- 13.01.06, *Rules Governing Classification and Protection of Wildlife*
- 13.01.07, *Rules Governing the Taking of Upland Game Animals*
- 13.01.08, *Rules Governing the Taking of Big Game Animals*
(Except 13.01.08.263, which is being reauthorized as a fee rule, and except 13.01.08.600 – 13.01.08.650 (descriptions of game management units and elk zones) whose language is the same as the proposed rules published in Admin Bulletin Vol. 19-6 SE)
- 13.01.09, *Rules Governing Taking of Game Birds*
- 13.01.10, *Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife*
(Except IDAPA 13.01.10.410, which is being reauthorized as a fee rule)
- 13.01.11, *Rules Governing Taking of Fish*
- 13.01.12, *Rules Governing Commercial Fishing*
- 13.01.14, *Rules Governing Falconry*
- 13.01.15, *Rules Governing Use of Dogs*
- 13.01.16 *Trapping of Predatory and Unprotected Wildlife and Taking of Furbearers*
- 13.01.17 *Rules Governing the Use of Bait and Trapping for Taking Big Game Animals*
- 13.01.19, *Rules for Operating, Discontinuing, and Suspending Vendors*
(Except IDAPA 13.01.19.102, which is being reauthorized as a fee rule)

Agenda Item C(2) – Ratification of Pending Rules for Omnibus Rulemaking

Fee Rule Major Sections

The complete text of the major sections of fee chapters identified below is being published:

IDAPA 13

- 13.01.02.200, 13.01.02.201 *Rules Governing Mandatory Education and Mentored Hunting*
- 13.01.04.601 *Rules Governing Licensing*
- 13.01.08.263 *Rules Governing the Taking of Big Game Animals*
- 13.01.10.410 *Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife*
- 13.01.19.102 *Rules for Operating, Discontinuing, and Suspending Vendors*

Agenda Item C(3) – Ratification of Pending Rules for Independent Rulemaking

Rules Governing the Taking of Big Game Animals

- 1) **Docket No. 13-0108-1903, Proposed Rule:** Reduce tag buyer congestion for highly competitive, capped general season tags. Establishes a waiting period (e.g., up to five (5) days) for controlled hunt applicants to buy big game tags for limited availability, capped zone hunts.
- 2) **Docket No. 13-0108-1904, Proposed Rule:** Manage nonresident participation in general season big game hunts. Establishes Commission authority to manage the number of nonresident, general season deer and elk tags to no less than 10% of the average total participation level by unit or zone over the most recent five (5) year time period.

Rules Governing the Taking of Game Birds

- 3) **Docket No. 13-0109-1902, Proposed Rule:** Allows Hunting Passport holders eight (8) and nine (9) years in age to possess a turkey tag for general season turkey hunts, youth-only general hunts, turkey landowner permission hunts and depredation hunts. Provides authority to the Commission to designate where possession of an Upland Game Bird Permit is required to hunt and possess stocked pheasants.

Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife

- 4) **Docket No. 13-0110-1901, Proposed Rule:** Provides Commission authority to ban the importation of live mule deer, white-tailed deer, moose and wild-origin elk (not regulated by the Idaho State Department of Agriculture) to reduce the risk of chronic wasting disease (CWD) being introduced in Idaho.

Rules Governing the Use of Bait and Trapping for Taking Big Game Animals

- 5) **Docket No. 13-0117-1901, Proposed Rule:** Establishes gear requirements for snares when trapping wolves. Removes the requirement to use diverters on snares when trapping and requires that both a cable stop on the snare loop and a break-away device on the cable be used.

**IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS
DOCKET NO. 13-0108-1903
ADOPTION OF PENDING RULES**

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0108-1903
(Only Those Sections With Amendments Are Shown)**

252. DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.

When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same calendar year for the same species is not eligible to buy a tag for that limited hunt. ()

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS
DOCKET NO. 13-0108-1903
ADOPTION OF PENDING RULES

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0108-1903
(Only Those Sections With Amendments Are Shown)

252. DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.

When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same calendar year for the same species is not eligible to buy a tag for that limited hunt. ()

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS
DOCKET NO. 13-0108-1904
ADOPTION OF PENDING RULES

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13.108.1904
(Only Those Sections With Amendments Are Shown)

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. (6-30-19)T

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. Outfitter allocated hunts are exempt from the limitation of this Subsection. ~~(6-30-19)T()~~

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. (6-30-19)T

c. ~~Outfitter allocated hunts are exempt from the limitation of this Subsection. (6-30-19)T~~ d. For each species, the total number of outfitter allocated controlled hunt tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of this Subsection 01.a, the resulting net number shall be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. ~~(6-30-19)T()~~

d. In general hunts, the Commission may limit by proclamation the number of tags available for nonresident hunters in a zone or big game hunting unit to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the previous five (5) year period. If the Commission adopts tag limits in a zone or big game hunt unit for non-residents under this subsection 01.d, without limiting residents, the provisions of IDAPA 13.01.04.505.02, Rules Governing Licensing, applicable to controlled hunts with limited nonresident tags and unlimited resident tags will apply to deer and elk tag allocation instead of the provisions of IDAPA 13.01.04.505.01. ~~(6-30-19)T()~~

e. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose shall be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (6-30-19)T

**IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS
DOCKET NO. 13-0109-1902
ADOPTION OF PENDING RULES**

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0109-1902
(Only Those Sections With Amendments Are Shown)**

102. WILD TURKEY TAGS, STAMPS, PERMITS, AND VALIDATIONS.

No person may hunt wild turkey without having in possession the appropriate hunting license, tag, and controlled hunt permit. (6-30-19)T

01. Tags. There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission. (6-30-19)T

02. Youth General Hunts.

a. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (6-30-19)T

b. Hunting passport holders eight (8) to seventeen (17) years of age are eligible to participate in general season hunts, youth-only general hunts, landowner permission hunts with the appropriate landowner permission tag, and depredation hunts. ()

03. Controlled Hunts. A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. (6-30-19)T

a. Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: (6-30-19)T

i. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (6-30-19)T

ii. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than seventy-nine (79) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (6-30-19)T

iii. Any person applying for a youth-only controlled hunt must be nine (9) to seventeen (17) years of, provided they are ten (10) to seventeen (17) years of age during the hunt for which they are applying, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth-only controlled hunt permit (6-30-19)T

b. Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices office, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. Applications must comply with the following requirements: (6-30-19)T

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (6-30-19)T

ii. Only one (1) application per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (6-30-19)T

iii. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (6-30-19)T

iv. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (6-30-19)T

v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (6-30-19)T

c. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (6-30-19)T

04. Tag Validation. (6-30-19)T

a. Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. (6-30-19)T

b. To validate the tag and permit, the hunter must cut out and completely remove two (2) triangles on the border of the tag and permit, one (1) for the month and one (1) for the day of the kill. (6-30-19)T

c. The tag and permit must remain attached so long as the turkey is in transit or storage. (6-30-19)T

05. Tag Designation. (6-30-19)T

a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her resident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (6-30-19)T

b. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (6-30-19)T

c. Designation of the controlled hunt permit shall be made on a form prescribed by the Department and may be submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (6-30-19)T

d. Any child cannot be designated more than one (1) control hunt permit per calendar year.(6-30-19)T e. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (6-30-19)T

06. Landowner Permission Tags. Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. (6-30-19)T

103. PHEASANT TAGS, PERMITS, AND VALIDATIONS.

No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. (6-30-19)T

01. ~~WMA~~ Upland Game Bird Permit. (6-30-19)T

a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, or at other locations where the Department stocks pheasants, as identified by Commission proclamation, must have a valid ~~WMA~~ Upland Game Bird Permit in possession. (6-30-19)T()

b. Permit Limit. Each ~~WMA~~ Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. (6-30-19)T()

c. Permit Validation. Any person harvesting a pheasant where an ~~WMA~~ Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. (6-30-19)T()

02. Youth Pheasant Season. The youth pheasant season is open only to hunters ten (10) to seventeen (17) years of age with a valid hunting license and hunting passport holders eight (8) to seventeen (17) years of age, and each youth hunter must be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

300. UPLAND GAME BIRD METHODS OF TAKE.

01. Upland Game Birds. No person shall take upland game birds: (6-30-19)T

a. With a trap, snare, net, crossbow, or firearm. (6-30-19)T

i. EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, or hand-held or thrown missile; (6-30-19)T

ii. or, EXCEPT, for taking forest grouse only, a crossbow may be used by a person who possesses a Disabled Persons Archery Hunting Permit or a Special Weapon Reasonable Modification Hunting Permit authorizing use of a crossbow, or by a person hunting in an area where crossbow is a lawful method of take for big game. (6-30-19)T

b. From any watercraft. (6-30-19)T

c. By the use or aid of any electronic call. (6-30-19)T

d. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (6-30-19)T

e. When hunting on ~~Wildlife Management Areas~~ locations where ~~pheasants are stocked an Upland Game Bird permit is required~~, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ~~(6-30-19)T()~~

02. Wild Turkey. In addition to the methods listed above, wild turkey may not be taken: (6-30-19)T

a. With lead shot exceeding BB size. (6-30-19)T

b. With steel shot exceeding T size. (6-30-19)T

c. By the use of dogs, except during fall hunts. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

500. Official Shooting Hours.

No person shall take game birds outside of official shooting hours. (6-30-19)T

01. Migratory Game Birds and Wild Turkey. Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunset until sunset. (6-30-19)T

02. Upland Game Birds and American Crow. Official shooting hours for upland game birds and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of a ~~WMA~~ Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ~~(6-30-19)T()~~

**IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR
SALVAGE OF WILDLIFE
DOCKET NO. 13-0110-1901
ADOPTION OF PENDING RULES**

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0110-1901
(Only Those Sections With Amendments Are Shown)**

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. (6-30-19)T()

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING FOR TAKING OF BIG
GAME ANIMALS
DOCKET NO. 13-0117-1901
ADOPTION OF PENDING RULES

Alternate 1: requirement for break-away device AND loop stop

THE FOLLOWING IS THE PROPOSED TEXT TO DOCKET NO. 13-0117-1901
(Only Those Sections With Amendments are Shown)

400. TRAPPING BIG GAME ANIMALS.

Trapping may be used to take ONLY gray wolf and ONLY under the following conditions. (6-30-19)T

- 01. Methods of Take When Trapping.** No person trapping gray wolf may: (6-30-19)T
 - a.** Use any set, EXCEPT a ground set. (6-30-19)T
 - b.** Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; EXCEPT: (6-30-19)T
 - i.** Gray wolves may be trapped near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes shall not include any man-caused mortality. (6-30-19)T
 - ii.** Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. (6-30-19)T
 - iii.** Gray wolves may be trapped using the parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife," Subsections 300.02.c. and 300.02.d. in Game Management Units as identified by the Commission's Big Game Season Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. (6-30-19)T
 - c.** Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.01.b. (6-30-19)T
 - d.** Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (6-30-19)T
 - e.** Use live animals as a bait or attractant. (6-30-19)T
 - f.** Place any ground set on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. (6-30-19)T
 - g.** Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; EXCEPT ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. (6-30-19)T

h. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area, except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. (6-30-19)T

i. Place or set any ground set snare without a diverter; or without a break-away device or cable stop incorporated within the loop of the snare. (6-30-19)T()

i. Place or set any ground set snare without a cable stop incorporated within the loop of the snare. 6-30-19)T()

k. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. (6-30-19)T()

l. Trap any gray wolf within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (6-30-19)T()

m. Trap gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (6-30-19)T()

n. Place or set any ground set snare without two (2) diverters, in an area identified by Commission proclamation as requiring their use (based on levels of non-target catch of animals whose capture may be avoided by diverter use). (6-30-19)T()

02. Trapping Hours. Trapped gray wolves may be dispatched any time of day or night. (6-30-19)T

03. Wounding and Retrieving. No person may wound or kill any big game animal without making a reasonable effort to retrieve it and reduce it to possession. (6-30-19)T

04. Unlawful Methods of Take. No person may take big game animals in violation of IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho" Section 410; EXCEPT trapped gray wolves may be dispatched with any rimfire rifle, rimfire handgun or any muzzleloading handgun. (6-30-19)T

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING FOR TAKING OF BIG
GAME ANIMALS
DOCKET NO. 13-0117-1901
ADOPTION OF PENDING RULES

Alternate 2: requirement for break-away OR loop stop

THE FOLLOWING IS THE PROPOSED TEXT TO DOCKET NO. 13-0117-1901
(Only Those Sections With Amendments are Shown)

400. TRAPPING BIG GAME ANIMALS.

Trapping may be used to take ONLY gray wolf and ONLY under the following conditions. (6-30-19)T

- 01. Methods of Take When Trapping.** No person trapping gray wolf may: (6-30-19)T
 - a.** Use any set, EXCEPT a ground set. (6-30-19)T
 - b.** Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; EXCEPT: (6-30-19)T
 - i.** Gray wolves may be trapped near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes shall not include any man-caused mortality. (6-30-19)T
 - ii.** Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. (6-30-19)T
 - iii.** Gray wolves may be trapped using the parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife," Subsections 300.02.c. and 300.02.d. in Game Management Units as identified by the Commission's Big Game Season Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. (6-30-19)T
 - c.** Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.01.b. (6-30-19)T
 - d.** Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (6-30-19)T
 - e.** Use live animals as a bait or attractant. (6-30-19)T
 - f.** Place any ground set on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. (6-30-19)T
 - g.** Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; EXCEPT ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. (6-30-19)T

h. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area, except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. (6-30-19)T

i. Place or set any ground set snare without a diverter, or without a break-away device or cable stop incorporated within the loop of the snare. (6-30-19)T()

j. Place or set any ground set snare without a cable stop incorporated within the loop of the snare. (6-30-19)T()

ki. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. (6-30-19)T()

kk. Trap any gray wolf within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (6-30-19)T()

ml. Trap gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (6-30-19)T()

nm. Place or set any ground set snare without two (2) diverters, in an area identified by Commission proclamation as requiring their use (based on levels of non-target catch of animals whose capture may be avoided by diverter use). (6-30-19)T()

02. Trapping Hours. Trapped gray wolves may be dispatched any time of day or night. (6-30-19)T

03. Wounding and Retrieving. No person may wound or kill any big game animal without making a reasonable effort to retrieve it and reduce it to possession. (6-30-19)T

04. Unlawful Methods of Take. No person may take big game animals in violation of IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho" Section 410; EXCEPT trapped gray wolves may be dispatched with any rimfire rifle, rimfire handgun or any muzzleloading handgun. (6-30-19)T