

Meeting Date: March 20, 2020

Agenda Item No. 7

Agenda Item: Rulemaking update

Bureau Chief Approval: ES

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Background:

Pending Rules and Conditional Temporary Omnibus Rulemaking

As of March 1, the projected schedule for the adjournment *sine die* of the 2020 Idaho Legislature will occur March 20, 2020 (the same day as the Commission meeting).

Depending on Legislative action on rules, one of two outcomes will occur:

1. Pending omnibus and independent rules adopted by the Commission and submitted for Legislative review will take effect as final rules.
OR
2. Omnibus temporary fee and non-fee rules conditionally adopted by the Commission will take effect. The conditional temporary rules include provisions for compliance with federal authorization for the 3-year experimental swan season and for earlier dates for Landowner Appreciation Tag Controlled hunt applications (as described in negotiated rulemaking below).

Negotiated Rulemaking—New Proposal

- Tag limit (deer and elk) for nonresident DAVs: Tags for nonresident Disabled Veterans are not included in the statewide nonresident general hunt tag limits for deer and elk (set by rule in IDAPA 13.01.04.550). However, nonresident DAV participation has been growing (from 2016 to 2019, nonresident DAV elk tags increased from 910 to 1,682 and nonresident DAV deer tags increased from 1,149 to 1,839). Nonresident DAV elk and deer tags cost \$22.00 and \$38.00, respectively, and it is reasonable to expect continued growth in at least the near term if tags are not limited, with potential impacts on management of nonresidents in addressing hunter congestion.

Negotiated Rulemaking—Previously Discussed Proposals

Consistent with discussion at the January 23, 2020 Commission meeting, staff will proceed with negotiated rulemaking on the following proposals:

- Land Owner Appreciation tag application period: Move application dates for the Landowner Appreciation Program (LAP) earlier to accommodate earlier hunts authorized by the Commission.
- Turkey tags– Simplify turkey tag options offered to the hunting public (currently three tag types with different use restrictions: (1) general tags, (2) extra tags, and (3) special unit tags).
- Swan tag and mandatory hunt/report – Modify game bird tag use rules (currently limited to sandhill crane and turkey tags) to accommodate swan tags (if authorized by pending legislation); adopt rules for swan mandatory check & report. Note that if pending rules take effect as final rules *sine die*, the Commission will need to adopt

temporary rules at an upcoming meeting. Rules are needed to comply with federal authorization for swan season, including a fall 2020 season.

- Pronghorn controlled hunt draw waiting period –Adopt a waiting period for eligibility to apply for antelope controlled hunts consistent with the waiting period for antlered deer and elk controlled hunt applications.

Statutory Authority and/or Policy Issues:

The Commission has rulemaking authority. The Idaho Administrative Procedure Act (Title 67, Chapter 52, Idaho Code) governs rulemaking in Idaho. Annually, the Commission considers ideas for rulemaking that may be driven by enactment of a new or amended statute by our state Legislature, enactment of a new law or regulation by the federal government, a citizen's petition to amend or adopt a new rule, a change in an agency's process or procedure requirements or a need to simply update a rule. Typically, the Commission discusses rulemaking ideas early in the calendar year and provides direction to staff to initiate rulemaking no later than their regularly scheduled March meeting so proper and timely notice can be given to the public with opportunity to participate in the rulemaking process (e.g., initiated with a notice of intent to promulgate rules published in the Idaho Administrative Bulletin).

Public Involvement Process:

Public involvement would occur through the negotiated rulemaking process and public input opportunity at Commission meeting.

Justification:

This addresses Commission interest in rulemaking.

Staff Recommendation:

This agenda item includes Commission feedback on potential negotiated rulemaking for setting limits for nonresident DAV elk and deer tags. Staff will provide updates and make recommendations on adoption of temporary/proposed rules at subsequent meetings.