

Meeting Date: November 17, 2017

Agenda Item No. 5.F.

Agenda Item: Pending Rules, Public Input Review
and Pending Rules Ratification

Bureau Chief Approval: _____

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Background:

Public Input Review

Subsequent to Commission adoption of rules in August as “Proposed Rules”, the rules were published in the October Administrative Bulletin, which provided opportunity for public input about the Proposed Rules to the Department from October 4 through 25.

Only five responses from four individuals were received as a result of publication of seven proposed rule dockets. Opposing comments are summarized as follows and are also attached:

Two individuals did not support rescinding the rule that requires pre-payment of the moose, bighorn sheep, or mountain goat tag fee at the time of application because they thought it would affect draw odds. Staff addressed this perception at the August Commission meeting.

One individual did not support: 1) including all of controlled hunt Area 11 for the Bighorn Sheep auction and lottery tags, 2) creating outfitter allocation in unlimited controlled hunts when a nonresident big game tag limitation is established, 3) reclassifying red squirrel, 4) revising the description of mandatory class for an archery hunt to match existing practices, and 5) deletion of telephone report for wolf harvest. Little rationale was offered except regarding reclassification of red squirrel, citing animal cruelty depictions on Snapchat.

Other comments in the five responses either supported the proposed rules or were outside the scope of the proposed rules.

Pending Rules Ratification

As part of the rulemaking process of the Idaho Administrative Procedure Act (IDAPA), the Commission must adopt as Pending Rules any Temporary/Proposed Rules previously promulgated during the year if the Commission desires Temporary/Proposed Rules to become Final Rules. This process is referred to as “ratification” because the Commission is formally approving rules which the Commission has already promulgated. “Ratification” is needed for the rules to be reviewed by the 2018 Legislature. If the Pending Rules are accepted by the Legislature, the rules will become Final Rules.

Statutory Authority and/or Policy issues: The IDAPA provision for adopting Pending Rules and the Legislative review process is Idaho Code 67-5224. This is an annual step in the rulemaking process.

Public Involvement Process: The public involvement process has already occurred through previous Commission meetings, negotiated rulemaking, and publication of temporary/proposed rules in the October Administrative Bulletin.

Staff Recommendation: I recommend that the Commission adopt as **Pending Rules** the following Proposed and Temporary and Proposed rules:

Rules Governing Licensing

1) Docket No. 13-0104-1701, Proposed Rule: Revise provisions for Special Needs and Disabled Veteran Special Big Game Hunt Tags. Revision to put certain limitations on use of the special big game hunt tags, create an application and draw process when eligible applications exceed the number of tags, and to designate one disabled veterans special big game tag to the Idaho Division of Veterans Services to sponsor a resident applicant.

2) Docket No. 13-0104-1702, Temporary and Proposed Rule: Bighorn sheep Auction and Lottery Tag Restrictions related to Unit 11. Revision to include all of Controlled Hunt Area 11 for the bighorn sheep auction and lottery tags to be consistent with the general controlled hunt tag for this hunt.

3) Docket 13-0104-1703, Proposed Rule: Outfitter allocation flexibility for an unlimited controlled hunt. Revision of outfitter allocation rules to allow Commission flexibility to create an outfitter allocation of big game tags for an unlimited controlled hunt when a nonresident big game tag limitation is established.

Rules Governing Classification and Protection of Wildlife

4) Docket No. 13-0106-1701, Proposed Rule: Reclassification of Red Squirrel. Revision to reclassify Red Squirrel as an upland game animal.

Rules Governing the Taking of Big Game Animals in the State of Idaho

5) Docket No. 13-0108-1704, Proposed Rule: Limit nonresidents in unlimited controlled hunts. Revision to allow Commission flexibility to proportionally limit the number of non-outfitted, nonresident big game tags allocated in an unlimited controlled hunt.

6) Docket No. 13-0108-1705, Proposed Rule: Revise tag pre-payment for certain species. Revision to rescind requirement that a hunter must pay the tag fee at the time of application for a moose, bighorn sheep, or mountain goat controlled hunt and to create a purchase deadline for first draw tags and a second draw process for unclaimed and leftover tags.

7) Docket No. 13-0108-1706, Proposed Rule: Multiple Revisions to reflect current process implementation and to remove unnecessary procedure. Revisions to delete reference to Supertag drawing for hunters that comply with Mandatory Report requirements, streamline mandatory hunter orientation process for controlled archery-only hunts, remove duplicate language regarding mandatory reports and update to reflect current reporting procedure, and to delete the mandatory requirement that successful wolf hunters must report wolf harvest with a telephone report.

Justification: This is a required step in the IDAPA rulemaking process. Only the Commission has authority to promulgate IDAPA rules.