

Meeting Date: March 13, 2019

Agenda Item No. 11

Agenda Item: Nonbiological Rulemaking proposals

Bureau Chief Approval: 

Prepared by: Jon Rachael

Background:

Annually or biennially, the Idaho Fish and Game Commission considers proposed changes for two types of hunting rules, season setting (biological) and IDAPA rules (nonbiological). The Commission has unique authority to establish seasons via proclamation, rather than through IDAPA rulemaking. Proclamations are published annually (i.e., Waterfowl) or biennially (e.g., Big game; Moose, Bighorn Sheep, and Mountain Goat; Upland Game) and include seasons, limits, size, sex, and harvestable species. IDAPA (nonbiological) rules include all other rules adopted by the Commission.

Examples of IDAPA rules include methods of take, tagging requirements, evidence-of-sex requirements, and controlled hunt eligibility requirements. IDAPA rules are officially published in the Idaho Administrative Code (<https://adminrules.idaho.gov/rules/current/index.html>) and included in hunting regulation brochures. Any IDAPA rules must be published in the Administrative Bulletin for public comment and must be upheld by the Legislature to become a final rule.

Legislation (SB 1366) in 2012 strengthened the requirement negotiated rulemaking to adopt, amend, or repeal a rule. In short, the state agencies shall determine whether negotiated rulemaking is feasible or not, and proceed according to statutory procedures identified in Idaho Code 67-5220.

Wildlife staff will present a review of 3 rules proposals for which the commission has previously provided guidance to the Department to proceed with negotiated rulemaking, and will seek Commission guidance on an additional proposal on wolf snare equipment requirements.

Rule Proposal	Intent	Anticipated Dates for NOI, Comment Period, Commission Action
Extend trap check times for lethal trapping equipment	Provide Commission authority to extend the required trap check period up to a specified number of hours by proclamation in specific areas and during specific times.	Request Temporary Rulemaking authority File AARF: 4/19/19 File NOI: 5/3/19 Published in Administrative Bulletin: 6/5/19
Allow hunting passport holders younger than 10 years of age to possess a turkey tag	Modify existing rule to allow a mentee who holds a hunting passport and is less than 10 years old to possess one turkey tag per calendar year and participate in general season turkey hunts, including those for youth only.	File AARF: 4/19/19 File NOI: 5/3/19 Published in Administrative Bulletin: 6/5/19

Rule Proposal	Intent	Anticipated Dates for NOI, Comment Period, Commission Action
Restrict purchase of capped elk zone tags by individuals who have applied for certain Controlled Hunts	Restrict individuals who applied for certain controlled hunts from purchasing a tag for a capped elk zone for a specified number of days after those tags go on sale to reduce competition for those general season tags sold over the counter that sell out very quickly.	File AARF: 4/19/19 File NOI: 5/3/19 Published in Administrative Bulletin: 6/5/19

Staff will prepare draft rule language to present to the Commission at their May 2019 meeting. The Department will file the Notice of Intent to promulgate these rules for publication in the Administrative Bulletin which will initiate a 21-day public comment period. Based on comments received, the Department will prepare recommendations to the Commission for action at the July 2019 meeting.

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:

Notices of Intent to initiate rulemaking will be published in the Administrative Bulletin and the proposed rules will be published and made available for public review and comment on the Department’s website during a 21 day period following publication. Following the public comment period, the Department will present final recommendations on the proposals for Commission action.

Justification:

Commission action is required to modify IDAPA Rules.

Staff Recommendation:

No action at this point.

Action Requested:

This item is for information only, no action is required.