

Meeting Date: July 25, 2019

Agenda Item No. 5H

Agenda Item: Managing nonresident participation in general big game hunts

Bureau Chief Approval: ES

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Background:

While a significant proportion of Idaho's elk and deer hunters value general hunt opportunities each year, elk and deer hunters have asked the Commission to take action to address hunter crowding in certain areas. Resident hunters requests commonly refer to increased numbers/proportion of nonresident hunters in some of these areas.

At the Commission's direction, the Department initiated negotiated rulemaking to provide the Commission with flexibility to manage nonresident participation in general big game hunts, with consideration for impacts to agency revenues and effects to hunter support businesses, and to provide for outfitter tag allocation.

Statutory Authority and/or Policy Issues:

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

Policy issues include: (1) general fairness considerations for high-demand items, (2) rule simplicity in license/tag issuance requirements to promote up-front buyer and customer service understanding of purchase options, (3) tailoring solutions to limit impacts to buyer choices, (4) fiscal impacts to the Department's revenue model and (5) potential impacts to hunter support businesses that cater to nonresidents.





Should Commission action correspond to any significant decrease in nonresident deer/elk tag sales, a revenue offset (e.g., increased tag fees, increased resident tag sales or other revenue) would be necessary to avoid significant impacts to dedicated license funds and federal funds. I.C. 36-416 sets non-resident elk and deer tag prices at \$415 and \$300 respectively, with an accompanying nonresident hunting license of \$153 or combo license of \$238. By comparison, resident elk and deer tag prices are \$23 and \$35 (with lower prices for resident seniors/youth/DAV). Nonresident elk/deer tag and license revenues are a significant factor in federal funds received through allocation to states of excise taxes on firearms, and ammunition through the Pittman-Robertson Act and the allocation of the excise tax on fishing and boating equipment under Dingell Johnson Act.

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. Three hundred sixty-six (366) public comments were received and 354 of those were from Idaho residents. Of the individuals who responded, 333 (91%) supported managing nonresident participation in general hunts; 24 (7%) individuals did not support the proposed rule, and 9 (2%) were neutral.

Summary of Responses to Survey Question:

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%
	 366	

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.

Staff Recommendation:

Staff recommends the Commission determine negotiated rulemaking infeasible and adopt the proposed rule (attached).

Sample Motion:

Move to adopt the proposed rule to provide the Commission the authority to manage nonresident participation general season big game hunts as presented.

IDAPA 13.01.08.255. 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. (X-XX-XX)

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. (X-XX-XX)

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, the provisions of IDAPA 13.01.05.505.02, 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 13.01.505.01. (X-XX-XX)

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