

**Meeting Date:** July 26, 2018

**Agenda Item No. 5R**

**Agenda Item:** Revise Trap set back (ACTION)

**Bureau Chief Approval:** 

**Prepared by:** Cory Mosby, Wildlife Staff Biologist, Furbearers

**Background:**

As per a proposal from the Idaho Trappers Association (ITA), the Commission directed the Department to initiate negotiated rulemaking to revise the minimum required distance for trap placement from the centerline of any maintained public trail to further reduce potential negative interactions with recreating public and domestic animals. Currently the distance for a ground, water, or other trap set is five feet from centerline.

The proposed rule would extend required minimum set back from the current 5 feet from centerline to 10 feet from the edge of any maintained public trail and further modify the setback to apply only to ground sets (excluding water sets and other sets). Furthermore, based on suggestion from the ITA, the proposal would add paved trails to the 300 ft. setback for ground sets along with designated campgrounds, trailheads, and picnic areas.

A public trail is defined as any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency (IDAPA 13.01.16).

The proposed rules are attached.

**Statutory Authority and/or Policy issues:**

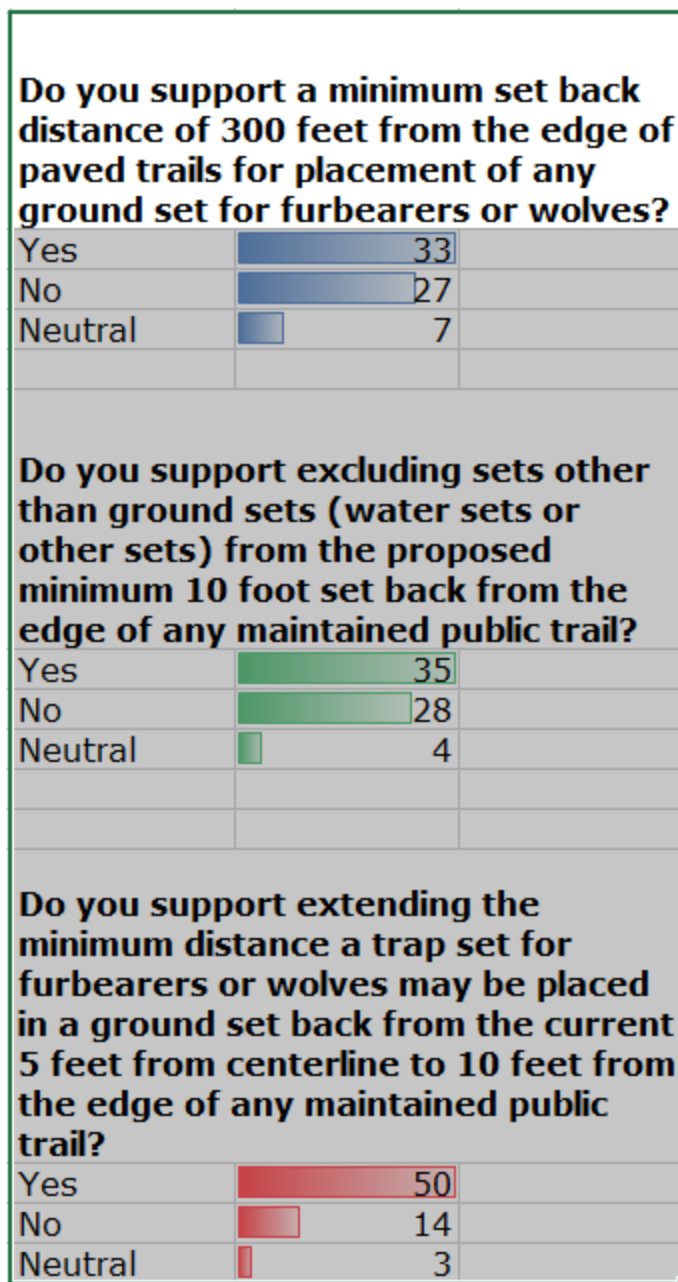
Idaho Code 36-104 grants authority to the Commission to set seasons and promulgate IDAPA rules. Idaho Code 67-52 (Idaho Administrative Procedure Act) governs the process for considering, adopting, and implementing IDAPA rules.

**Public Involvement Process:**

A notice of Intent to initiate negotiated rulemaking was published in the Administrative Bulletin and the proposed rules were published and made available for public review and comment on the Department's website during a 21-day period following publication. Public comments are summarized in charts based on Yes/No/No Opinion responses to specific elements of the rule.

22,955 responses were entered on the online webform, but all but 67 were from Russian web bots. All 67 responses were Idahoans. In addition to the responses provided in the public comment period, the Department collaborated with the ITA, Intermountain Furharvesters, and the Foundation For Wildlife Management throughout the development of the proposed rules that were provided for public involvement.

Overall, there was support for all aspects of the proposed rule (of those who were not neutral on the issue, 55% of 60 commenters supported 300 ft. setback from paved trails, 56% of 63 commenters supported excluding sets other than ground sets from the proposed setback, and 78% of 64 commenters supported extending the setback from 5 ft. from centerline to 10 ft. from the edge of maintained public trails for ground sets).



Overall, general comments (those encompassing all three components) were split between those supporting all changes and those supporting none. Those not supporting changes were primarily concerned with loss of any trapping opportunities. Comments associated with the 300 ft. setback from paved trails were generally associated with the concern that this was too far; however, working to better communicate the current definition of a road or a trail would address the majority of the concerns raised. This interest to better communicate current definitions of roads and trails was additionally raised by several commenters.

Comments within the scope of the rule did not suggest further negotiation of the rule would lead to consensus due to polarity of expressed perspectives, and thus any further negotiated rulemaking would be infeasible.

**Justification:**

Commission action is required to modify IDAPA Rules.

**Staff Recommendation:**

Staff recommends a motion to declare negotiated rulemaking infeasible and that the Commission adopt the proposed rule to extend the required setback of traps from 5 feet from the centerline to 10 feet from the edge of maintained public trails, that the setback applies only to sets defined as “ground sets,” and that the setback from paved public trails be extended to 300 feet.

Suggested Motion: Commission declares negotiated rulemaking infeasible and should adopt staff recommendations to extend the required setback of traps from 5 feet from the centerline to 10 feet from the edge of maintained public trails, that the setback applies only to sets defined as “ground sets,” and that the setback from paved public trails be extended to 300 feet.

**IDAPA 13  
TITLE 01  
CHAPTER 16**

**13.01.16 – THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE  
AND THE TAKING OF FURBEARING ANIMALS**

**400. METHODS OF TAKE.**

**01. Furbearing Animals.** No person shall take beaver, muskrat, mink, marten, or otter by any method other than trapping. In Valley County and portions of Adams County in the Little Salmon River drainage, red fox may be taken only by trapping. (5-3-03)

**02. Hunting.** No person hunting permissible furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

**a.** Hunt with any weapon the possession of which is prohibited by state or federal law. (7-1-93)

**b.** Hunt with dogs unless they comply with IDAPA 13.01.15, "Rules Governing the Use of Dogs." (7-1-93)

**c.** Hunt any furbearing animal with or by the aid of artificial light. (4-7-11)

**d.** Persons may hunt raccoon with the aid of an artificial light without a permit from the Director but no person hunting raccoon at night shall: (4-7-11)

**i.** Hunt from a motorized vehicle. (7-1-93)

**ii.** Use any light attached to any motor vehicle. (7-1-93)

**iii.** Hunt on private land without obtaining written permission from the landowner or lessee. (7-1-93)

**03. Trapping.** No person trapping furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

**a.** 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. (4-7-11)

**b.** Use any set within thirty (30) feet of any visible bait. (4-6-05)

**c.** 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. (4-7-11)

**d.** Use live animals as a bait or attractant. (4-6-05)

**e.** Place any ground, ~~water, or other~~ sets on, across, or within ~~five (5)~~ ten (10) feet of ~~center line the~~ edge of any maintained unpaved public trail. (X-XX-XX)(4-7-11)

**f.** 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. (4-7-11)

**g.** 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. Cage or box live traps are permitted

within three hundred (300) feet of designated public campgrounds, trailheads, or picnic areas as allowed by city, county, state, and federal law. (x-xx-xx) ~~(3-29-12)~~

**h.** Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. (3-29-12)

**i.** Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. (3-29-12)

**IDAPA 13  
TITLE 01  
CHAPTER 17**

**13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING  
FOR TAKING BIG GAME ANIMALS**

**400. TRAPPING BIG GAME ANIMALS.**

Trapping may be used to take ONLY gray wolf and ONLY under the following conditions. (4-4-13)

**01. Defined Terms.** (4-4-13)

**a.** ‘Bait’ for trapping purposes is defined as any animal parts; except bleached bones or liquid scent. (4-4-13)

**b.** ‘Ground set’ is defined as any foothold trap, body-gripping trap, or snare originally set in or on the land (soil, rock, etc.). This includes any traps elevated up to a maximum of thirty-six (36) inches above the natural ground level. (4-4-13)

**c.** For trapping purposes, a ‘public trail’ is defined as any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency. (4-4-13)

**02. Methods of Take When Trapping.** No person trapping gray wolf shall: (4-4-13)

**a.** Use any set, EXCEPT a ground set. (4-4-13)

**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: (4-4-13)

**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. (4-4-13)

**ii.** Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. (4-4-13)

**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. The Proclamation is published in a brochure available at department offices and license vendors. (4-4-13)

**c.** Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.02.b.i., 400.02.b.ii., and 400.02.b.iii. (4-4-13)

**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. (4-4-13)

**e.** Use live animals as a bait or attractant. (4-4-13)

**f.** Place any ground set on, across, or within ~~five (5)~~ ten (10) feet of ~~center line~~ the edge of any maintained unpaved public trail. (4-4-13)

(X-XX-XX)(4-4-13)

**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. (4-4-13)

**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. Cage or box live traps are permitted within three hundred (300) feet of designated public campgrounds, trailheads, paved trails, or picnic areas as allowed by city, county, state, and federal law. (x-xx-xx) (4-4-13)

**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. (4-4-13)

**j.** Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. (4-4-13)

**k.** Trap any gray wolf within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (4-4-13)

**l.** Trap gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (4-4-13)

**03. Trapping Hours.** Trapped gray wolves may be dispatched any time of day or night. (4-4-13)

**04. Wounding and Retrieving.** No person shall wound or kill any big game animal without making a reasonable effort to retrieve it and reduce it to possession. (4-4-13)

**05. Unlawful Methods of Take.** No person shall take big game animals as outlined in 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. (4-4-13)