Meeting Date: July 26, 2016
Agenda Item No. 5.S.
Agenda Item: Air Guns as Method of Take
Bureau Chief Approval: SWK

Prepared by: Greg Wooten

Background:
Current Commission rules do not allow the use of air guns to hunt any game animals in Idaho. The Commission received interest from sportsmen to look into the possibility of adopting rules to allow hunting with air guns.

During the March Commission meeting Commissioners participated in a technology workshop that included a demonstration of air gun technology. The Commission directed the Department to initiate negotiated rule making process regarding air guns and draft a proposed rule. The Department filed Notice of Intent May 4, 2018 published in the Idaho Administrative Bulletin June 6, 2018 and solicited public comment through the website for 21 days June 6-27.

The proposed rule is attached.

Statutory Authority and/or Policy issues:
The Commission has statutory authority for rulemaking regarding this subject. The proposed rule must be upheld by the 2019 Legislature to become effective. Idaho Code 36-104(b)2 provides Commission authority to make rules under what circumstances and by what means wildlife can be taken.

Public Involvement Process:
There were 220 comments regarding air guns posted to the website; 61% were from Idahoans. Of the commenters that had an opinion (does not include the 9 “neutral”), 156 (74%) supported the use of air guns to hunt big game and 55 (26%) did not support. There were no comments received via letter or direct mail.

Foot Pounds of Energy (FPE) was a topic in nine of the comments. The Department is not recommending a FPE restriction because there is not a feasible way to seek compliance with an FPE restriction. Not all air guns are officially qualified with a FPE rating and many are custom made. Similar to other methods of harvesting big game, it is up to the individual to have knowledge and experience of their weapon and its capability.

Staff evaluation of the rest of the comments did not indicate that further negotiation of the rule would lead to consensus, thus further negotiated rulemaking would be infeasible.

Staff Recommendation: Motion to declare negotiated rulemaking infeasible and adopt the proposed rule to allow air guns as a method of take for big game as proposed by staff.

Justification: Commission requested and public supported.