

Dear Senators HEIDER, Brackett, Stennett, and  
Representatives GIBBS, Gestrin, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Department of Fish and Game:

IDAPA 13.01.17 - Rules Governing the Use of Bait and Trapping for Taking Big Game Animals -  
Proposed Rule (Docket No. 13-0117-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/28/2019. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/26/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee  
**FROM:** Deputy Division Manager - Katharine Gerrity  
**DATE:** October 08, 2019  
**SUBJECT:** Department of Fish and Game

IDAPA 13.01.17 - Rules Governing the Use of Bait and Trapping for Taking Big Game Animals - Proposed Rule (Docket No. 13-0117-1901)

#### Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.17 - Rules Governing the Use of Bait and Trapping for Taking Big Game Animals. According to the department, the rule would remove the general requirement that diverters be used on ground set snares for gray wolf trapping, but would allow the commission to require diverters in specific areas based on levels of non-target catch of animals that might be avoided by diverter use. The department notes that the rule would also require ground set snares for gray wolf trapping to use both a breakaway device and a cable stop whereas the current rule only requires the use of at least one of these devices.

#### Negotiated Rulemaking / Fiscal Impact

The department states that it received 311 comments following publication of intent to promulgate rules and that one negotiated rulemaking meeting was conducted. The department indicates that the meeting did not result in consensus, and polarized opinions stated by meeting participants on issues within and beyond the scope of rulemaking were not suited to further negotiation.

#### Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

cc: Department of Fish and Game  
Paul Kline

#### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

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**IDAPA 13 – DEPARTMENT OF FISH AND GAME**  
**13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING**  
**FOR TAKING BIG GAME ANIMALS**

**DOCKET NO. 13-0117-1901**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-1101, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2019.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule change would remove the general requirement that diverters be used on ground set snares for gray wolf trapping, but would allow the Commission to require diverters in specific areas based on levels of non-target catch of animals that might be avoided by diverter use. The proposed rule would also require ground set snares for gray wolf trapping to use both a breakaway device and a cable stop; the current rule requires the use of at least one of these devices.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: The proposed rule has no associated fee.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 54](#). The agency received 311 responses via on-line submissions during the 21-day comment period. One negotiated rulemaking meeting was conducted on July 22, 2019 to share information and discuss a draft rule prepared by the agency. Seventeen people participated in the negotiated rulemaking meeting. The meeting did not result in consensus, and polarized opinions stated by meeting participants on issues within and beyond the scope of rulemaking are not suited to further negotiation. The agency considered public input received and proceeded with proposed rulemaking.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cory Mosby at (208) 334-2920.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2019.

Dated this 27th day of August, 2019.

Paul Kline, Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut, P.O. Box 25  
Boise, ID 83707  
Phone: (208)334-3771 / Fax (208)334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT TO DOCKET NO. 13-0117-1901  
(Only Those Sections With Amendments are Shown)

**400. TRAPPING BIG GAME ANIMALS.**

Trapping may be used to take ONLY gray wolf and ONLY under the following conditions. (6-30-19)T

**01. Methods of Take When Trapping.** No person trapping gray wolf may: (6-30-19)T

**a.** Use any set, EXCEPT a ground set. (6-30-19)T

**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: (6-30-19)T

**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. (6-30-19)T

**ii.** Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. (6-30-19)T

**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, adopted and published in accordance with Section 36-105(3), Idaho Code. (6-30-19)T

**c.** Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.01.b. (6-30-19)T

**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. (6-30-19)T

**e.** Use live animals as a bait or attractant. (6-30-19)T

**f.** Place any ground set on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. (6-30-19)T

**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. (6-30-19)T

**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, except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. (6-30-19)T

**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. (6-30-19)T ( )

**j.** Place or set any ground set snare without a cable stop incorporated within the loop of the snare. ( )

**k.** Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. (6-30-19)T

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

feeding site. (6-30-19)T

**m.** Trap gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (6-30-19)T

**n.** Place or set any ground set snare without two (2) diverters in an area identified by Commission Proclamation as requiring their use (based on levels of non-target catch of animals whose capture may be avoided by diverter use). ( )

**02. Trapping Hours.** Trapped gray wolves may be dispatched any time of day or night. (6-30-19)T

**03. Wounding and Retrieving.** No person may wound or kill any big game animal without making a reasonable effort to retrieve it and reduce it to possession. (6-30-19)T

**04. Unlawful Methods of Take.** No person may take big game animals in violation of 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. (6-30-19)T