

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

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

IDAPA 13.01.09 - Rules Governing the Taking of Game Birds - Proposed Rule (Docket No.
13-0109-2002);

IDAPA 13.01.16 - The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing
Animals - Proposed Rule (Docket No. 13-0116-2002).

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 10/02/2020. 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 10/30/2020.

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: September 16, 2020

SUBJECT: Department of Fish and Game

IDAPA 13.01.09 - Rules Governing the Taking of Game Birds - Proposed Rule (Docket No. 13-0109-2002)

IDAPA 13.01.16 - The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals - Proposed Rule (Docket No. 13-0116-2002)

1. IDAPA 13.01.09 - Rules Governing the Taking of Game Birds

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.09 - Rules Governing the Taking of Game Birds. According to the department, the proposed rule would establish consistent requirements for use of game bird tags authorized by statute (Section 36-409(c), Idaho Code) and establish mandatory check requirements for swan (prompted by legislation adopted to support federal approval of swan seasons). The department states that the proposed rule would designate two special waterfowl hunting days for veterans and active military (prompted by 2019 federal legislation allowing states to make such designations). In addition, the department notes that the rule would delay the opening date for pheasant season for all nonresident license holders. This citizen-petitioned change by residents of Franklin/Oneida Counties would expand by rule the statutory (Section 36-407(e), Idaho Code) 5-day delayed opener for nonresident small game license holders. The department also notes that the proposed rule would simplify the agency's game tag framework for hunting turkey.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted. According to the department, the agency received 365 responses via on-line submissions regarding the proposal to establish consistent requirements for use of game bird tags and establish mandatory check requirements for swan. The agency received 485 responses via on-line submissions regarding the proposal to designate two special waterfowl hunting days for veterans and active military. The agency received 480 responses via on-line submissions regarding the proposal to delay the opening date for pheasant season for all nonresident license holders. The agency received 440 responses via on-line submissions regarding the proposal to simplify the agency's game tag framework for hunting turkey.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-103, 36-104, 36-408, 36-409, 36-1101, and 36-1102, Idaho Code.

2. IDAPA 13.01.16 - The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.16 - The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. According to the department, the proposed rule would establish additional restrictions on use of body-gripping traps (based on citizen petition by Idaho Trappers Association and others), simplify rules associated with use of bait for trapping furbearing, predatory and unprotected animals (based on citizen petition by Idaho Trappers Association and others) and provide consistency with allowances for wolf trapping, unless a restriction exists in law (such as the statutory restriction on use of game parts for trapping furbearing animals).

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The department notes that the agency received 549 responses via on-line submissions regarding the proposal to establish additional restrictions on use of bodygripping traps and 393 responses via on-line submissions regarding the proposal to simplify rules associated with use of bait for trapping furbearing, predatory and unprotected animals.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-104, 36-1101, and 36-1103, 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.

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS
DOCKET NO. 13-0109-2002
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 36-103, 36-104, 36-408, 36-409, 36-1101, and 36-1102, 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 September 16, 2020.

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:

1. The proposed rule would establish consistent requirements for use of game bird tags authorized by statute (Section 36-409(c), Idaho Code) and establish mandatory check requirements for swan (prompted by legislation adopted to support federal approval of swan seasons).
2. The proposed rule would designate two special waterfowl hunting days for veterans and active military (prompted by 2019 federal legislation allowing states to make such designations).
3. The proposed rule would delay the opening date for pheasant season for all nonresident license holders. This citizen-petitioned change by residents of Franklin/Oneida Counties would expand by rule the statutory (Section 36-407(e), Idaho Code) 5-day delayed opener for nonresident small game license holders.
4. The proposed rule would simplify the agency's game tag framework for hunting turkey.

FEE SUMMARY: The proposed rules have no associated fees.

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 3, 2020 Idaho Administrative Bulletin, Vol. 20-6, page 31. This Notice identified the opportunity to provide rulemaking input during a 21-day comment period. The agency received 365 responses via on-line submissions regarding the proposal to establish consistent requirements for use of game bird tags and establish mandatory check requirements for swan. The agency received 485 responses via on-line submissions regarding the proposal to designate two special waterfowl hunting days for veterans and active military. The agency received 480 responses via on-line submissions regarding the proposal to delay the opening date for pheasant season for all nonresident license holders. The agency received 440 responses via on-line submissions regarding the proposal to simplify the agency's game tag framework for hunting turkey. The agency's Notice also identified the opportunity for people to express interest in participating in negotiated rulemaking meetings. No commenter stated interest in negotiated rulemaking meetings. Before advancing proposed rules, the agency provided an opportunity for in-person comment at a public hearing held during the quarterly meeting of the Commission in Idaho Falls on July 22, 2020. Pursuant to Section 67-5221, Idaho Code, the agency proceeded with proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Toby Boudreau 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 September 23, 2020.

Dated this 31st day of July, 2020.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0109-2002
(Only Those Sections With Amendments Are Shown)

011. – ~~098~~9. (RESERVED)

090. GAME BIRD TAG VALIDATION AND ATTACHMENT.

Any hunter who kills a game bird for which a game tag is required under Section 36-409(c), Idaho Code, must immediately validate the appropriate tag and securely attach the validated tag to the carcass. Tag validation means completely removing the two (2) triangles on the tag corresponding to the day and month of the kill date. The tag must remain attached to the carcass in transit or storage. ()

091. – 099. (RESERVED)

100. SAGE AND SHARP-TAILED GROUSE TAGS AND PERMITS AND VALIDATIONS.

No person may hunt sage or sharp-tailed grouse anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license with tag (if required under Section 36-409, Idaho Code) or permit validation for sage grouse and sharp-tailed grouse whose fee is specified in Section 36-416, Idaho Code. (3-20-20)()

101. MIGRATORY GAME BIRD TAGS, PERMITS, AND VALIDATIONS.

01. License Validation. No person may hunt migratory game birds anywhere within the state, without having in possession the appropriate hunting license with validation for the Migratory Game Bird Harvest Information Program and tag. (3-20-20)

~~02. Sandhill Crane Tag. (3-20-20)~~

~~a. Immediately after any sandhill crane is killed, the sandhill crane tag must be validated and securely attached to the sandhill crane. Tag validation means cutting out and completely removing two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (3-20-20)~~

~~b. The tag must remain attached so long as the sandhill crane is in transit or storage. (3-20-20)~~

032. Youth and Veteran/Activity Duty Waterfowl Season. The youth waterfowl season is open only to licensed hunters with Migratory Bird validation who are eight (8) to seventeen (17) years of age, and who are accompanied in the field at all times by a licensed hunter eighteen (18) years of age or older. The Veteran/Active Duty waterfowl season is open only to licensed hunters with Migratory Bird validation who are veterans (as defined in Section 65-203, Idaho Code) or members of the Armed Forces on active duty (which does not include members of the National Guard and Reserves performing drills or training), and who carry proof of eligibility on their person, such as

an official military or veteran identification card; DD214 form; or a state-issued driver's license or identification card with veteran's designation. (3-20-20)(____)

102. WILD TURKEY TAGS, ~~STAMPS, PERMITS, AND VALIDATIONS.~~

No person may hunt wild turkey without having in possession the appropriate hunting license; and tag; ~~and controlled hunt permit.~~ (3-20-20)(____)

01. Tags. ~~There are three (3) types of Turkey tags available: the may be general or controlled hunt tags, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission or in a depredation hunt when authorized by the Director.~~ (3-20-20)(____)

02. Youth General Hunts and Youth Passport Holder Hunt Eligibility. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (3-20-20)

a. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (3-20-20)

b. Hunting passport holders eight (8) to seventeen (17) years of age are eligible to participate in general season hunts, youth-only general hunts, landowner permission controlled hunts ~~with the appropriate landowner permission tag,~~ and depredation hunts. (3-20-20)(____)

03. Controlled Hunts. A controlled hunt permit tag for wild turkey is valid ~~only~~ for the take of turkey in the controlled hunt area for which the permit tag was ~~drawn~~ issued, and in general hunts. (3-20-20)(____)

a. Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: (3-20-20)

i. In the event a permit tag is issued based on erroneous information, the permit tag will be invalidated and the person will remain on the drawn list. (3-20-20)(____)

ii. Landowner permission controlled hunt application eligibility is limited to persons who have a signed permission slip, which includes the landowner's name and address, from a landowner who owns more than seventy-nine (79) acres in the hunt area. (3-20-20)(____)

iii. Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older with a senior or disabled combination or hunting license may apply on a first-come, first-served basis for leftover youth-only controlled hunt permits tags. (3-20-20)(____)

b. Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. (3-20-20)

i. Duplicate license numbers will not be accepted. Applications from Holders of a Duplicate License (Type 501) will be processed only if they include original license numbers. (3-20-20)

ii. Only one (1) application per person or group will be accepted. Additional applications will result in all applicants being declared ineligible. (3-20-20)

iii. A single payment (~~either cashier's check, money order, certified check, or personal check~~) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications

will be voided and returned. (3-20-20)()

iv. A “group application” is defined as two (2) hunters applying for the same controlled hunt on the same application. (3-20-20)

v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (3-20-20)

c. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (3-20-20)

~~04. Tag Validation. (3-20-20)~~

~~a. Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. Tag and permit validation means cutting out and completely removing two (2) triangles on the border of each tag and permit, one (1) for the month and one (1) for the day of the kill. (3-20-20)~~

~~b. The tag and permit must remain attached so long as the turkey is in transit or storage. (3-20-20)~~

~~054. Tag Designation. (3-20-20)~~

a. Any resident adult person who possesses a controlled hunt permit tag may designate the controlled hunt permit tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. (3-20-20)()

b. Any nonresident adult person who possesses a controlled hunt permit tag may designate the controlled hunt permit tag to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. (3-20-20)()

c. The designation of the controlled hunt permit tag is not effective unless it is: (3-20-20)()

i. Made on a form prescribed by the Department and submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (3-20-20)

ii. Completed before the first opening hunt date for the permit tag. (3-20-20)()

d. Any child cannot be designated more than one (1) controlled hunt permit tag per calendar year. (3-20-20)()

~~06. Landowner Permission Tags. Landowner permission hunt tags will be sold on a first come, first served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. (3-20-20)~~

103. PHEASANT TAGS, PERMITS, ~~AND~~ VALIDATIONS AND NONRESIDENT PARTICIPATION.

No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. (3-20-20)()

01. Upland Game Bird Permit. (3-20-20)

a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, or at other locations where the Department stocks pheasants, as identified by Commission proclamation, must have a valid Upland Game Bird Permit in possession. (3-20-20)

b. Permit Limit. Each Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. (3-20-20)

c. Permit Validation. Any person harvesting a pheasant where a Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. (3-20-20)

02. **Youth Pheasant Season.** The youth pheasant season is open only to licensed hunters ten (10) to seventeen (17) years of age and hunting passport holders eight (8) to seventeen (17) years of age, provided such youth hunters/passport holders are accompanied in the field at all times by a licensed hunter eighteen (18) years of age or older. (3-20-20)

03. **Nonresident Participation.** The Commission may set by proclamation a later season start date, of no more than five (5) days, for nonresident participation. ()

(BREAK IN CONTINUITY OF SECTIONS)

201. – ~~249.~~ (RESERVED)

250. MANDATORY CHECK AND REPORT – SWANS.

Any hunter killing a swan must, within three (3) days of the date of kill, present the swan carcass (for measurement and identification) to a conservation officer, regional office or check station, and complete a harvest report. A person may authorize another person to comply with the check and report if that person possesses sufficient information to complete the report. ()

251. – 299. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0116-2002

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, 36-1101, and 36-1103, 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 September 16, 2020.

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:

1. The proposed rule would establish additional restrictions on use of body-gripping traps (based on citizen petition by Idaho Trappers Association and others).

2. The proposed rule would simplify rules associated with use of bait for trapping furbearing, predatory and unprotected animals (based on citizen petition by Idaho Trappers Association and others). The proposed rule provides consistency with allowances for wolf trapping, unless a restriction exists in law (such as the statutory restriction on use of game parts for trapping furbearing animals).

FEE SUMMARY: The proposed rules have no associated fees.

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 3, 2020 Idaho Administrative Bulletin, [Vol. 20-6, page 35](#). This Notice identified the opportunity to provide rulemaking input during a 21-day comment period. The agency received 549 responses via on-line submissions regarding the proposal to establish additional restrictions on use of body-gripping traps. The agency received 393 responses via on-line submissions regarding the proposal to simplify rules associated with use of bait for trapping furbearing, predatory and unprotected animals. The Notice also identified the opportunity for people to express interest in participating in negotiated rulemaking meetings. No commenter stated interest in negotiated rulemaking meetings. Before advancing proposed rules, the agency provided an opportunity for in-person comment at a public hearing held during the quarterly meeting of the Commission in Idaho Falls on July 22, 2020. Pursuant to Section 67-5221, Idaho Code, the agency proceeded with proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Toby Boudreau 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 September 23, 2020.

Dated this 31st day of July, 2020.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0116-2002
(Only Those Sections With Amendments Are Shown)

400. METHODS OF TAKE.

01. Furbearing Animals. No person may take beaver, muskrat, mink, marten, or otter by any method other than trapping. No person may hunt any furbearing animal with or by the aid of artificial light. (3-20-20)

02. Hunting. No person hunting furbearing animals or predatory or unprotected wildlife may hunt with dogs, except in accordance with IDAPA 13.01.15, "Rules Governing the Use of Dogs." (3-20-20)

03. Trapping. No person trapping furbearing animals or predatory or unprotected wildlife may: (3-20-20)

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; **EXCEPT:** ~~(3-20-20)~~ ()

i. Furbearing animals or predatory or unprotected wildlife may be trapped with bait, lures, or other attractants when not prohibited by Section 36-1103(a), Idaho Code. ()

ii. Furbearing animals or predatory or unprotected wildlife may be trapped near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes do not include any man-caused mortality. ()

b. Use any set within thirty (30) feet of any visible bait. (3-20-20)

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. (3-20-20)

d. Use live animals as a bait or attractant. (3-20-20)

e. Place any ground sets on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. (3-20-20)

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. (3-20-20)

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; except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. (3-20-20)

h. Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. (3-20-20)

i. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. (3-20-20)

j. Place or operate, except as a waterset, any body-gripping trap that has a maximum jaw opening, when set, of greater than seven and one-half (7 1/2) inches measured from the inside edges of the body-gripping portions of the jaws, within thirty (30) feet of any bait, lure, or other attractant. ()

k. Place or operate, except as a waterset, any body-gripping trap that has a maximum jaw opening,

when set, greater than six and one half (6 1/2) inches and less than seven and one-half (7 1/2) inches measured from the inside edges of the body-gripping portions of the jaws, unless: ()

i. The trap is in an enclosure and the trap trigger is recessed seven (7) inches or more from the top and front most portion of the open end of the enclosure; ()

ii. No bait, lure, or other attractant is placed within thirty (30) feet of the trap; or ()

iii. The trap is elevated at least three (3) feet above the surface of the ground or snowpack. ()