

**Meeting Date: August 12, 2019**

**Agenda Item No. 1**

**Agenda Item: Gear Requirements on Snares for Gray Wolf**

**Bureau Chief Approval: ES**

**Prepared by: Toby Boudreau/Cory Mosby**

**Background:**

At Commission direction, the Department initiated negotiated rulemaking to consider the combination of gear requirements (diverters, break-away devices, and loop stops) for wolf trapping to balance effective capture of the target species while minimizing non-target animal capture. Staff briefed the Commission in July on the status of this rulemaking effort and on the fact that the Department received one request to conduct negotiated rulemaking. The results of the online public comment period are presented again below. Additionally, results from the negotiated rulemaking meeting held on July 22, 2019 are presented.




**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, Chapter 52 (Idaho Administrative Procedure Act) governs the process for considering, adopting, and implementing IDAPA rules.




**Public Involvement Process (on-line 21d comment period):**

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. The Department received 311 comments, with 289 of these being from Idahoans. The Department asked four survey questions in addition to providing an open comment opportunity.




Question 1. Do you support keeping snare configuration requirements as they currently exist?

Yes		101	32%
No		190	61%
Neutral		20	6%
		<b>311</b>	




Question 2. Do you support removing the rule requiring diverters on wolf snares?

Yes		188	60%
No		113	36%
Neutral		10	3%
		<b>311</b>	

Question 3. If you support removing the rule requiring diverters on wolf snares, would you support a requirement to require both a break-away device and a minimum loop stop on snares?

Yes		174	56%
No		75	24%
Prefer not to answer		62	20%
		311	

Question 4. Have you ever used snares for trapping wolves?

Yes		93	30%
No		173	56%
Prefer not to answer		45	14%
		311	

A majority of respondents 61% (n=190) did not support keeping current snare configuration requirements. A similar number (n=188) supported removing the requirement for diverters. A majority of respondents (n=174) supported requiring both a breakaway device and a minimum loop stop in snares. Approximately 35% of the respondents stated they have used snares for trapping wolves.

Written comments supporting change in current gear requirements focused on ending the requirement for diverters; these comment stated that diverters increased non-target catches of ungulates such as deer, elk, and moose (counter to their purpose) and decreased effectiveness of harvesting wolves. Comments related to breakaways and minimum loop stops primarily included support for these gear requirements in conjunction with eliminating the diverter requirement. Those not supporting the requirement of both devices included one of more reasons: one or the other device should be required but not both, no additional regulation should be imposed; minimum loop sizes may reduce the lethality of a snare; or breakaways can be inconsistent.

Of comment supporting current snare configuration requirements (39%; n=101), many expressed opposition to wolf trapping in general. Comments within the scope of the negotiated rulemaking expressed concern that removing the diverter requirement may increase non-target catches, that removing diverters may increase danger to humans and pets, and that data collected from non-target and decision-making should rely on data regarding target/non-target interactions with snare gear sets ups.

### **Public Involvement Process (negotiated meeting):**

The Department received one request from the Idaho Farm Bureau to conduct negotiated rulemaking. On July 22nd from 2-4 Mountain Time, a negotiated rulemaking meeting was held at the IDFG HQ office in Boise with call in options available at all regional offices to discuss the modification of requirements for ground snares for wolves related to diverters, stops, and breakaway devices. Information about how to participate in the meeting was posted on the Department’s website and was emailed to those who commented on the notice and provided contact information.

Seventeen people participated in the meeting (twelve at the Boise office, two at both the Coeur d’Alene and Lewiston offices, and one at the Pocatello office). Upon conclusion of

the meeting consensus was not reached. Of those attending, five people supported removing diverters and requiring a breakaway device, minimum loop stop, or both. The remaining 15 people did not support removal of diverters and many supported requiring both a minimum loop stop and a breakaway device in addition to diverters.

**Staff Recommendation (Action):**

Comments received during the negotiated rulemaking meeting held on July 22<sup>nd</sup> expressed similar concerns and opinions as those received online (and reviewed above) during the 21-day public comment period. The majority of respondents favored removing the diverter requirement. Most respondents also supported requiring both breakaways and loop stops if the diverter rule were removed.

**Justification:**

Negotiated rulemaking was conducted. The Commission must adopt Proposed Rule language to proceed with formal rulemaking.

**Sample Motion:**

*Move to adopt the proposed rule as presented.*

**PROPOSED MODIFICATION TO IDAPA 13.01.17 – USE OF BAIT & TRAPPING FOR TAKING OF BIG GAME ANIMALS**

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

**j.** Place or set any ground set snare without a cable stop incorporated within the loop of the snare. (6-30-19)T( )

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

**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