

Grizzly bear delisting public comment issue and response drafts – Idaho

Issue 1.25: Commenters also claimed that Idaho's hunting regulations are not yet final (and are in the midst of their own public comment period) and that their management plan still awaits updates.

Response 1.25:

Issue 26.5: Commenters expressed concerns that we either did not have or did not share effective plans for facilitating connectivity between the six grizzly bear recovery zones in the lower 48 states (especially in the preamble of the proposed rule). Commenters and peer reviewers both expressed concerns that management plans and regulations will discourage movement of grizzly bears and prevent necessary connectivity, including that: (1) inadequate plans for limiting mortality in linkage zones between the GYE and the Bitterroot Ecosystem (i.e. the Upper Snake River Region) combined with Idaho's management plan's prohibition on movement of grizzly bears into new areas will prevent recolonization of the Bitterroot Ecosystem;... (5) Idaho's and Wyoming's state plans do not discuss connectivity at all or will actively prevent the successful recolonization of unoccupied historic range because of potential for conflict...

Response 26.5:

Issue 66.6: Many commenters expressed concerns about the adequacy of Idaho's regulatory mechanisms and management plan. First, some concerns pertained to process and administrative issues: (1) the process Idaho used to promulgate its regulations did not allow for enough public involvement; (2) claims that it is premature to analyze the adequacy of Idaho's grizzly bear regulatory framework since it is not final (i.e. a public comment period opened in October on proposed draft hunting regulations and Idaho's regulations still need legislative approval, a process that could alter or supersede existing regulations); (3) we cannot rely on a "proclamation" as a binding mechanism in our Factor D analysis since it only declares the Fish and Game Commission's intent; and (4) the Idaho Fish and Game Commission has no authority

to issue a proclamation related to grizzly bears since they are still listed as threatened and thus, by definition, not a game animal.

Second, other commenters took issue with the content of Idaho's proclamation, including concerns: (1) that the proclamation allowed the Fish and Game Commission too much latitude in mortality limits, which could allow for unlimited killing of grizzly bears and the immediate killing of any grizzly that is "molesting livestock;" (4) that the proclamation was missing provisions on: how quotas will be set, whether the state would establish separate quotes for male and female bears, how the Commission would determine season timing, how the Commission will limit the take of female bears, how the Commission will close the season if quotas are met, and prohibiting the hunting of grizzly bears within 200 yards of any designated landfill; and (5) that the proclamation did not contain all five of the regulatory elements we deemed requisite for adequacy of regulatory mechanisms in our proposed rule. One commenter suggested that changing our position on whether these elements are necessary to ensure a recovered population and ameliorate threats was "arbitrary and capricious."

Third, commenters also expressed concerns about the content of Idaho's management plan (which is from 2002). They claim Idaho's "old" plan requires updating and changes since it: (1) does not incorporate new population and mortality information; (2) does not reflect the mortality limits from the 2016 Conservation Strategy; (3) does not mention the updated recovery criteria; (4) only references the old Conservation Strategy; (5) only mentions management within the PCA and not the DMA; (6) does not explain how Idaho will fund and staff grizzly bear management; (7) contains information inconsistent with the proposed hunting regulations; and (8) includes statistics that are no longer accurate like "No human caused grizzly bear mortalities have been documented in the past 17 years in Idaho." One commenter suggested that Idaho's plan should be updated to include new science. Other commenters worried that Idaho's plan lacked necessary updating purely to allow the Service to meet its own deadlines. Another commenter claimed that Idaho's plan allows "preemptive" killing of grizzly bears.

Response 66.6: