

RESOURCES & ENVIRONMENT COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2014 Legislative Session

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-1302

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule revises the Nonresident Junior Mentored Tag to delete the requirement that the accompanying adult have a tag valid in the same area.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 112 through 115](#).

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 26st day of November, 2013.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 26, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), 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, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule revises the Nonresident Junior Mentored Tag to delete the requirement that the accompanying adult have a tag valid in the same area.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to certain hunters and sportsmen.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor change is simple in nature, and there were few responses to a Notice of Intent to Promulgate Rules.

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:

Not Applicable.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 28th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-1302

250. TAGS AND PERMITS.

No person shall hunt big game animals without having in possession the appropriate hunting license, tags and permits. (4-7-11)

01. Use of Tags. (7-1-93)

a. Controlled hunt tags issued for moose, bighorn sheep, mountain goat and pronghorn may be used only in the controlled hunt for which the hunter was drawn. (4-7-11)

b. Extra tags issued for deer, elk or pronghorn may be used only in the hunt area for which the tags are issued. (4-7-11)

c. Any person who purchases a tag to hunt black bear, or who is unsuccessful in killing an animal, and who is subsequently drawn for a black bear controlled hunt tag, may choose to purchase a controlled hunt bear tag or exchange the general season bear tag for the controlled hunt bear tag, the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)

d. General season tags issued for black bear and mountain lion may be used

statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-7-11)

e. Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)

i. Regular Deer:

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader or general deer season.
Resident/Senior/Disabled American Veteran (DAV)	Any archery, muzzleloader or general deer season.
Nonresident	Any archery, muzzleloader or general deer season or may be used to tag a black bear or mountain lion or gray wolf during the Regular deer season when the black bear or mountain lion, or gray wolf season is open.
Controlled Hunt Tag	Only the designated controlled hunt for which the hunter was drawn.
Controlled Depredation Hunt Tag	Only the designated controlled depredation hunt for which the hunter was drawn.
Controlled Hunt Extra Tag	Only the designated controlled extra tag hunt for which the hunter was drawn.

(4-7-11)

ii. White-tailed deer.

TYPE OF TAG	SEASONS
Resident White-tailed	To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season.
Resident Junior/Senior/Disabled American Veteran (DAV) White-tailed	To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season.
Nonresident White-tailed	To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season or may be used to tag a black bear, mountain lion or gray wolf during the white-tailed deer season when the black bear, mountain lion or gray wolf season is open.
Nonresident White-tailed Junior Mentored	Any archery, muzzleloader or general white-tailed deer season.

(4-7-11)

iii. Elk A Tag: Valid only for A Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general season in A Tag elk seasons in specific zones.

TYPE OF TAG	SEASONS
Resident Junior/Senior/ Disabled American Veteran (DAV)	Any archery, muzzleloader, or general season in A Tag elk seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A tag elk seasons in specific zones. May be used to tag a black bear or mountain lion or gray wolf during the open elk season for the zone the elk tag is valid in when the black bear, mountain lion or gray wolf season is open.
Nonresident Junior Mentored	Any archery, muzzleloader, or general season in A Tag elk season in specific zones.
Controlled Hunt Tag	Only the designated controlled hunt for which the hunter was drawn.
Controlled Depredation Hunt Tag	Only the designated controlled depredation hunt for which the hunter was drawn.
Controlled Extra Tag	Only the designated controlled and extra tag hunt for which the hunter was drawn.

(4-7-11)

iv. Elk B Tag: Valid only for B Tag elk seasons in specified zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general season in B Tag elk seasons in specific zones.
Junior/Senior/Disabled American Veteran (DAV)	Any archery, muzzleloader, or general season in B Tag elk seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in B tag elk seasons in specific zones. May be used to tag a black bear or mountain lion or gray wolf during the open elk season for the zone the elk tag is valid in when the black bear, mountain lion or gray wolf season is open.
Nonresident Junior Mentored	Any archery, muzzleloader, or general season in B Tag elk season in specific zones.
Controlled Hunt Tag	Only the designated controlled hunt for which the hunter was drawn.
Controlled Depredation Hunt Tag	Only the designated controlled depredation hunt for which the hunter was drawn.
Controlled Hunt Extra Tag	Only the designated controlled and extra tag hunt for which the hunter was drawn.

(4-7-11)

v. Super Tag.

TYPE OF TAG	SEASONS
Controlled Hunt "Super" Tag	Valid for either pronghorn, deer, moose, or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.

(4-7-11)

f. Nonresident Junior Mentored Deer or Elk tags are not valid for bear, mountain lion, or gray wolf. (4-7-11)

g. Any person hunting with a Nonresident Junior Mentored License or tag must be accompanied in the field by an adult license holder close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. (4-6-05)

h. Any adult accompanying the holder of a Nonresident Junior Mentored Tag must have a tag for the same species, ~~valid in the same area.~~ (4-6-05)()

i. Regular tags issued for gray wolf may be used ONLY as allowed by the gray wolf seasons and quotas set by Commission proclamation under Section 36-105(3), Idaho Code. The proclamation is published in a brochure available at Department offices and license vendors. (3-29-10)

02. Return of Tags by Unsuccessful Hunters. Hunters who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (4-7-11)

03. Archery and Muzzleloader Permits. Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-1303

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-405(c)(2)(B), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

2012 House Bill 457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 116 through 122](#).

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 26st day of November, 2013.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 26, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-405(c)(2)(B), 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, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

2012 House Bill 457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to certain hunters and sportsmen.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor wording change is simple in nature, and is in response to a Legislative request.

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:

Not Applicable.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 28th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-1303

260. TAGS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Tags. No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession. (4-7-11)

a. A controlled hunt area with an “X” suffix is an extra tag hunt. (10-26-94)

b. In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the hunter of the invalidation of the tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (4-7-11)

c. Any person who draws a controlled hunt tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first deer drawing allowing the hunter to participate in a general season

hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for deer. (4-7-11)

iv. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt-archery, muzzleloader, general or controlled hunt. (4-7-11)

d. Any person who draws a controlled hunt tag for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for elk. (4-7-11)

iv. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt-archery, muzzleloader, general or controlled hunt. (4-7-11)

e. Any person who draws a controlled hunt tag for pronghorn is prohibited from hunting in any other pronghorn hunt; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. (4-7-11)

iv. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. (4-7-11)

f. Any person who draws a spring controlled hunt tag for black bear, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt

bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)

g. Any person who draws a fall controlled hunt tag may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag: EXCEPT; the hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the fall bear drawing. (4-7-11)

h. Any resident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to ~~a~~ **his or her** resident minor child or grandchild who is qualified to participate in the hunt. ~~(4-4-13)~~()

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates a control hunt tag to ~~a~~ **his or her** resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. ~~(4-4-13)~~()

ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

iii. Any resident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)

iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)

i. Any nonresident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to ~~a~~ **his or her** nonresident minor child or grandchild who is qualified to participate in the hunt. ~~(4-4-13)~~()

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates ~~a~~ **his or her** control hunt tag to a resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. ~~(4-4-13)~~()

ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

iii. Any nonresident child or grandchild cannot be designated more than one control

hunt tag per species per calendar year. (4-4-13)

iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)

02. Nonresident Tag Limitations. (4-7-11)

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-7-11)

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (4-7-11)

d. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose shall be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (4-4-13)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt. (4-6-05)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting

period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. EXCEPT all successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled pronghorn/deer/elk tags to hunt in any open general and/or controlled pronghorn, deer or elk hunt in the following hunting season. (4-4-13)

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk and pronghorn controlled hunt permit sales. (4-7-11)

d. Any person who has killed a California bighorn ram or a Rocky Mountain bighorn ram on any controlled hunt may not apply for a tag for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram tag for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram tag for any hunt south of Interstate Highway 84. Bighorn sheep auction tag recipients under IDAPA 13.01.04.700 and lottery tag recipients under IDAPA 13.01.04.800 are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-4-13)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the hunter ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (4-7-11)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat tag. (4-7-11)

h. Any person who has killed an antlered moose in Idaho may not apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a tag for antlerless moose EXCEPT that any person may apply for tags remaining unfilled after the controlled hunt draw. (4-7-11)

i. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the

landowner's signature. (7-1-98)

j. Any person may apply for both a controlled hunt tag and a controlled hunt extra tag. (4-7-11)

k. Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." (7-1-99)

l. Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application. (4-11-06)

m. The Commission establishes youth only controlled hunts by proclamation. Only hunters twelve (12) to seventeen (17) years of age with a valid license may apply for youth only controlled hunts, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth only controlled hunt permits. (5-8-09)

04. Applications. Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, through the Internet, over the telephone, or by mail to the Headquarters Office of the Idaho Department of Fish and Game or any Idaho Fish and Game Regional Office and shall be submitted with a postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; EXCEPT: applicants who would like to change their submitted controlled hunt application may request the original application be cancelled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. (4-7-11)

a. Spring black bear - Application period - January 15 - February 15. (4-6-05)

b. Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30. (4-6-05)

c. Deer, elk, pronghorn, fall black bear, and gray wolves - Application period for first drawing - May 1 - June 5. (4-7-11)

d. Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15 - 25. (4-6-05)

e. Deer, elk, pronghorn, fall black bear, and gray wolves - Application period for second drawing - August 5 - 15. (4-7-11)

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

a. Only one (1) application, per person or group, will be accepted for the same

species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (4-7-11)

b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. (4-7-11)

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. (4-7-11)

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail. (4-7-11)

e. Any controlled hunt tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any Point-of-Sale vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. (4-7-11)

i. Spring Turkey and Spring Bear - April 1. (4-7-11)

ii. Moose, Bighorn Sheep and Mountain Goat - July 10. (4-7-11)

iii. Deer, Elk, Pronghorn and Fall Bear - August 25. (4-7-11)

f. A "group application" for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (4-7-11)

g. A "group application" for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (3-29-10)

h. If a group application exceeds the number of tags available in a hunt that group

application will not be selected for that hunt. (4-7-11)

i. Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game after July 15. (4-7-11)

06. Refunds of Controlled Hunt Fees. (7-1-93)

a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

d. Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

e. Application fees are nonrefundable. (4-7-11)

f. Fees for resident and nonresident adult control hunt tags that are subsequently designated to a minor child or grandchild are not refundable. (4-4-13)

07. Controlled Hunt Drawing. 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. (7-1-93)

08. Unclaimed Tags. Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag by August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (4-7-11)

09. Second Drawing Exclusion. The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. (3-29-10)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-405(c)(2)(B), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

2012 House Bill 457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 123 through 126](#).

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 26st day of November, 2013.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 26, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-405(c)(2)(B), 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, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

2012 House Bill 457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to certain hunters and sportsmen.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor wording change is simple in nature, and is in response to a Legislative request.

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:

Not Applicable.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 28th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0109-1301

100. TAGS, STAMPS, PERMITS, AND VALIDATIONS.

01. Sage Grouse or Sharp-Tailed Grouse. No person shall hunt sage or sharp-tailed grouse anywhere within the state, except licensed shooting preserves, without having in his or her possession the appropriate hunting license that has been validated for sage grouse and sharp-tailed grouse. The validation shall be valid from January 1 through December 31 of each year. (5-8-09)

02. Migratory Game Birds. No person shall hunt ducks, geese, brant, coots, Wilson's snipe, sandhill cranes, or mourning doves anywhere within the state, without having in his or her possession the appropriate hunting license that has been validated for the Federal Migratory Game Bird Harvest Information Program. The validation shall be valid from January 1 through December 31 of each year. (3-29-12)

a. Tag validation and attachment: Immediately after any sandhill crane is killed, the sandhill crane tag must be validated and securely attached to the sandhill crane. (4-4-13)

b. To validate the tag, the hunter must cut out and completely remove two (2)

triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill.

(4-4-13)

- c. The tag must remain attached so long as the sandhill crane is in transit or storage.

(4-4-13)

03. Wild Turkey. No person shall hunt wild turkey without having in his or her possession the appropriate hunting license, tag, and controlled hunt permit. Persons obtaining and using tags, stamps, and permits must comply with the following requirements: (7-1-98)

a. There are three (3) turkey tags available each calendar year. These are the general tag, extra tag, and special unit tag. Only three (3) turkey tags of the following may be purchased each year; one (1) general and two (2) extra. In addition to the previously mentioned three (3) turkey tags, three (3) special unit tags may also be purchased. A hunter may use the general tag to hunt in any spring general season or use the general tag with a controlled hunt permit to hunt in a controlled hunt. (3-29-12)

b. Permits for Controlled Hunts: Any person who receives a controlled hunt permit for wild turkey is prohibited from using that permit to hunt in any other wild turkey controlled hunt. (3-29-12)

c. Nonresident permit limitations: On controlled hunts with ten (10) or fewer permits, not more than one (1) permit will be issued to nonresidents. On controlled hunts with more than ten (10) permits, not more than ten percent (10%) of the permits may be issued to nonresidents. (7-1-98)

d. Eligibility: The holders of valid hunting licenses are eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

i. Holders of a Type 208 Nongame Hunting License may not apply for any controlled hunt. (7-1-93)

ii. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (7-1-93)

e. Applications: Applications for spring and fall controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than February 15 for spring hunts and July 15 for fall hunts, annually. Applications must comply with the following requirements: (5-8-09)

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (7-1-93)

ii. Only one (1) application card per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (7-1-93)

iii. Fees: All applicants for controlled hunts must submit a non-refundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against

Poaching Program. (5-8-09)

iv. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (2-7-95)

v. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (2-7-95)

vi. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (7-1-93)

vii. All spring wild turkey hunters may apply for a Fall turkey controlled hunt permit during the same calendar year. (3-30-01)

f. 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. (7-1-93)

g. Tag validation and attachment: Immediately after any wild turkey is killed, the turkey tag must be validated and securely attached to the wild turkey. (7-1-93)

h. To validate the tag, the hunter must cut out and completely remove two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (7-1-93)

i. The tag must remain attached so long as the turkey is in transit or storage. (7-1-93)

j. The Commission establishes youth-only controlled hunts by proclamation. Only hunters nine (9) to fifteen (15) years of age with a valid license may apply for youth-only controlled hunts, provided they are ten (10) to fifteen (15) years of age during the hunt for which they are applying, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth-only controlled hunt permits. Hunters nine (9) years of age with a valid license may apply for regular controlled hunts provided they are ten (10) years of age during the hunt for which they are applying. (4-7-11)

k. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to ~~a~~ **his or her** resident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (~~4-4-13~~)()

i. Designation of the controlled hunt permit shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

ii. Any resident child or grandchild cannot be designated more than one (1) control

hunt permit per calendar year. (4-4-13)

iii. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (4-4-13)

I. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to ~~a~~ **his or her** nonresident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (~~4-4-13~~)()

i. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

ii. Any resident child or grandchild cannot be designated more than one (1) control hunt permit per calendar year. (4-4-13)

iii. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (4-4-13)

04. Early September Canada Goose Hunts. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (3-29-12)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule defines the terms “single-point hook” and “watercraft” which have been used for many years in fish season proclamations.

The term “single point hook” is used to limit fishing tackle to prevent snagging. In certain situations where fish are large, visible, and congregated, hooks with more than one point create a higher probability that anglers could intentionally or unintentionally snag a fish. This can lead to illegal harvest or unintended mortality. This is of particular concern in fisheries for salmon and steelhead in tributary river systems.

The term “watercraft” is used to limit angler conflict and address safety concerns. In some reservoirs and large river fisheries with concentrated angler use, there can be conflicts and/or unsafe conditions for bank/wading anglers created by wake from watercraft. Watercraft anchored in desired fishing areas can also monopolize preferred fishing locations to the point that bank/wading anglers have no opportunity to fish. These events are rare but occur in waters with high-use salmon and steelhead fisheries.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, Vol. [13-10, pages 127 through 130](#).

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 26st day of November, 2013.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 26, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-901, 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, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule defines the terms “single-point hook” and “watercraft” which have been used for many years in fish season proclamations.

The term “single-point hook” is used to limit fishing tackle to prevent snagging. In certain situations where fish are large, visible, and congregated, hooks with more than one point create a higher probability that anglers could intentionally or unintentionally snag a fish. This can lead to illegal harvest or unintended mortality. This is of particular concern in fisheries for salmon and steelhead in tributary river systems.

The term “watercraft” is used to limit angler conflict and address safety concerns. In some reservoirs and large river fisheries with concentrated angler use, there can be conflicts and/or unsafe conditions for bank/wading anglers created by wake from watercraft. Watercraft anchored in desired fishing areas can also monopolize preferred fishing locations to the point that bank/wading anglers have no opportunity to fish. These events are rare but can occur in waters with high-use salmon and steelhead fisheries.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to certain anglers and sportsmen.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor change is simple in nature, and these terms have been used for many years in fish season proclamations.

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:

Not Applicable.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 28th day of August, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0111-1301

004. DEFINITIONS.

For the purposes of this chapter, the following terms will be defined as follows: (3-20-97)

01. Artificial Fly. Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. (3-20-97)

02. Artificial Lure. Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. (3-29-12)

03. Bag Limit. The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day. The term “bag limit” shall be construed to be an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his “bag limit” toward filling the “bag limit” of another. The bag and possession limits are equal except for salmon and steelhead. (3-20-97)

04. Bait. Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. (Live fish prohibited.) (3-29-12)

05. Barbless Hook. A fish hook without barbs or on which barbs have been bent completely closed. (3-20-97)

06. Catch-and-Release. Effort, by permitted methods, to catch or attempt to catch a fish or species of fish is lawful, with the restriction that any fish so caught must be released immediately, unharmed, back to the water. NOTE: Species of fish not specifically listed as catch-and-release may be harvested under their appropriate limits. (3-30-07)

07. Confluence of a Stream or River. The point where two (2) rivers or streams come together. (3-20-97)

08. Diversion. A man-made structure designed to change the direction of flowing water in a stream. (3-29-12)

09. Diversion Pond. A man-made pond holding water taken from a stream or reservoir. The diversion pond may be connected to the stream or reservoir by an open ditch or pipe. (3-29-12)

10. Drainage. All water flowing into a common river or stream system, either above or below ground, due to area geography. (3-29-12)

11. Electric Motors Only. When fishing waters listed “electric motors only,” gas

(internal combustion) motors may be attached to the boat; but use of the gas motor is prohibited. (3-20-97)

12. Fishing. Any effort made to take, kill, injure, capture, or catch any fish, crayfish, or bullfrog. (3-20-97)

13. Fish Trap. Any man-made structure designed to capture fish. (3-29-12)

14. Fish Weir. Any man-made structure placed in a water body to delay or divert migrating fish. (3-29-12)

15. Flat Water. Water where there is no observable direction of flow. (3-29-12)

16. Float Tube. A floating device that suspends a single occupant, from the seat down, in the water, and is not propelled by oars, paddles, or motors. (4-6-05)

17. Fly Fishing. Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)

18. Game Fish. Brook, brown, bull (Dolly Varden), cutthroat, golden, lake (Mackinaw), rainbow (including steelhead), splake and sunapee trout; trout hybrids; Chinook, coho, Atlantic and kokanee (blueback) salmon; grayling; whitefish; cisco; crappie; perch; bass; catfish; bullheads; sunfish; sturgeon; northern pike; tiger muskie; walleye and sauger; and burbot (ling). Bullfrogs and crayfish are also defined as game fish. (4-6-05)

19. General Rules. The seasons, gear, and bag limits adopted for the Department Region where you are fishing. (3-29-12)

20. Harvest. Reduce a fish to possession. (3-20-97)

21. Hook. A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically prohibited. (3-20-97)

22. Hybrid Fish. The offspring of two (2) different species or subspecies of fish. (3-29-12)

23. Ice Fishing. Fishing through an opening broken or cut through the ice. (3-20-97)

24. Length. The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)

25. Limit is 0 (Zero). Fishing is allowed but the species listed in the rule or proclamation must be released after landing and may not be reduced to possession. (3-29-12)

26. Motor. Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)

27. Mouth of River or Stream. The place where a river or stream enters a larger body

of water. (3-20-97)

28. No Motors. Fishing from a boat with a motor attached is prohibited. (3-20-97)

29. Possession Limit. Maximum number of fish that may be lawfully in possession of any person. "Possession limit" shall apply to fish while in the field or being transported to the final place of consumption or storage. (3-20-97)

30. Reservoir. The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-20-97)

31. Season Limit. The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)

32. Section. An area of a river, stream, or reservoir between specific boundary locations. (3-29-12)

33. Single-Point Hook. A bent wire device, for catching fish, with one (1) shank and one (1) point. ()

334. Sliding Sinker. A method of attaching a sinker to a device that slides freely on the main line. The line used to attach the sinker to the sliding device must be of lower breaking strength than the main line. (3-2-10)

345. Snagging. Taking or attempting to take a fish by use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. Game fish which are hooked other than in the jaw or mouth must be released immediately. (4-6-05)

356. Special Rule Waters. Any water with a gear, season, or bag limit rule that is different from the regional general rules. (3-29-12)

367. Steelhead. Steelhead are defined as any rainbow trout longer than twenty (20) inches in rivers and streams in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage (excluding that portion above Dworshak Dam). Rainbow trout longer than twenty (20) inches in length with the adipose fin clipped (as evidenced by a healed scar) are defined as steelhead in the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam. (3-29-12)

378. Tributary. A stream flowing into a larger stream or lake. (3-20-97)

389. Trout. Includes the following trout family fishes: brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow, splake, Sunapee; trout hybrids; and the landlocked forms of Chinook, coho, Atlantic and kokanee (blueback) salmon. (3-30-07)

3940. Unattended Line. A line not under the immediate surveillance by the angler.

(3-20-97)

401. Unprotected Nongame Fish. All fish species other than game fish and protected nongame fish. (3-30-07)

412. Upstream. Moving from a lower elevation towards a higher elevation point in the same stream. (3-29-12)

43. Watercraft. Those devices designed as a means of transportation on water. ()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1302

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule is intended to minimize the risk of injury to sturgeon when landed by anglers. Only 'catch-and-release' angling is allowed in Idaho for sturgeon. Keeping the sturgeon in the water allows the natural buoyancy of the water to support internal organs of larger fish. Sturgeon have a cartilaginous skeleton which is not as supportive as a bony skeleton found in most fish species. The rule was in IDAPA through 2008 and was inadvertently removed during a chapter restructure, but the rule was not rescinded by the Commission.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 131 and 132](#).

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 26st day of November, 2013.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 26, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-901, 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, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is intended to minimize the risk of injury to sturgeon when landed by anglers. Only 'catch-and-release' angling is allowed in Idaho for sturgeon. Keeping the sturgeon in the water allows the natural buoyancy of the water to support internal organs of larger fish. Sturgeon have a cartilaginous skeleton which is not as supportive as a bony skeleton found in most fish species. The rule was in IDAPA through 2008 and was inadvertently removed during a chapter restructure, but the rule was not rescinded by the Commission.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to certain anglers, outfitters and sportsmen.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor change is simple in nature, and the rule was inadvertently removed during a chapter restructure.

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:

Not Applicable.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 28th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0111-1302

101. RELEASE OF FISH.

No person shall release or allow the release of any species of live fish, or eggs thereof, in the state of Idaho without the permission of the director of the Idaho Department of Fish and Game, EXCEPT where no permission is required: (3-20-97)

01. Same Location -- Fish. When fish are being freed from a hook and released at the same time and place where caught. No released fish can be marked by any means, including with a tag, by removing fins or injuring with intent to leave a scar, without first obtaining a Scientific Collecting Permit. All sturgeon must be released at the same time and place where landed. Any sturgeon caught may not be removed from the water. (3-29-12)()

02. Same Location -- Crayfish. When crayfish are being released from a trap and released at the same time and place where caught. (3-20-97)

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6), 58-105, and 38-1304, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho Forest Practices Act Advisory Committee (FPAAC) is comprised of 9 voting members across the state of Idaho representing family forest owners, industrial forest owners, fisheries biologists, citizens at large, and logging operators. This committee is statutorily charged with advising the Idaho State Board of Land Commissioners, in cooperation with the Idaho Department of Lands (IDL), in rulemaking matters associated with the Idaho Forest Practices Act. As a result of quadrennial water-quality audits conducted by the Idaho Department of Environmental Quality (IDEQ) in 2000 and 2004, FPAAC has been working over the last 10 years to develop a science-based streamside tree-retention rule (shade rule) that is based on Idaho forest riparian data. The proposed shade rule will allow forest landowners to select from two options which are meant to address both shade and large wood recruitment in streams. The pending rule is being adopted with changes in part as suggested by parties that commented on the rules, internal IDL discussions, and as determined by the Idaho Forest Practices Advisory Committee. These changes include:

- Section 010.60.d - Rescind the proposed rule change to strike the five (5) foot Class II SPZ, the rule shall not be modified, it shall remain in place as it has been since 1996; and
- Section 030.07.e.iii - To protect filtering and shade effects of streamside vegetation adjacent to all Class II streams following harvesting and hazard management activities, live trees will be retained or new trees established within thirty (30) feet on each side of the streams ordinary high water mark to comply with the minimum stocking standards expressed in Subsection 050.04.

Public hearings for the proposed rule were held at the IDL Coeur d'Alene staff office on Tuesday, September 10, 2013 and at the IDL Director's office (Boise) on Thursday, September 19, 2013. Written and verbal comments were submitted at both hearings and published on the IDL website. The written comment period for the proposed rule ran from September 4, 2013 through

September 25, 2013. Written comments received were published on the IDL website. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 159 through 170](#).

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin.

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: There will be no fiscal impact due to the adoption of this Rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Archie Gray, Forest Practices Program Manager at 208-666-8636 or agray@idl.idaho.gov.

DATED this 20th day of November 2013.

Archie Gray
Forest Practices Program Manager
Idaho Department of Lands
3284 W. Industrial Loop,
Coeur d'Alene, ID, 83815
208-666-8636

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6), 58-105 and 38-1304, Idaho Code.

MEETING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, September 10, 2013 1:00 p.m. Pacific Time	Thursday, September 19, 2013 1:00 p.m. Mountain Time
Idaho Department of Lands Sundance Conference Rooms 3284 West Industrial Loop Coeur d'Alene, Idaho	Idaho Department of Lands Garnet Conference Rooms 300 North 6th Street, Suite 103 Boise, Idaho

The hearing sites 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 Idaho Forest Practices Act Advisory Committee (FPAAC) is comprised of 9 voting members across the state of Idaho representing family forest owners, industrial forest owners, fisheries biologists, citizens at large, and logging operators. This committee is statutorily charged with advising the Idaho State Board of Land Commissioners in cooperation with the Idaho Department of Lands (IDL) in rulemaking matters associated with the Idaho Forest Practices Act. As a result of quadrennial water-quality audits conducted by the Idaho Department of Environmental Quality (IDEQ) in 2000 and 2004, FPAAC has been working over the last 10 years to develop a science-based streamside tree-retention rule (shade rule) that is based on Idaho forest riparian data. The proposed shade rule will allow forest landowners to select from two options that are meant to address both shade and large wood recruitment in streams. The proposed changes include:

1. Amendment of one (1) subparagraph (030.07.e.ii.) defining the new minimum standing tree requirements for both sides of all Class I and Class II streams in Idaho forestlands;
2. Insertion of one (1) new subparagraph (030.07.e.iii.) defining the new minimum standing tree requirements for both sides of all Class II streams in Idaho forestlands;
3. Removal of three (3) existing rule subparagraphs (030.07.e.vi., .07.e.vii., and 07.e.ix.), eliminating the current streamside-protection rule sections defining required tree retention in riparian, streamside areas; and
4. Insertion of two (2) subsections (010.24. and 010.48.) to define the forestry terms Forest Type and Relative Stocking, introduced in the new shade rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Sections 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2013 Idaho Administrative Bulletin, [Volume 13-6, pages 45 and 46](#). Members of the public participated in the negotiated rulemaking process by attending the advertised meetings and by submitting written comments. The negotiated rulemaking record, which includes the negotiated rule draft, written public comments received, and the negotiated rulemaking summary, is available at http://www.idl.idaho.gov/adminrule/forest_practices_rulemaking.html.

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 Craig Foss at (208) 769-1525 or cfoss@idl.idaho.gov.

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 25th, 2013.

DATED this 2nd day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0201-1301

010. DEFINITIONS.

Unless otherwise required by context as used in these rules: (10-14-75)

- 01. Act.** The Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (7-1-96)
- 02. Acceptable Tree Species.** Any of the tree species normally marketable in the region, which are suitable to meet stocking requirements. Acceptable trees must be of sufficient health and vigor to assure growth and harvest. (7-1-96)
- 03. Additional Hazard.** The debris, slashings, and forest fuel resulting from a forest practice. (10-14-75)
- 04. Average DBH.** Average diameter in inches of trees cut or to be cut, measured at four and one-half (4.5) feet above mean ground level on standing trees. All trees to be cut that do not have a measurable DBH will fall in the one inch (1") class. (7-1-96)
- 05. Best Management Practice (BMP).** A practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices. BMPs shall include, but not be limited to, those management practices included in these rules. (9-11-90)
- 06. Board.** The Idaho State Board of Land Commissioners or its designee. (10-14-75)
- 07. Buffer Strip.** A protective area adjacent to an area requiring special attention or protection. (10-14-75)
- 08. Chemicals.** Substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, as defined in the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code, fertilizers, soil amendments, road dust abatement products and other materials that may present hazards to the environment. (7-1-98)

- 09. Constructed Skid Trail.** A skid trail created by the deliberate cut and fill action of a dozer or skidder blade resulting in a road-type configuration. (7-1-96)
- 10. Commercial Products.** Saleable forest products of sufficient value to cover cost of harvest and transportation to available markets. (4-11-06)
- 11. Condition of Adjoining Area.** Those fuel conditions in adjoining areas that relate to spread of fire and to economic values of the adjoining area. (1-24-78)
- 12. Contaminate.** To introduce into the atmosphere, soil, or water sufficient quantities of substances that are injurious to public health, safety, or welfare or to domestic, commercial, industrial, agricultural or recreational uses or to livestock, wildlife, fish or other aquatic life. (4-11-06)
- 13. Cross-Ditch.** A diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation, duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion. (3-13-90)
- 14. Cull.** Nonmerchantable, alive, standing trees of greater height than twenty (20) feet. (1-24-78)
- 15. Department.** The Idaho Department of Lands. (10-14-75)
- 16. Deterioration Rate.** Rate of natural decomposition and compaction of fuel debris which decreases the hazard and varies by site. (1-24-78)
- 17. Director.** The Director of the Idaho Department of Lands or his designee. (10-14-75)
- 18. Emergency Forest Practice.** A forest practice initiated during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event to minimize damage to forest lands, timber, or public resources. (10-14-75)
- 19. Fertilizers.** Any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment. (10-14-75)
- 20. Fire Trail.** Access routes that are located and constructed in a manner to be either useful in fire control efforts or deterring the fire spread in the hazard area. (10-14-75)
- 21. Forest Land.** Federal, state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes federal, state and private land from which forest tree species have been removed but have not yet been restocked. It does not include land affirmatively converted to uses other than the growing of forest tree species. (7-1-96)
- 22. Forest Practice.** (10-14-75)

a. The harvesting of forest tree species including felling, bucking, yarding, decking, loading and hauling; road construction, improvement or maintenance including installation or improvement of bridges, culverts or structures which convey stream flows within the operating area; also including the clearing of forest land for conversion to non-forest use when harvest occurs; (7-1-98)

b. Road construction, reconstruction or maintenance of existing roads including installation or improvement of bridges, culverts or structures which convey streams not within the operating area associated with harvesting of forest tree species; (7-1-98)

c. Reforestation; (10-14-75)

d. Use of chemicals for the purpose of managing forest tree species or forest land; (7-1-98)

e. The management of slash resulting from harvest, management or improvement of forest tree species or the use of prescribed fire on forest land. (7-1-98)

f. “Forest Practice” shall not include preparatory work such as tree marking, surveying, and road flagging or removal or harvesting of incidental vegetation from forest lands; such as berries, ferns, greenery, mistletoe, herbs, mushrooms, or other products which cannot normally be expected to result in damage to forest soils, timber, or public resources. (10-14-75)

23. Forest Regions. Two (2) regions of forest land: one (1) being north of the Salmon River and one (1) being south of the Salmon River. (7-1-96)

24. Forest Type. Five forest types in Idaho are defined as follows: ()

a. North Idaho grand fir/western red cedar (NIGF): moist to wet interior forests with western red cedar, western hemlock, and grand fir being primary climax species, found in forests north of the Clearwater/ and Lochsa Rivers. ()

b. Central Idaho grand fir/western red cedar (CIGF): productive conifer forests found in forests between the Lochsa River Basin and the Salmon River, characterized by stands having western red cedar and grand fir as climax species, with a mixed-conifer overstory increasingly comprised of ponderosa pine, Douglas-fir, and larch in the river breaks canyon-lands. Stocking levels are generally lower than that of the NIGF stands. ()

c. South Idaho grand fir (SIGF): mixed-conifer forests, dominated by ponderosa pine and Douglas-fir, found south of the Salmon River with grand fir and occasionally western red cedar being the stand climax species. ()

d. Western hemlock-subalpine fir (WH): higher-elevation, moist, cool interior forests dominated by western hemlock, mountain hemlock, and/or subalpine fir. ()

e. Douglas-fir-ponderosa pine (PP): drier forests dominated by ponderosa pine and Douglas-fir, generally found in lower-elevation, dry sites. ()

245. Fuel Quantity. The diameter, the number of stems and the predominate species to be cut or already cut, and the size of the continuous thinning block all of which determine quantity of fuel per unit of area. (1-24-78)

256. Ground Based Equipment. Mobile equipment such as tractors, dozers, skidders, excavators, loaders, mechanized harvesters and forwarders used for harvesting, site preparation or hazard reduction. This does not include cable systems associated with stationary yarding equipment. (4-4-13)

267. Habitat Types. Forest land capable of producing similar plant communities at climax. (7-1-96)

278. Harvesting. A commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use. (10-14-75)

289. Hazard. Any vegetative residue resulting from a forest practice which constitutes fuel. (1-24-78)

2930. Hazard Offset. Improvements or a combination of practices which reduces the spread of fire and increases the ability to control fires. (10-14-75)

301. Hazard Points. The number of points assigned to certain hazardous conditions on an operating area, to actions designed to modify conditions on the same area or to actions by the operator, timber owner or landowner to offset the hazardous conditions on the same area. (1-24-78)

312. Hazard Reduction. The burning or physical reduction of slash by treatment in some manner which will reduce the risk from fire after treatment. (10-14-75)

323. Lake. A body of perennial standing open water, natural or human-made, larger than one (1) acre in size. Lakes include the beds, banks or wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, settling or gravel ponds. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

334. Landowner. A person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest lands, including the state. (10-14-75)

345. Large Organic Debris (LOD). Live or dead trees and parts or pieces of trees that are large enough or long enough or sufficiently buried in the stream bank or bed to be stable during high flows. Pieces longer than the channel width or longer than twenty (20) feet are considered stable. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form. (3-13-90)

356. Merchantable Material. That portion of forest tree species suitable for the manufacture of commercial products which can be merchandised under normal market conditions. (10-14-75)

- 367. Merchantable Stand of Timber.** A stand of trees that will yield logs or fiber:
(7-1-96)
- a.** Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products;
(10-14-75)
 - b.** Of sufficient value at least to cover all costs of harvest and transportation to available markets.
(10-14-75)
- 378. Noncommercial Forest Land.** Habitat types not capable of producing twenty (20) cubic feet per acre per year.
(7-1-96)
- 389. Operator.** A person who conducts or is required to conduct a forest practice.
(10-14-75)
- 3940. Operating Area.** That area where a forest practice is taking place or will take place.
(1-24-78)
- 401. Ordinary High Water Mark.** That mark on all water courses, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter.
(10-14-75)
- 412. Outstanding Resource Water.** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. ORW constitutes as outstanding national or state resource that requires protection from nonpoint activities, including forest practices, that may lower water quality.
(7-1-96)
- 423. Partial Cutting.** The well distributed removal of a portion of the merchantable volume in a stand of timber. This includes seed tree, shelterwood, or individual tree selection harvesting techniques.
(10-14-75)
- 434. Prescribed Fire.** The controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel moisture and soil moisture, to allow the fire to be confined to a predetermined area and at the same time to produce the intensity of heat and rate of spread required to meet planned objectives.
(7-1-96)
- 445. Present Condition of Area.** The amount or degree of hazard present before a thinning operation commences.
(1-24-78)
- 456. Public Resource.** Water, fish, and wildlife, and in addition means capital improvements of the State or its political subdivisions.
(10-14-75)
- 467. Reforestation.** The establishment of an adequately stocked stand of trees of species acceptable to the department to replace the ones removed by a harvesting or a catastrophic event on commercial forest land.
(10-14-75)

48. Relative Stocking. A measure of site occupancy calculated as a ratio comparison of actual stand density to the biological maximum density for a given forest type. This ratio, expressed as a percentage, shows the extent to which trees utilize a plot of forestland. ()

479. Relief Culvert. A structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity. (10-14-75)

4850. Rules. Rules adopted by the Board pursuant to Section 38-1304, Idaho Code. (7-1-96)

4951. Slash. Any vegetative residue three inches (3") and under in diameter resulting from a forest practice or the clearing of land. (7-1-96)

502. Site. An area considered as to its ecological factors with reference to capacity to produce forest vegetation; the combination of biotic, climatic, and soil conditions of an area. (10-14-75)

513. Site Factor. A combination of percent of average ground slope and predominate aspect of the forest practice area which relate to rate of fire spread. (1-24-78)

524. Site Specific Best Management Practice. A BMP that is adapted to and takes account of the specific factors influencing water quality, water quality objectives, on-site conditions, and other factors applicable to the site where a forest practice occurs, and which has been approved by the Department, or by the Board in consultation with the Department and the Forest Practices Advisory Committee. (7-1-96)

535. Size of Thinning Block. Acres of continuous fuel creating an additional hazard within a forest practice area. Distance between the perimeter of thinning blocks containing continuous fuel must be a minimum of six (6) chains apart to qualify as more than one (1) block. (1-24-78)

546. Snags. Dead, standing trees twenty (20) feet and greater in height. (1-24-78)

557. Soil Erosion. Movement of soils resulting from forest practices. (10-14-75)

568. Soil Stabilization. The minimizing of soil movement. (10-14-75)

579. State. The state of Idaho or other political subdivision thereof. (10-14-75)

5860. Stream. A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

a. Class I streams are used for domestic water supply or are important for the spawning, rearing or migration of fish. Such waters shall be considered to be Class I upstream from the point of domestic diversion for a minimum of one thousand three hundred and twenty

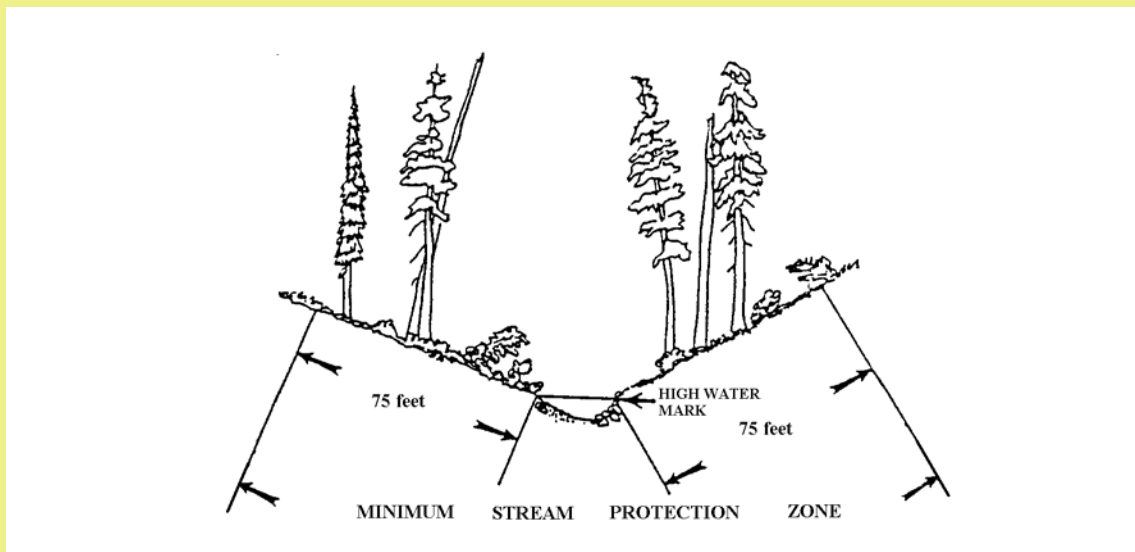
(1,320) feet.

(11-7-86)

b. Class II streams are usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, consider streams as Class II where the total upstream watershed is less than two hundred and forty (240) acres in the north forest region and four hundred and sixty (460) acres in the south forest region. Their principle value lies in their influence on water quality or quantity downstream in Class I streams. (7-1-96)

c. Class I Stream Protection Zone means the area encompassed by a slope distance of seventy-five (75) feet on each side of the ordinary high water marks. (Figure 1.)

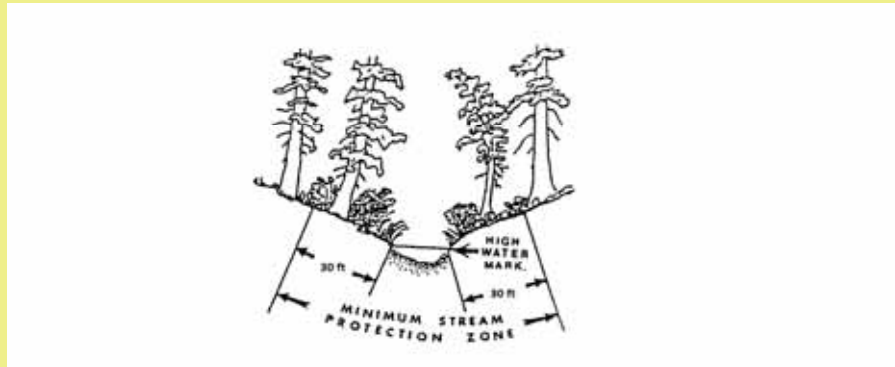
**FIGURE 1
CLASS 1 STREAM PROTECTION ZONE**



(7-1-96)

d. Class II Stream Protection Zone means the area encompassed by a minimum slope distance of thirty (30) feet on each side of the ordinary high water marks. (Figure 2.) For Class II streams that do not contribute surface flow into Class I streams, provide soil stabilization and water filtering effects by leaving undisturbed soils in widths sufficient to prevent washing of sediment. In no case shall this width be less than five (5) feet slope distance on each side of the ordinary high water marks.

**FIGURE 2
CLASS II STREAM PROTECTION ZONE**



~~(7-1-96)~~()

5961. Timber Owner. A person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land. (10-14-75)

602. Time of Year of Forest Practice. Those combinations of months during which time the forest practice is taking place. Points assigned are: October through December - two (2) points; August through September - four (4) points; January through April - seven (7) points; May through July - ten (10) points. (1-24-78)

(BREAK IN CONTINUITY OF SECTIONS)

030. TIMBER HARVESTING.

01. Purpose. Harvesting of forest tree species is a part of forest management by which wood for human use is obtained and by which forests are established and tended. It is recognized that during harvesting operations there will be a temporary disturbance to the forest environment. It is the purpose of these rules to establish minimum standards for forest practices that will maintain the productivity of the forest land and minimize soil and debris entering streams and protect wildlife and fish habitat. (10-14-75)

02. Quality of Residual Stocking. Reforestation is required if harvesting reduces stocking of acceptable trees below minimums of Subsection 050.04. (7-1-96)

03. Soil Protection. Select for each harvesting operation the logging method and type of equipment adapted to the given slope, landscape and soil properties in order to minimize soil erosion. (8-13-85)

a. An operation that uses ground-based equipment shall not be conducted if it will cause rutting, deep soil disturbance, or accelerated erosion. On slopes exceeding forty-five percent (45%) gradient and which are immediately adjacent to a Class I or II stream, ground-

based equipment shall not be used except with an approved variance. Where slopes in the area to be logged exceed forty-five percent (45%) gradient the operator, landowner or timber owner shall notify the department of these steep slopes upon filing the notification as provided for in Subsection 020.05. (4-4-13)

b. Limit the grade of constructed skid trails on geologically unstable, saturated, or highly erodible or easily compacted soils to a maximum of thirty percent (30%). (7-1-96)

c. In accordance with appropriate silvicultural prescriptions, skid trails shall be kept to the minimum feasible width and number. Tractors used for skidding shall be limited to the size appropriate for the job. (8-13-85)

d. Uphill cable yarding is preferred. Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils. (8-13-85)

04. Location of Landings, Skid Trails, and Fire Trails. Locate landings, skid trails, and fire trails on stable areas to prevent the risk of material entering streams. (10-14-75)

a. All new or reconstructed landings, skid trails, and fire trails shall be located on stable areas outside the appropriate stream protection zones. Locate fire and skid trails where sidecasting is held to a minimum. (3-13-90)

b. Minimize the size of a landing to that necessary for safe economical operation. (8-13-85)

c. To prevent landslides, fill material used in landing construction shall be free of loose stumps and excessive accumulations of slash. On slopes where sidecasting is necessary, landings shall be stabilized by use of seeding, compaction, riprapping, benching, mulching or other suitable means. (8-13-85)

05. Drainage Systems. For each landing, skid trail or fire trail a drainage system shall be provided and maintained that will control the dispersal of surface water to minimize erosion. (4-21-92)

a. Stabilize skid trails and fire trails whenever they are subject to erosion, by water barring, cross draining, outsloping, scarifying, seeding or other suitable means. This work shall be kept current to prevent erosion prior to fall and spring runoff. (8-13-85)

b. Reshape landings as needed to facilitate drainage prior to fall and spring runoff. Stabilize all landings by establishing ground cover or by some other means within one (1) year after harvesting is completed. (8-13-85)

06. Treatment of Waste Materials. All debris, overburden, and other waste material associated with harvesting shall be left or placed in such a manner as to prevent their entry by erosion, high water, or other means into streams. (10-14-75)

a. Wherever possible trees shall be felled, bucked, and limbed in such a manner that

the tree or any part thereof will fall away from any Class I streams. Continuously remove slash that enters Class I streams as a result of harvesting operations. Continuously remove other debris that enters Class I streams as a result of harvesting operations whenever there is a potential for stream blockage or if the stream has the ability for transporting such debris. Place removed material five (5) feet slope distance above the ordinary high water mark. (8-13-90)

b. Remove slash and other debris that enters Class II streams whenever there is a potential for stream blockage or if the stream has the ability for transporting the debris immediately following skidding and place removed material above the ordinary high water mark or otherwise treat as prescribed by the department. No formal variance is required. (11-7-86)

c. Deposit waste material from construction or maintenance of landings and skid and fire trails in geologically stable locations outside of the appropriate Stream Protection Zone. (8-13-85)

07. Stream Protection. During and after forest practice operations, stream beds and streamside vegetation shall be protected to leave them in the most natural condition as possible to maintain water quality and aquatic habitat. (8-13-85)

a. Lakes require an approved site specific riparian management prescription prior to conducting forest practices within the stream protection zone. (7-1-96)

b. Operations that utilize ground-based equipment that result in logs being skidded or forwarded in or through streams shall not be permitted. When streams must be crossed, adequate temporary structures to carry stream flow shall be installed. Cross the stream at right angles to its channel if at all possible. (Construction of hydraulic structures in stream channels is regulated by the Stream Channel Protection Act - Title 42, Chapter 38, Idaho Code). Remove all temporary crossings immediately after use and, where applicable, water bar the ends of the skid trails. (4-4-13)

c. Operation of ground based equipment shall not be allowed within the Stream Protection Zone except at approaches to stream crossings. (7-1-96)

d. When cable yarding is necessary, across or inside the Stream Protection Zones it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. (8-13-85)

e. Provide for large organic debris (LOD), shading, soil stabilization, wildlife cover and water filtering effects of vegetation along streams. (7-1-96)

i. Leave ~~hardwood trees~~, shrubs, grasses, and rocks wherever they afford shade over a stream or maintain the integrity of the soil near a stream. ~~(10-14-75)~~()

ii. ~~Leave seventy-five percent (75%) of the current shade over the Class I streams. Limit re-entry until shade recovers.~~ **Adjacent to all Class I streams, to maintain and enhance shade and large woody debris recruitment, landowners must comply with one of the two following options defining tree retention. The Relative Stocking per acre (RS) referenced in the options is calculated according to the relative-stocking-contribution table in Subsection 030.07.e.ii.**

~~(4-11-06)~~()

(1) Option 1: Within twenty-five (25) feet from the ordinary high water mark on each side of the stream, live conifers and hardwoods will be retained to maintain a minimum relative stocking per acre of sixty (60). A relative stocking per acre of thirty (30) must be retained in the stream protection zone between twenty-five (25) feet and seventy-five (75) feet from the ordinary high water mark on both sides of the stream. ()

(2) Option 2: Within fifty (50) feet from the ordinary high water mark on each side of a stream, live conifers and hardwoods will be retained to maintain a minimum relative stocking per acre of sixty (60). A relative stocking per acre of ten (10) must be retained in the stream protection zone between fifty (50) feet and seventy-five (75) feet from the ordinary high water mark on both sides of the stream. ()

(3) Only one (1) option may be implemented within the stream protection zones of a harvesting unit covered by a single notification. Landowners are strongly encouraged to retain all trees immediately adjacent to the stream. ()

Forest Type	Per Tree Contribution to Relative Stocking by Diameter Class						
	Diameter Class (DBH in inches)						
	4-7.9"	8-11.9"	12-15.9"	16-19.9"	20-23.9"	24-27.9"	28-31.9"
NIGF (North Idaho Grand Fir)	0.097	0.209	0.347	0.506	0.683	0.878	1.088
CIGF (Central Idaho Grand Fir)	0.113	0.244	0.405	0.59	0.797	1.024	1.27
SIGF (Southern Idaho Grand Fir)	0.136	0.293	0.486	0.708	0.957	1.229	1.524
WHSF (Western Hemlock-Subalpine Fir)	0.123	0.267	0.442	0.644	0.87	1.117	1.385
DFPP (Douglas-fir-Ponderosa Pine)	0.151	0.326	0.54	0.787	1.063	1.366	1.693

()

iii. To protect filtering and shade effects of streamside vegetation adjacent to all Class II streams following harvesting and hazard management activities, live trees will be retained or new trees established within thirty (30) feet on each side of the streams ordinary high water mark to comply with the minimum stocking standards expressed in Subsection 050.04. ()

iv. During harvesting, carefully remove timber from the Stream Protection Zone in such a way that large organic debris, shading and filtering effects are maintained and protected. When portions of felled trees fall into or over a Class I stream, leave the portion consistent with the LOD definition of Subsection 010.35. (4-11-06)

v. When harvesting portions of trees that have fallen naturally into or over a Class I stream, leave the portion(s) over the steam consistent with the LOD definition of Subsection 010.35. Leaving the section with the root ball attached is preferred. (4-11-06)

vi. During harvesting operations, portions of felled or bucked trees not meeting the

LOD definition shall be removed, consistent with the slash removal requirements of Subsection 030.06. (4-11-06)

~~vi. Standing trees, including conifers, hardwoods and snags will be left within fifty (50) feet of the ordinary high water mark on each side of all Class I streams, and within thirty (30) feet on each side of those Class II streams that require thirty (30) feet stream protection zones, in the following minimum numbers per one thousand (1000) feet of stream:~~

~~**Minimum Standing Trees Per One Thousand (1000) Feet Required (each side)**~~

Tree Diameter (DBH)	—STREAM WIDTH—			
	Class I			Class II*
	Over 20'	10' - 20'	Under 10'	
3 - 7.9"	200	200	200	140
8 - 11.9"	42	42	42	--
12 - 19.9"	24	24	--	--
20"+	4	--	--	--

~~*For those Class II streams that require a minimum five (5) foot stream protection zone, no standing trees are required. (4-11-06)~~

~~vii. Snags will be counted as standing trees in each diameter class if snag height exceeds one and one-half (1 1/2) times the distance between the snag and the stream's ordinary high water mark. Not more than fifty percent (50%) of any class may consist of snags. (7-1-96)~~

viii. To obtain a variance from the standing tree and shade requirements, the operator must develop a site specific riparian management prescription and submit it to the department for approval. The prescription should consider stream characteristics and the need for large organic debris, stream shading and wildlife cover which will achieve the objective of these rules. (4-11-06)

~~ix. Where the opposite side of the stream does not currently meet the minimum standing tree requirements of the table, the department and the operator should consider a site specific riparian prescription that meets the large organic debris needs of the stream. (3-13-96)~~

~~xviii.~~ Stream width shall be measured as average between ordinary high water marks. (3-13-90)

f. Direct ignition of prescribed burns will be limited to hand piles within stream protection zones (SPZ), all other direct ignitions shall occur outside of SPZs, so a backing (cooler) fire will more likely occur within the SPZ. (4-11-06)

i. Hand piles shall be at least five (5) feet from the ordinary high water-mark of streams. (4-11-06)

ii. No mechanical piling of slash or natural forest fuels is allowed in a SPZ (an exception is filter windrows for erosion control which shall not be ignited). (4-11-06)

08. Maintenance of Productivity and Related Values. Harvesting practices will first be designed to assure the continuous growing and harvesting of forest tree species by suitable economic means and also to protect soil, air, water, and wildlife resources. (10-14-75)

a. Where major scenic attractions, highways, recreation areas or other high-use areas are located within or traverse forest land, give special consideration to scenic values by prompt cleanup and regeneration. (10-14-75)

b. Give special consideration to preserving any critical aquatic or wildlife habitat, including snags, especially within stream protection zones. Wherever practical, preserve fruit, nut, and berry producing trees and shrubs. (4-4-13)

c. Avoid conducting operations along or through bogs, swamps, wet meadows, springs, seeps, wet draws or other locations where the presence of water is indicated by associated vegetation; temporary crossings can be used as referred to in Paragraph 030.07.b. Protect soil and vegetation from disturbance which would cause adverse affects on water quality, quantity and wildlife and aquatic habitat. (4-4-13)

d. Harvesting operations within a single ownership, in which essentially all trees have been removed in one operation, shall be planned so that adequate wildlife escape cover (e.g. topography, vegetation, stream protection zones, etc.) is available within one-quarter (1/4) mile. (4-4-13)

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-2107 (b) Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Idaho law states that an outfitter is “any individual, firm, partnership, corporation or other organization or any combination thereof, who, while engaging in any of the acts enumerated herein in any manner: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions.” Section 36-2102, Idaho Code. This includes private landowners.

In 1992, the Idaho Supreme Court (*State v. Koller* 112 Idaho 409) held that the outfitting and guides act regulates commercial outfitting whether it’s occurring on public or private lands and that the State of Idaho has jurisdiction. As the result, private land owners have been licensed as outfitters themselves, have designated agents (including existing outfitters) as employees to provide facilities and services and have leased lands to others for outfitting purposes.

The purpose of this rulemaking is to clarify and enhance the ability of private landowners to allow public access to their private lands and in doing so, they also are intended to clarify outfitted use and license requirements when outfitted facilities and services are provided by the landowner or someone authorized by the landowner to do so. The Board states that the rule also is intended to clarify existing rules to address a concern over the loss of access due to the proliferation of organizations and clubs operating commercially due to the ambiguity in existing rules. The Board also notes that in doing so, organizations and clubs offering outfitted facilities and services including acquiring access to private or public land for hunting, fishing or hazardous excursions and for commercial gain will be governed by the same limits and restrictions set forth in the rules governing licensed commercial outfitters.

The Board notes that negotiated rulemaking was conducted.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013, Idaho Administrative Bulletin, [Vol. 13-10, pages 357 through 359](#).

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:

No fiscal impact will occur as a result of changes that are being made.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact.

DATED this November 20, 2013.

Jake Howard
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, ID 83706
(208) 327-7380
FAX (208) 327-7382

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 36-2107(b) and (d), 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, 2013.

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:

Idaho law states that an outfitter is “any individual, firm, partnership, corporation or other organization or any combination thereof, who, while engaging in any of the acts enumerated

herein in any manner: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions.” Section 36-2102, Idaho Code. This includes private landowners.

In 1992, the Idaho Supreme Court (*State v. Koller*, 112 Idaho 409) held that the outfitting and guides act regulates commercial outfitting whether it’s occurring on public or private lands and that the State of Idaho has jurisdiction. As the result, private land owners have been licensed as outfitters themselves, have designated agents (including existing outfitters) as employees to provide facilities and services and have leased lands to others for outfitting purposes.

These proposed rules recognize a land owner's right to control use of their lands. They are intended clarify and enhance a private land owners ability to allow public access to their private lands and in doing so, they also are intended to clarify outfitted use and license requirements when outfitted facilities and services are provided by the landowner or by someone authorized by the land owner to do so.

The proposed rule also is intended clarify existing rules to address a concern over the loss of access due to the proliferation of organizations/clubs operating commercially due to ambiguity in existing rules. In doing so, organizations/clubs offering outfitted facilities and services including acquiring access to private or public land for hunting, fishing, or hazardous excursions and for commercial gain will be governed by the same limits/restrictions set forth in these rules and governing licensed commercial outfitters.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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:

No fiscal impact will occur as a result of changes that are being made.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 614 through 616](#).

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: Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

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, 2013.

DATED this August 20, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-1201

011. ~~PRIVATE MEMBERSHIP~~ GROUPS, ORGANIZATIONS, AND OUTFITTING ON PRIVATE LAND.

~~An outfitter license shall not be issued to any individual, group, corporation, or club which limits its services to a membership or does not offer services to the general public. A group, corporation, or club formed in a manner so as to solicit participation from the general public and to provide services on a guided and/or paid basis beyond a sharing of expenses shall be required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code). (3-1-86)~~

01. Groups, Organizations, Clubs, and Individual Persons Sharing Costs. ()

a. Any individual person or any group, club, corporation, or entity who in any manner solicits participation from the general public and who provides or facilitates access to the public on private or public lands or waters for boating, hunting, fishing or other hazardous excursions and/or who provides outfitted facilities, or services to the public on a paid or compensated basis or for other consideration, except those who may be otherwise exempt under Section 36-2103, Idaho Code, or as otherwise provided in Subsection 011.02.a. of this rule shall be required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code) and the Board's rules. ()

b. Individual persons who share facilities, and expenses while participating in outdoor recreational activities, and who do not solicit participation from the public and who are not compensated or provided other consideration are not required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code). ()

c. An outfitter license shall not be issued to an individual, club, group, corporation, or other entity who does not offer outfitted or guided services to the general public. ()

02. Private Landowner Responsibilities -- Outfitting on Private Land. ()

a. Private landowners, who advertise and only charge fees for access to their land or waters, shall not be required to be licensed as an outfitter. ()

b. Private landowners (“Landowner”), who advertise outfitted or guided services or solicit participation from the general public for such services, or who provide outfitted facilities or services for compensation or consideration, shall be required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code) and shall be licensed to provide outfitted facilities or services on their own land or waters and/or elsewhere. ()

i. A landowner providing a Landowner Appreciation (LAP) Tag to any individual or individuals is not considered an outfitted service. ()

ii. Private landowners licensed as outfitters may designate agents (including existing outfitters) who shall be employees to provide facilities and services. ()

iii. Private landowners may lease lands or waters they own to licensed outfitters for outfitting purposes. ()

c. Licensed outfitters shall maintain on file with the Board a properly completed OG-10 form for each private land on which they hope to operate prior to use of that private land and during the time the private land is licensed to them as an operating area. The OG-10 form must specify the area to be used by the outfitter, the activities to be provided, and the date of use allowed by the private land owner. Private lands and activities to be licensed to an outfitter will be added or modified to an existing outfitter license by the outfitter following the major amendment process and must be approved by the Board prior to advertising or use. ()

i. Outfitter arrangements for use of any private land shall not exceed a period of five (5) years. Reauthorization shall be done by the outfitter providing the Board a properly completed OG-10 form submitted following the minor amendment process. ()

ii. Outfitters licensed for the use of private land or water must notify the Board immediately upon the termination of use or changes to the terms of use of any private land licensed as an operating area prior to promotion or use. Changes to the terms of use other than adding areas or activities must be done by the outfitter following the minor amendment process. Termination of an outfitter use arrangement must be done in writing or by submitting an OG-10 form. Either the land owner or the outfitter may terminate an outfitter’s use. ()