

RESOURCES & CONSERVATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2012 Legislative Session

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 36-412, 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.

Provides a mechanism for exemption from the live fire requirement of hunter education certification for persons with military and peace officer training, and responds to constituent and Legislative request.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 271 and 272.](#)

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 15th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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

EFFECTIVE DATE: The effective date of the temporary rule is **May 23, 2011**.

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 36-412, 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 19, 2011.

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:

Provides a mechanism for exemption from the live fire requirement of hunter education certification for persons with military and peace officer training, and responds to constituent and Legislative request.

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.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identifiable group representing the affected interested persons.

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

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, 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 26, 2011.

DATED this 26th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0102-1101

100. HUNTER EDUCATION.

01. Mandatory Hunter Education Program. All students being certified under this program must have successfully completed at least ten (10) hours of instruction in firearms safety, wildlife management, wildlife law, hunter ethics, first aid/survival, plus practical experience in the handling and shooting of firearms. This instruction may be completed through classroom study, home study, an on-line computer course, or other approved methods. The Department of Fish and Game shall manage the Hunter Education Program pursuant to the Idaho Hunter Education Policy and Procedure Manual. Only certificates for courses which meet or exceed the standards of the Idaho course are acceptable from other states or countries. (4-7-11)

02. Fees. A fee as established by Section 36-412(c), Idaho Code, shall be charged each student enrolling in the Hunter Education Program. (3-20-04)

03. Parent to Attend Live Fire Exercise with Student. For students under the age of twelve (12), a parent, legal guardian or other adult designated by the parent or legal guardian shall attend the Hunter Education Live Fire Exercise with the student. Preferably, the adult attending the live fire exercise should be the same adult who will accompany the student into the field while hunting. This requirement is mandatory for successful completion of the Hunter Education Course. (3-20-04)

04. Exemption from Practical Handling and Shooting of Firearms Requirement. An active, former, or retired member of the United States Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard) or an active, former or retired peace officer as defined by Section 19-5101(d), Idaho Code, may be exempted from the practical firearms handling and shooting requirement of the Mandatory Hunter Education Program if they received training in firearms handling and shooting. To qualify for the exemption the applicant must submit by mail or in

person a signed affidavit provided by the Department, which certifies the applicant meets the criteria for exemption due to training in the practical handling and shooting of firearms provided through either the Armed Forces or as a peace officer. ()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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), 36-404, 36-407 through -409, and 36-416, 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.

2011 HB143 allows nonresident disabled veterans to participate in a hunt in association with a qualified organization to receive reduced fees for certain licenses and tags; provide specific rules for bighorn sheep auction and lottery tags to accommodate proxy bidders, but prevent tag resale; and set Nonresident tag and outfitter set-aside quotas.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 273 through 278.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2011**.

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), 36-404, 36-407 through -409, and 36-416, 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 19, 2011.

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:

2011 HB143 allows nonresident disabled veterans to participate in a hunt in association with a qualified organization to receive reduced fees for certain licenses and tags; provide specific rules for bighorn sheep auction and lottery tags to accommodate proxy bidders, but prevent tag resale; and set Nonresident tag and outfitter set-aside quotas.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (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 complies with an amendment to governing law.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the amendments approved by HB143, and the lack of organized groups representing nonresident disabled veterans, nonresident hunters, and bidders and buyers for bighorn sheep auction and lottery tags.

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

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 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 26, 2011.

DATED this 26th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-1101

010. DEFINITIONS.

These definitions will provide clarity and consistency in enforcement of these rules. (7-1-93)

01. Authorized Corporate Representative. Any shareholder in a corporation, designated in writing by the corporation as the eligible applicant, who is in actual physical control of the eligible property. (7-1-93)

02. Blind Person. A blind person is one who has a medically documented loss or impairment of his or her vision and includes any person whose visual acuity with correcting lens does not exceed twenty/two hundred (20/200) in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees. (7-1-93)

03. Domicile. The term "domicile" means the place where an individual has his true, fixed, permanent home and to which place he has the intention of returning whenever he is absent. An individual can have several dwelling places, but only one (1) domicile. Factors to consider to establish domicile include, but are not limited to: (7-1-93)

a. What address does the person use on tax returns and where does the person file a state resident income tax return? (7-1-93)

b. Where is the person registered to vote? (7-1-93)

c. Where does the person and his immediate family live? (7-1-93)

- d. Where does the person have his mail sent or forwarded to? (7-1-93)
- e. Does the person remain listed in the telephone directory? (7-1-93)
- f. Where does he register his automobiles? (7-1-93)
- g. Where has the person claimed a homeowner exemption on a personal residence? (7-1-93)
- h. Where does he have a driver's license? (7-1-93)
- i. Where are his regular physicians and dentists located? (7-1-93)

04. Disabled. A person is disabled if they are deemed disabled by one (1) or more, but not necessarily all of the following: the railroad retirement board pursuant to Title 45 of the United States Code, or certified as eligible for Federal Supplemental Security Income (SSI); or Social Security Disability Income (SSDI); or a nonservice-connected veterans pension; or a service-connected veterans disability benefit with forty percent (40%) or more disability; or if a physician has certified any of the following - that a person has lost the use of one (1) or both lower extremities or both hands, or is unable to walk two hundred (200) feet or more unassisted by another person, or is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair, or is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments - neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb. (3-8-07)

05. Eligible Applicant. A physically disabled person certified by a physician licensed in the state in which the disabled person resides, as meeting one (1) or more of the criteria set forth in Section 36-1101(b), Idaho Code. (5-8-09)

06. Eligible Property. At least three hundred twenty (320) acres of land in one (1) controlled hunt unit determined by the Department to be valuable for habitat or propagation purposes for deer, elk, and/or pronghorn, whether owned by one (1) or more persons, a partnership, or corporation. It shall not include any government lands. (4-7-11)

07. Landowner. Any person or corporation whose name appears on a deed as the owner of eligible property or whose name appears on a contract for sale of eligible property as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability corporations wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership or corporation. (4-7-11)

08. Permanent Disability. Permanent disability is defined as a medically determinable physical impairment, which a physician has certified that the condition has no expectation for a fundamental or marked change at any time in the future. (3-8-07)

09. Physician. A person licensed to practice medicine pursuant to the Idaho Medical

Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority if the person is not licensed to practice in Idaho. (5-8-09)

10. Qualified Organization. The term “Qualified Organization” is defined in Section 36-408(7), Idaho Code. ()

~~09~~**11. Resident.** The term “resident” is defined in Section 36-202(s), Idaho Code. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

302. DISABILITY LICENSES.

Disabled Combination Hunting/Fishing, Disabled Fishing, Disabled American Veterans Combination Hunting and Fishing License, ~~and~~ Disabled American Veterans Fishing License, and Nonresident Disabled American Veterans Hunting License. (~~3-8-07~~)()

01. Applicants for Disability Licenses Must Attest to the Disability Requirements. It is a violation for any person to misrepresent any information to obtain a disability license. (3-8-07)

02. Required Documentation. Required documentation must be submitted in person or by mail to the Department of Fish and Game set forth in Section 005 of this rule. Applications must be supported by the documentation noted in either Subsection 302.02.a., 302.02.b., ~~or~~ 302.02.c., or 302.02.d. of this rule. (~~5-8-09~~)()

a. License buyer must present, to an Idaho Department of Fish and Game office or select vendor one (1) of the following: (3-8-07)

i. A current year’s award statement in the individuals name showing that he or she is receiving SSI or SSDI benefits for the current year; (3-8-07)

ii. A letter from the Railroad Retirement board verifying disability status and being dated within three years preceding the application for a disabled license; (3-8-07)

iii. A letter from the from the Veterans Affairs office verifying a service-connected disability rating of forty percent (40%) or greater. Such documentation can bear any date prior to license application. Such documentation will be required only for the initial application and will not be required for subsequent disability license application. (5-8-09)

iv. A current year’s letter from the Veterans Affairs office showing an individual is receiving a nonservice-connected pension. (5-8-09)

b. License buyer must initially present to an Idaho Fish and Game office a form, prescribed by the Department, showing physician certification of permanent disability, defined in Subsections 010.04 and 010.08 of this rule, or an individual may present their valid Idaho driver’s

license in lieu of the prescribed department form if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, and the driver's license is appropriately marked as disabled. Only eligible applicants may submit such applications. Physician certification will not be required for subsequent disability license application. (3-8-07)

c. Individuals using the department form for a physician's permanent disability certification must complete and sign the application form. Each application submitted on the department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating which of the criteria set forth in Subsection 010.04 of this rule, qualifies the applicant and why. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a photo copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for a permanent disability on the application. (5-8-09)

d. Nonresident Disabled American Veterans must meet the requirements in Subsection 302.02.a.iii. and provide information, prescribed by the Department, showing they are participating in a hunt in association with a Qualified Organization. Applicant must provide a letter from a Qualified Organization documenting the following: ()

i. The license applicant is participating in a hunt in association with the Qualified Organization in the calendar year of the application. ()

ii. The Qualified Organization is qualified under Internal Revenue Code Section 501(c)(3) as a nonprofit organization with a mission to offer opportunities, experiences, and assistance to disabled veterans or the qualified organization is a government agency with a mission to offer opportunities, experiences, and assistance to disabled veterans. ()

iii. If the Qualified Organization is a government agency, the letter must be on the government agency letterhead and signed by an employee of the government agency. ()

iv. If the Qualified Organization is a nonprofit organization, a copy of the IRS determination letter showing IRS Section 501(c)(3) status must be included with the letter. ()

(BREAK IN CONTINUITY OF SECTIONS)

700. ~~SPECIAL~~ BIGHORN SHEEP AUCTION TAG.

01. Eligibility. In order to be eligible to bid on the *special* bighorn sheep auction tag, a person must be eligible to purchase an Idaho hunting or combination license. (~~3-20-04~~)()

02. Validity of Tag. The *Special* Bighorn Sheep Auction Tag shall be valid in Unit 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery Tag holder chooses not to hunt in Unit 11. (~~4-7-11~~)()

03. License and Controlled Hunt Tag. ()

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the auction. (4-7-11)

b. The successful bidder for the Bighorn Sheep Auction Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. ()

04. Application of Big Game Rules. All rules governing the Taking of Big Game Animals, IDAPA 13.01.08, shall apply to the eligible and successful bidders other than as specified herein. (7-1-93)

a. No successful bidder shall be eligible to apply for a bighorn sheep controlled hunt tag the same year the bidder is issued a *Special* Bighorn Sheep Auction Tag. (~~4-7-11~~)()

b. A person receiving a *Special* Bighorn Sheep Auction Tag, but who is unsuccessful in taking a bighorn sheep, shall be eligible to bid the following year for another *Special* Bighorn Sheep Auction Tag. (~~4-7-11~~)()

c. A person successful in taking a bighorn sheep with a *special* bighorn sheep tag shall be eligible to bid the following year. (~~3-20-04~~)()

701. -- 799. (RESERVED)

800. BIGHORN SHEEP LOTTERY TAG.

01. Eligibility. (7-1-93)

a. In order to win and be issued the Bighorn Sheep Lottery Tag, a person must be eligible to purchase an Idaho hunting or combination license. (4-7-11)

b. If any person wins the Bighorn Sheep Lottery Tag and has already been drawn for a bighorn sheep controlled hunt tag for the same year, the controlled hunt tag shall be returned to the Department and voided and the tag fees refunded. The lottery tag will be valid to hunt bighorn sheep that year. (4-7-11)

02. Validity of Tag. The Bighorn Sheep Lottery Tag shall be valid in Unit 11 only during even-numbered years and during odd-numbered years when the *Special* Bighorn Sheep Auction Tag holder chooses not to hunt in Unit 11. (~~4-7-11~~)()

03. *Permit* Tag. ()

a. A hunting license (if needed) and a controlled hunt tag will be provided to the lottery tag winner from the net proceeds of the lottery. (~~4-7-11~~)()

b. Lottery tickets are not transferable. The Bighorn Sheep Lottery Tag shall be issued

to the person whose name appears on the winning ticket, and may not be transferred to another individual. ()

04. Application of Big Game Rules. All Rules Governing the Taking of Big Game Animals shall apply to the eligible ticket purchasers and lottery tag winner, other than as specified herein. (7-1-93)

a. A person receiving a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year for another bighorn sheep lottery tag. (3-30-01)

b. A person successful in taking a bighorn sheep with a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year. (3-20-04)

c. Any person who wins a Bighorn Sheep Lottery Tag, and who is otherwise eligible to apply for a deer, elk or pronghorn controlled hunt tag **and who has drawn such a tag**, shall be allowed to ~~apply for a controlled~~ hunt for those species during the same year the Bighorn Sheep Lottery Tag is valid. ~~(4-7-11)~~()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1102

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 Section 36-104(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.

Improvements to the Landowner Appreciation Program to provide for consistency in tag allocation, and to provide incentives for landowners in certain units who provide benefits for wildlife, wildlife habitat, or sportsmen.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 279 through 282.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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 36-104(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 19, 2011.

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:

Improvements to the Landowner Appreciation Program to provide for consistency in tag allocation, and to provide incentives for landowners in certain units who provide benefits for wildlife, wildlife habitat, or sportsmen.

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 funds greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

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 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 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-1102

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-1102

400. LANDOWNER APPRECIATION PROGRAM.

01. Eligible Applicants. Eligible applicants must be registered with the Department and are limited to landowners. Landowners not complying with prohibitions listed in Subsection 400.08, of these rules, shall not be eligible to participate in the landowner appreciation program for three (3) years. (4-7-11)

02. Hunt ~~Units~~ Areas. Landowner Appreciation Program controlled hunt tags shall be issued only for those controlled hunt ~~units~~ areas designated by the Director as eligible for such permits. (~~4-7-11~~)()

03. Qualifying Property. Only property that is used by and provides significant habitat values for deer, elk or pronghorn qualifies for the Landowner Appreciation controlled hunt tag program. Landowners may receive Landowner Appreciation controlled hunt tags only for the species and sex that use the property. (4-7-11)

04. Applications for Landowner Appreciation Controlled Hunt Tags. Applications for landowner appreciation controlled hunt tag(s) shall be on a form prescribed by the Department. Applicants must be registered with the Department and shall sign the application. (4-7-11)

a. Applications from landowners with six hundred forty (640) acres or more will be accepted on or after June 15 of each year. Applications received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than July 15 of each year will be entered in the random drawing for tags. Each application will be entered in the random drawing one (1) time based upon each six hundred and forty (640) acres of eligible property registered by the landowner that are within the hunt area. For example, if a landowner has six thousand four hundred (6,400) eligible acres, the application will be entered into the random drawing ten (10) times. (4-7-11)

b. One (1) application may be submitted by a landowner with eligible property consisting of six hundred forty (640) acres to four thousand nine hundred ninety-nine (4,999) acres. A second application may be submitted for eligible property consisting of five thousand (5,000) acres or more. (4-7-11)

05. Left Over Tags. Landowners with three hundred twenty (320) acres or more may apply for left-over tags following the random draw. Written applications will be accepted after August 15 of each year on a first-come, first-served basis. Applications must be accompanied by the appropriate application fee as specified in Section 36-416, Idaho Code. (4-7-11)

06. Property and Applicant Registration. (5-15-95)

a. Prior to any eligible applicant applying for a Landowner Appreciation Program controlled hunt, the qualifying property and eligible applicant must be registered with the Department. Registering landowners must notify the Department of any changes in property or applicant eligibility. (4-7-11)

b. Registration of property and eligible applicant must be on a form prescribed by the Department. The landowner must submit the registration form and a copy of the deed(s), and the most recent tax assessment(s), describing the eligible property showing the name(s) of the owner(s), and a map of eligible property to the Department regional office. Department personnel will certify the registration and land description and return a copy to the landowner. (4-5-00)

c. If the person registering is an authorized corporate or partnership representative, he shall submit with his registration written verification from the board of directors, partnership, or an officer of the corporation, other than himself, verifying that he is authorized to register the property and eligible applicants. (4-5-00)

07. Issuance of Controlled Hunt Tag(s). (4-7-11)

a. Once the Department has determined the number of controlled hunt tags to be issued in any controlled hunt unit, an additional ten percent (10%) of the number of controlled hunt tags MAY be issued as Landowner Appreciation Program tags. ~~In subsequent years up to twenty-five percent (25%) of the number of controlled hunt tags MAY be issued only if the hunt is over-subscribed by eligible Landowner Appreciation Program applicants.~~ An additional fifteen percent (15%) of the number of controlled hunt tags MAY be issued in game management units 40, 41, 42, 45 and 52 as Landowner Incentive tags pursuant to Subsection 400.11 of this rule. (4-7-11)()

b. Where the number of landowner appreciation applicants exceeds the number of landowner appreciation controlled hunt tags available in a unit, successful applicants will be determined by drawing. All eligible landowners in the drawing will be considered for one (1) tag before any landowner is eligible for a second tag. (4-7-11)

~~**c.** No more than two (2) Landowner Appreciation Program controlled hunt tags may be issued to any eligible landowner.~~ (4-7-11)

~~**c.**~~ Only one (1) leftover Landowner Appreciation Program controlled hunt tag may be issued for eligible property consisting of between three hundred twenty (320) and six hundred thirty nine (639) acres within the hunt area designated by the Director with Landowner Appreciation Program controlled hunt tags. Only one (1) landowner appreciation program controlled hunt tag may be issued for eligible property consisting of between six hundred forty

(640) and four thousand nine hundred ninety-nine (4,999) acres within the hunt area designated by the Director with Landowner Appreciation Program controlled hunt tags. One (1) additional controlled hunt tag may be issued to a landowner or designated agent(s) for eligible property in excess of five thousand (5,000) acres within the hunt area designated by the Director with Landowner Appreciation Program controlled hunt tags. ~~No landowner or designated agent(s) is eligible to receive more than one (1) controlled hunt tag for one (1) species in a calendar year.~~ (4-7-11)()

d. No landowner or designated agent(s) is eligible to retain more than one (1) landowner controlled hunt tag for one (1) species in a calendar year, except extra tag hunts pursuant to Subsection 400.10.b. of this rule. ()

e. A successful landowner, corporate or partnership representative drawing a landowner appreciation program controlled hunt tag may designate to whom the controlled hunt tag will be issued pursuant to Subsection 400.08 of this rule. (4-7-11)

08. Prohibitions. Landowner Appreciation Program or Incentive controlled hunt tags shall not be sold or marketed. (4-7-11)()

09. Application of Controlled Hunt Restrictions. (7-1-93)

a. The restriction that applying for a moose, bighorn sheep, or mountain goat controlled hunt makes the applicant ineligible to apply for any other controlled hunt shall not apply to persons who are otherwise eligible to apply for a landowner appreciation program controlled hunt tag. (4-7-11)

b. Landowner appreciation program controlled hunt tags issued to non-residents shall not be considered as part of the non-resident quota. (4-7-11)

c. Landowner appreciation program controlled hunt tags are exempt from the one (1) year waiting periods applicable for certain deer, elk and pronghorn permits. (4-7-11)

10. Special Restrictions. Any person hunting with a Landowner appreciation program controlled hunt tag shall hunt only within the boundaries described in the hunt area designated by the Director. Only valid, current-year controlled hunt deer, elk, or pronghorn tags may be used in conjunction with a landowner appreciation program. No person shall kill more than one (1) deer, elk or pronghorn during a calendar year EXCEPT: (4-7-11)

a. Depredation Hunts. In depredation hunts, one (1) additional deer, elk or pronghorn may be taken by persons holding tags for those hunts; EXCEPT: those depredation hunters who were selected for depredation hunts prior to the controlled hunt season for the unit(s) in which they hold a controlled hunt tag must include any animal they harvest within the restrictions imposed by the controlled hunt tag. (4-7-11)

b. Extra Tag Hunts. In extra tag hunts, one (1) additional deer, elk or pronghorn may be taken by persons holding tags for those hunts. (4-7-11)

c. Limits on Take - Deer, Elk, Pronghorn. In no event shall any person take more

deer, elk or pronghorn in a calendar year than the number of tags the person legally possesses for each species. (4-7-11)

11. Landowner Incentive Tags. ()

a. Landowners or authorized corporate or partnership representatives with qualifying property in controlled hunt areas within game management units 40, 41, 42, 45 or 52 may apply for up to an additional fifteen percent (15%) of the number of controlled hunt tags. ()

b. Applications will be submitted on a form prescribed by the Department and signed by the applicant. ()

c. Written applications will be accepted on or before May 15 of each year. ()

d. Written applications will be evaluated and ranked by a Sportsmen Review Committee. The Department will determine final eligibility and priority ranking for applications considering Sportsmen Review Committee recommendations. ()

e. Applications must contain one (1) or more of the following: ()

i. Department approved managed public access agreement; ()

ii. Department approved depredation continued use agreement; ()

iii. Department approved habitat improvement agreement; and/or ()

iv. Department approved agreement to provide special sporting opportunity. Veteran and youth hunting opportunities are examples of special sporting opportunity. ()

f. If the number of eligible applications exceeds the number of available Landowner Incentive tags, tags will be issued according to priority ranking and eligibility as determined by the Department. ()

g. Landowner Appreciation Program controlled hunt tag restrictions in Subsection 400.07.c. shall not apply to Landowner Incentive tags. ()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.05 - RULES GOVERNING FISHING CONTESTS

DOCKET NO. 13-0105-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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.

Clarify/simplify the definition of “fishing contest”.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 284 and 285](#).

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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 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 19, 2011.

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:

Clarify/simplify the definition of “fishing contest”.

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 funds greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

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 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 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0105-1101

010. DEFINITIONS.

01. **Catch-and-Release Contest.** Any fishing contest where the contest rules require specific procedures to keep target species of fish alive and healthy and require that all fish caught by participants be released back into the contest water on the same day they were captured. (7-1-93)

02. **Fishing Contest.** Any organized fishing event, ~~which is based on the capture of an individual fish or the size or number of fish and total prize value is greater than one thousand dollars (\$1,000); or the individual entry fee is greater than twenty-five dollars (\$25); or the number of boats is greater than ten (10) or the number of individual contestants is greater than twenty (20); or there is a live fish weigh-in.~~ that: (3-30-07)()

a. Has a live-fish weigh-in: ()

b. Awards cash or prizes of one thousand dollars (\$1,000) or more based on number, size, or species of fish captured; or ()

c. Is expected to draw or have more than twenty (20) participants. ()

d. Events organized wholly for youth under the age of fourteen (14) are excluded from the requirement for a Fishing Contest Permit. ()

03. **Harvest Contest.** Any fishing contest where the contest rules do not require participants keep all target species of fish alive and healthy and release the fish back into contest waters, but allow participants to harvest or kill the fish. (7-1-93)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 36-201, 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.

Change the classification name for Leatherside chub and Bluehead sucker to comply with recent research.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 286 and 287](#).

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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 36-104(b) and 36-201, 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 19, 2011.

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:

Change the classification name for Leatherside chub and Bluehead sucker to comply with recent research.

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 funds greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

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 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 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0106-1101

200. PROTECTED NONGAME SPECIES.

- 01. Mammals.** (7-1-93)
 - a.** American pika -- *Ochotona princeps*. (4-6-05)
 - b.** Bats -- all species. (4-6-05)
 - c.** Chipmunks -- *Neotamias spp.* (4-6-05)
 - d.** Columbia Plateau (Merriam's) ground squirrel -- *Spermophilus canus vigilis*. (4-6-05)
 - e.** Golden-mantled ground squirrel -- *Spermophilus lateralis*. (7-1-93)
 - f.** Great Basin (piute) ground squirrel -- *Spermophilus canus vigilis*. (4-6-05)
 - g.** Kit fox -- *Vulpes macrotis*. (7-1-93)
 - h.** North American wolverine -- *Gulo gulo luscus*. (4-6-05)
 - i.** Northern flying squirrel -- *Glaucomys sabrinus*. (7-1-93)
 - j.** Red squirrel -- *Tamiasciurus hudsonicus*. (7-1-93)
 - k.** Rock squirrel -- *Spermophilus variegatus*. (4-6-05)
 - l.** Southern Idaho ground squirrel -- *Spermophilus brunneus endemicus*. (4-6-05)
 - m.** Wyoming ground squirrel -- *Spermophilus elegans nevadensis*. (4-6-05)
- 02. Birds.** (3-29-10)
 - a.** Bald eagle -- *Haliaeetus leucocephalus*. (3-29-10)
 - b.** Peregrine falcon -- *Falco peregrinus*. (3-29-10)
 - c.** All native species, except game birds and threatened and endangered wildlife. (3-29-10)

- 03. **Amphibians.** All native species (4-6-05)
- 04. **Reptiles.** All native species. (4-6-05)
- 05. **Fish.** (4-6-05)
 - a. Bear Lake sculpin -- *Cottus extensus*. (4-6-05)
 - b. Northern ~~H~~leatherside chub -- ~~Gila~~ Lepidomeda copei. (~~4-6-05~~)()
 - c. Sand roller -- *Percopsis transmontana*. (4-6-05)
 - d. Shoshone sculpin -- *Cottus greenei*. (4-6-05)
 - e. Wood River sculpin -- *Cottus leiopomus*. (4-6-05)
 - f. Bluehead sucker -- *Catostomus discobolus*. ()

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. 13-0108-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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, 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.

Delete references to a wolf trapping permit; clarification and clean of wolf trapping rules; allow wolf trapping near naturally deceased big game carcasses; and clarify and adjust certain Big Game Management Unit descriptions.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 288 through 297.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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

EFFECTIVE DATE: The effective date of the temporary rule is **August 29, 2011**.

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, 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 19, 2011.

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:

Delete references to a wolf trapping permit; clarification and cleanup of wolf trapping rules; allow wolf trapping near naturally deceased big game carcasses; and clarify and adjust certain Big Game Management Unit descriptions.

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, outfitters, and sportsmen's organizations.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to set the rules for 2011 hunting and trapping seasons after delisting.

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

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 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 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-1101

271. WOLF TRAPPING - MANDATORY WOLF TRAPPER EDUCATION CLASS.

~~01. Mandatory Wolf Trapper Education Class.~~ Individuals interested in trapping wolves must purchase a trapping license and successfully complete a wolf trapping education class held by the Idaho Department of Fish and Game prior to ~~purchasing a wolf~~ trapping permit for wolves. A certificate of completion and trapping license will be required to purchase the tags for wolf trapping ~~permit~~. Trappers who complete the class will not be required to take the class again in the future ~~to purchase a wolf trapping permit~~. (4-7-11)()

~~02. Wolf Trapping Permits. Wolf trapping permits will be available only at Idaho Department of Fish and Game offices.~~ (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

410. UNLAWFUL METHODS OF TAKE.

No person shall take big game animals as outlined in this section. (7-1-93)

01. Firearms. (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

- c.** With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)
- d.** With a fully automatic firearm. (10-26-94)
- e.** With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope; except scopes containing battery powered or tritium lighted reticles are allowed. (4-2-08)
- 02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives.** (3-20-97)
- a.** With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. (7-1-93)
- b.** With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)
- c.** With any chemicals or explosives attached to the arrow or bolt. (7-1-93)
- d.** With arrows or bolts having expanding broadheads. (7-1-93)
- e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)
- f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow (except nonmagnifying scopes containing battery powered or tritium lighted reticles may be used by disabled archery permit holders). (5-8-09)
- g.** With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)
- h.** With any compound bow with more than eighty-five percent (85%) let-off. (4-2-08)
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. (4-2-08)
- j.** With an arrow less than twenty-four (24) inches or a crossbow bolt less than twelve (12) inches in length from the broadhead to the nock inclusive. (4-2-08)
- k.** With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
- l.** During an *Archery Only* season, with any firearm, crossbow (except holders of handicapped archery permits), or other implement other than a longbow, compound bow, or recurve bow, or: (3-30-07)

- i. With any device attached that holds a bow at partial or full draw (except holders of handicapped archery permits). (3-30-07)
- ii. With any bow or crossbow equipped with magnifying sights. (3-20-97)
- m.** During a *Traditional Archery Only* season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or:
 - i. With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)
 - ii. With any bow equipped with sights. (3-15-02)
- n.** With any crossbow pistol. (3-20-97)
- 03. Muzzleloaders.** (7-1-93)
 - a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (4-7-11)
 - b.** With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)
 - c.** During a *Muzzleloader Only* season, with any firearm, muzzleloading pistol or other implement other than a muzzleloading rifle or musket which:
 - i. Is at least forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (4-7-11)
 - ii. Is capable of being loaded only from the muzzle. (7-1-93)
 - iii. Is equipped only with open or peep sights. (7-1-93)
 - iv. Is loaded only with loose black powder or, loose Pyrodex or other loose synthetic black powder. Pelletized powders are prohibited. (4-2-08)
 - v. Is equipped with no more than two (2) barrels. (7-1-93)
 - vi. Is loaded only with a projectile with a diameter within one hundredth (.01) of an inch of the bore diameter. Sabots are prohibited. (4-2-08)
 - vii. Is equipped only with flint, musket cap, or percussion cap. 209 primers are prohibited. (4-2-08)
 - viii. Is equipped with an exposed ignition system. (5-8-09)

ix. Is loaded only with a patched round ball or conical non-jacketed projectile comprised wholly of lead or lead alloy. Sabots are not allowed. (4-11-06)

04. Short-Range Weapon. During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)

b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (4-7-11)

c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)

d. With any handgun using straight wall centerfire cartridges not originally developed for rifles. (3-29-10)

05. Other. (7-1-93)

a. With electronic calls EXCEPT for the hunting of mountain lions, black bears, and wolves in seasons set by Idaho Fish and Game Commission proclamation. (4-7-11)

b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, "Rules Governing the Use of Bait for Taking Big Game Animals:"; additionally with the exception that wolves may be trapped or taken near a big game animal that has died naturally and the carcass has not been repositioned for trapping or hunting purposes. Natural causes shall not include any man-caused mortality. Traps or snares may not be set or placed within thirty (30) feet of a carcass of a big game animal. (~~3-30-01~~)()

c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs." (7-1-93)

d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment; EXCEPT wolves may be trapped or snared in seasons set by Idaho Fish and Game Commission proclamation and subject to all trapping rules in IDAPA 13.01.16 "The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals." (4-7-11)

e. Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule shall not apply to domestic cervidae which are lawfully privately owned elk, fallow deer, or reindeer. (4-6-05)

f. With radio telemetry or other electronic tracking devices used as an aid to locate big game animals. This rule does not affect the use of telemetry equipment on hounds or other sporting dogs. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

600. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS.

Subsections 600.01 through 600.65 have no changes and are not republished here.

66. Unit 52A. Those portions of BLAINE, BUTTE, LINCOLN, and MINIDOKA COUNTIES within the following boundary: beginning at Shoshone, then north and east on U.S. 93 to the Arco-Minidoka Road (approximately two (2) miles SW of Arco), then south on the Arco-Minidoka Road to the East Minidoka Road (approximately two (2) miles east of Minidoka), then northwest on the East Minidoka Road to Minidoka, then northwest on State Highway 24 to Shoshone, the point of beginning. CRATERS OF THE MOON NATIONAL MONUMENT-CLOSED. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting.

~~(3-15-02)~~()

67. Unit 53. Those portions of BLAINE, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA, POWER, and TWIN FALLS COUNTIES within the following boundary: beginning at Twin Falls, then west and north on U.S. 30 to the Snake River, then down the Snake River to the Malad River, then up the Malad River to U.S. 30, then northwest on U.S. 30 to Bliss, then east on U.S. 26 to Shoshone, then southeast on State Highway 24 to Minidoka, then east on the ~~Union Pacific railroad tracks~~ East Minidoka Road approximately one (1) mile to the Minidoka-Blaine County line, then south along the Minidoka-Blaine County line to the Minidoka National Wildlife Refuge, then southeast along the refuge boundary to the Cassia-Power County line, then south along the Cassia-Power County line to Interstate 86 near Raft River, then west on Interstate 86 to Yale Road, then southwest on Yale Road over Interstate 84 to State Highway 81, then west on State Highway 81 to Burley, then west on U.S. 30 to Twin Falls, the point of beginning. MINIDOKA NATIONAL WILDLIFE REFUGE-CLOSED.

~~(7-1-93)~~()

68. Unit 54. Those portions of CASSIA and TWIN FALLS COUNTIES within the following boundary: beginning at Burley, then west on U.S. 30 to U.S. 93 west of Twin Falls, then south on U.S. 93 to the Idaho-Nevada State line, then east along the state line to the Oakley-Goose Creek Road, then north on Oakley-Goose Creek Road to Oakley, then north on State Highway 27 to Burley, the point of beginning.

(7-1-93)

69. Unit 55. That portion of CASSIA COUNTY within the following boundary: beginning at Burley, then south on State Highway 27 to Oakley, then south on the Oakley-Goose Creek Road to the Idaho-Utah State line, then east on the state line to the Strevell-Malta Road, then north on Strevell-Malta Road to Malta and State Highway 81, then northwest on State Highway 81 to Burley, the point of beginning. (7-1-93)

70. Unit 56. Those portions of CASSIA, ONEIDA, and POWER COUNTIES within the following boundary: beginning at the Yale Road-State Highway 81 junction, then northeast on Yale Road over Interstate 84 to Interstate 86, then east on Interstate 86 to State Highway 37, then south on State Highway 37 to Holbrook, then south on the Holbrook-Stone Road to the Idaho-Utah State line, then west on the state line to Interstate 84, then northwest on Interstate 84 to the Malta-Sublett Road, then west on Malta-Sublett Road to its junction with State Highway 81, then north on State Highway 81 to the point of beginning. (7-1-93)

71. Unit 57. Those portions of CASSIA and ONEIDA COUNTIES within the following boundary: beginning at Malta, then east on the Malta-Sublett Road to Interstate 84, then southeast on Interstate 84 to the Idaho-Utah State line, then west on the state line to the Malta-Strevell Road, then northwest on Malta-Strevell Road to Malta, the point of beginning. (7-1-93)

72. Unit 58. Those portions of BUTTE, CLARK, JEFFERSON, and LEMHI COUNTIES within the Birch Creek drainage northwest of State Highway 22. (3-30-01)

73. Unit 59. That portion of CLARK COUNTY within the following boundary: beginning at Dubois, then north on Interstate 15 to the Idaho-Montana State line, then west along the state line to Bannock Pass (Clark County), then south on Medicine Lodge Road to State Highway 22, then east on State Highway 22 to Dubois, the point of beginning. (7-1-93)

74. Unit 59A. Those portions of CLARK, JEFFERSON, and LEMHI COUNTIES within the following boundary: beginning at Bannock Pass (Clark County) on the Idaho-Montana State line, then west along the state line to the watershed divide between Birch and Crooked Creeks, then south along the divide through Reno Point to State Highway 22, then east on State Highway 22 to Medicine Lodge Road, then north on Medicine Lodge Road to Bannock Pass, the point of beginning. (7-1-93)

75. Unit 60. Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at Ashton, then north on U.S. 191-20 to the old (south) Shotgun Valley Road, then west on Shotgun Valley Road to Idmon, then south on the Rexburg-Kilgore Road (Red Road) to the Camas Creek-Jackson Mill Springs Road, then east on Camas Creek-Jackson Mill Springs Road to the Hamilton Hill Road, then southeast on the Hamilton Hill Road to the Sand Creek Road, then southeast on the Sand Creek Road to the old Yellowstone Highway, then east on old Yellowstone Highway to U.S. 191-20, then north on U.S. 191-20 to Ashton, the point of beginning. HARRIMAN STATE PARK WILDLIFE REFUGE-CLOSED. (7-1-93)

76. Unit 60A. Those portions of CLARK, FREMONT, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at Spencer, east on the Spencer-Kilgore Road to Idmon, then south on the Rexburg-Kilgore Road (Red Road) to the Camas Creek-Jackson Mill Springs Road, then east on Camas Creek-Jackson Mill Springs Road to the Hamilton Hill Road, then southeast on the Hamilton Hill Road to the Sand Creek Road, then south on the Sand

Creek Road to the old Yellowstone Highway, then south on old Yellowstone Highway to U.S. 191-20, then south on U.S. 191-20 to Rexburg, then west on State Highway 33 to Sage Junction, then north on Interstate 15 to Spencer, the point of beginning. (7-1-93)

77. Unit 61. Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at Spencer, east on the Spencer-Kilgore Road to Idman, then east on the old (south) Shotgun Valley Road to U.S. 191, then south on U.S. 191 to State Highway 47, then southeast on State Highway 47 to the North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on the Pineview-Island Park Road to the Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then north along the Yellowstone Park boundary to the Idaho-Montana State line, then west to Monida Pass, then south on Interstate 15 to Spencer, the point of beginning. (4-5-00)

78. Unit 62. Those portions of FREMONT, MADISON, and TETON COUNTIES within the following boundary: beginning at the Leigh Creek Road on the Idaho-Wyoming State line, north along the state line to the Yellowstone Park boundary, then northwest along the Yellowstone Park boundary to Robinson Creek, then downstream to State Highway 47, then southwest on State Highway 47 to Ashton, then south on U.S. 191 to State Highway 33, then east on State Highway 33 to Leigh Creek Road east of Tetonia, then east on Leigh Creek Road to the state line, the point of beginning. (7-1-93)

79. Unit 62A. That portion of FREMONT COUNTY within the following boundary: beginning at Ashton, then north on U.S. 191 to State Highway 47, then south on State Highway 47 to the North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on the Pineview-Island Park Road to the Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then south along the park boundary to Robinson Creek, then downstream to State Highway 47, then southwest on State Highway 47 to Ashton, the point of beginning. HARRIMAN STATE PARK WILDLIFE REFUGE - CLOSED. (7-1-93)

80. Unit 63. Those portions of BINGHAM, BONNEVILLE, BUTTE, CLARK, and JEFFERSON COUNTIES within the following boundary: beginning at Blackfoot then north on Interstate 15 to Dubois, then southwest on State Highway 22 to U.S. 20-26, then southeast on U.S. 26 to Interstate 15 at Blackfoot, the point of beginning. Camas National Wildlife Refuge - CLOSED. (3-30-01)

81. Unit 63A. Those portions of BONNEVILLE, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at Idaho Falls, then east on U.S. 26 to the spot directly above the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then north across the South Fork of the Snake River to the Heise-Archer-Lyman Road (Snake River Road), then northwest on Heise-Archer-Lyman Road to U.S. 191, then north on U.S. 191 to Rexburg, then west on State Highway 33 to Interstate 15 (Sage Junction), then south on Interstate 15 to Idaho Falls, then east on Broadway Street to U.S. 26, the point of beginning. (7-1-93)

82. Unit 64. Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning at the junction of State Highway 33 and U.S. 191 at Sugar City, then south on U.S. 191 to the Lyman-Archer-Heise Road (Snake River Road), then southeast on Lyman-Archer-Heise Road to the Kelly Canyon-Tablerock Road, then east on Kelly Canyon-Tablerock Road to the Hawley Gulch Road (Forest Service Road 218), then east on Hawley Gulch Road to the Moody Swamp Road (Forest Service Road 226), then northeast on Moody Swamp Road to the head of Hilton Creek, then east along the watershed divide between Big Burns and Canyon Creeks to Garns Mountain, then north along the watershed divide between Canyon Creek and Teton River to Grandview Point, then north down the Milk Creek Road to State Highway 33, then west on State Highway 33 to U.S. 191, the point of beginning. (7-1-93)

83. Unit 65. Those portions of BONNEVILLE, MADISON, and TETON COUNTIES within the following boundary: beginning on the Leigh Creek Road at the Idaho-Wyoming State line east of Tetonia, west to State Highway 33, then west on State Highway 33 to Milk Creek Road, then south on Milk Creek Road to Grandview Point, then south along the watershed divide between Canyon Creek and Teton River to Garns Mountain, then southeast along the watershed divide between Pine Creek and Teton River over Red Mountain to Pine Creek Pass, then east on State Highway 31 to Victor, then southeast on State Highway 33 to the state line, then north to the Leigh Creek Road, the point of beginning. (7-1-93)

84. Unit 66. Those portions of BINGHAM and BONNEVILLE COUNTIES within the following boundary: beginning at the Idaho-Wyoming State line on the South Fork of the Snake River, then downstream to the Swan Valley bridge on U.S. 26, then northwest on U.S. 26 to the watershed divide between Granite and Garden Creeks, then southwest along the divide and the divides between Garden-Antelope Creeks, Antelope-Pritchard Creeks and Fall-Tex Creeks to the Fall Creek Road (Forest Service Road 077), then west on Fall Creek Road to Skyline Ridge Road (Forest Service Road 077), then south on Skyline Ridge Road to Brockman Guard Station, then down Brockman Creek to Grays Lake Outlet, then upstream along the outlet to the Bone-Grays Lake Road, then east on Bone-Grays Lake Road through Herman to the McCoy Creek Road (Forest Service Road 087), then east on the McCoy Creek Road to the Idaho-Wyoming State line, then north to the point of beginning. (7-1-93)()

85. Unit 66A. Those portions of BONNEVILLE and CARIBOU COUNTIES within the following boundary: beginning on the McCoy Creek Road (Forest Service Road 087) at the Idaho-Wyoming State line, west on McCoy Creek Road through Herman to the Bone-~~Road-Grays Lake Road~~, then west on the Bone-Grays Lake Road to the West Side Road west of Grays Lake, then south on the Bone West Side Road to State Highway 34, then east on State Highway 34 to the state line, then north along the state line to the point of beginning. (7-1-93)()

86. Unit 67. Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning on State Highway 33 at the Idaho-Wyoming State line, then northwest to Victor, then southwest on State Highway 31 to Pine Creek Pass, then northwest along the watershed divide between Pine Creek and Teton River over Red Mountain to Garns Mountain, then west along the watershed divide between Big Burns and Canyon Creeks to the Moody Swamp Road (Forest Service Road 226) at Hilton Creek, then west on Moody Swamp Road to the Hawley Gulch Road (Forest Service Road 218), then west on Hawley Gulch Road and the Kelly Canyon Road to the South Fork Snake River Road, then

upstream to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then due south across the river to the mean high water line on the south shore of the South Fork Snake River, then upstream along the mean high water line to the divide between Garden and Granite Creeks in Conant Valley, then south up the divide to U.S. 26, then southeast on U.S. 26 to the Swan Valley bridge, then up the South Fork Snake River to the Idaho-Wyoming State line, then north on the state line to State Highway 33, the point of beginning. (7-1-93)

87. Unit 68. Those portions of BINGHAM, BLAINE, BUTTE, CASSIA, MINIDOKA, and POWER COUNTIES within the following boundary: beginning at Arco, then southeast on U.S. 26 to Blackfoot, then southwest on State Highway 39 to American Falls, then southwest on Interstate 86 to the Cassia-Power County line east of Raft River, then north along the Cassia-Power county line to the north bank of the Snake River, then northwest along the northern boundary of the Minidoka National Wildlife Refuge to the Minidoka-Blaine County line, then north along the Minidoka-Blaine County line to the Union Pacific Railroad tracks East Minidoka Road, then west on the tracks to Minidoka east on the East Minidoka Road approximately one (1) mile to the Arco-Minidoka Road, then north on the Minidoka-Arco Road to U.S. 93 approximately two (2) miles southwest of Arco, then northeast approximately two (2) miles on U.S. 93 to Arco, the point of beginning. (~~3-30-01~~)()

88. Unit 68A. Those portions of BANNOCK, BINGHAM, BONNEVILLE, and POWER COUNTIES within the following boundary: beginning at American Falls, then northeast on State Highway 39 to U.S. 26 near Blackfoot, then east on U.S. 26 to Interstate 15, then north on Interstate 15 to Idaho Falls, then east on Broadway Street to U.S. 91 (Old Yellowstone Highway), then south on U.S. 91 to Interstate 15, then south on Interstate 15 to Interstate 86, then southwest on Interstate 86 to American Falls, the point of beginning. (7-1-93)

89. Unit 69. Those portions of BINGHAM, BONNEVILLE, and CARIBOU COUNTIES within the following boundary: beginning at Idaho Falls, then south on U.S. 91 to Blackfoot, then south on Interstate 15 to the Fort Hall interchange, then east on the Fort Hall-Government Dam Road to the Blackfoot River below the Government Dam, then along the north and east shore of the Blackfoot River and Reservoir to State Highway 34, then north on State Highway 34 to the Bone West Side Road, then north on the Bone West Side Road west of Grays Lake to the Bone-Grays Lake Road, then east on the Bone-Grays Lake Road to Grays Lake Outlet, then downstream along the outlet to Brockman Creek, then up Brockman Creek to the Brockman Guard Station, then northwest on the Skyline Ridge Road (Forest Service Road 077) to Fall Creek Road (Forest Service Road 077), then east on the Fall Creek Road to the watershed divide between Fall and Tex Creeks, then north along the Fall Creek-Tex Creek, Antelope Creek-Pritchard Creek, Antelope Creek-Garden Creek and Garden Creek-Granite Creek watershed divides to the South Fork of the Snake River, then downstream along the mean high water line on the south shore of the South Fork to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then southwest to U.S. 26, then west on U.S. 26 to Idaho Falls, the point of beginning. (~~7-1-93~~)()

90. Unit 70. Those portions of BANNOCK and POWER COUNTIES within the following boundary: beginning at the junction of Interstate 86 and Interstate 15 near Pocatello, then west on Interstate 86 to the Bannock Creek-Arbon Valley Highway, then south along Bannock Creek-Arbon Valley Highway to Mink Creek-Arbon Valley junction near Pauline, then northeast along Mink Creek Road to the Rattlesnake Creek Road, then east along the Rattlesnake

Creek-Garden Gap-Arimo Road, then southeast on Rattlesnake Creek-Garden Gap-Arimo Road to Arimo, then north on Interstate 15 to the point of beginning. (7-1-93)

91. Unit 71. Those portions of BANNOCK, BINGHAM, and CARIBOU COUNTIES within the following boundary: beginning at Bancroft, then north on the Bancroft-Chesterfield Road to Chesterfield Dam, then upstream on the Portneuf River to the Government Dam-Fort Hall Road, then west to Fort Hall interchange, then south on Interstate 15 to U.S. 30, then east to the Pebble-Bancroft county road (old U.S. 30N), then northeast to Bancroft, the point of beginning. (7-1-93)

92. Unit 72. Those portions of BINGHAM and CARIBOU COUNTIES within the following boundary: beginning at State Highway 34 on the Blackfoot River, then west along the east and north shore of the Blackfoot River and Reservoir to the Government Dam Road, then west on the Government Dam-Fort Hall Road to the Portneuf River, then downstream to Chesterfield Dam, then south on the Chesterfield-Bancroft Road to Bancroft, then east on the Pebble-Bancroft county road (old U.S. 30N) to U.S. 30N-State Highway 34, then northeast on State Highway 34 to the point of beginning. (7-1-93)

93. Unit 73. Those portions of BANNOCK, FRANKLIN, POWER, and ONEIDA COUNTIES within the following boundary: beginning on U.S. 91 at the Idaho-Utah State line, then north to Arimo, then northwest on the Arimo-Garden Gap-Rattlesnake Road to the Mink Creek Highway, then south along Mink Creek Highway to the Arbon Valley Highway near Pauline, then south on the Arbon Valley Highway to State Highway 37, then west to Holbrook, then south on the Holbrook-Stone Road to the Idaho-Utah State line, then east along the state line to U.S. 91, the point of beginning. (7-1-93)

94. Unit 73A. Those portions of BANNOCK, ONEIDA, and POWER COUNTIES within the following boundary: beginning at Holbrook, then north on State Highway 37 to Interstate 86, then northeast on Interstate 86 to the Bannock Creek-Arbon Valley Highway, then south on Bannock Creek-Arbon Valley Highway to State Highway 37, then west to Holbrook, the point of beginning. (7-1-93)

95. Unit 74. Those portions of BANNOCK, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Preston, then north on U.S. 91 to Interstate 15, then north on Interstate 15 to U.S. 30N, then east on U.S. 30N to the Pebble-Bancroft county road (old U.S. 30N), then northeast to State Highway 34, then south on State Highway 34 to Preston, the point of beginning. (7-1-93)

96. Unit 75. Those portions of BEAR LAKE, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Montpelier, then northwest on U.S. 30 to State Highway 34, then south to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on the Hot Springs-Strawberry Canyon Road to the Strawberry Canyon-Emigration Canyon Road, then east on Strawberry Canyon-Emigration Canyon Road to Ovid, then east on U.S. 89 to Montpelier, the point of beginning. (7-1-93)

97. Unit 76. Those portions of BEAR LAKE and CARIBOU COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Montpelier, then north on U.S. 30 to Soda Springs, then northeast on State Highway 34 to the Idaho-Wyoming

State line, then south on the Idaho-Wyoming State line to the Idaho-Utah State line, then west on the Idaho-Utah State line to U.S. 89, the point of beginning. (7-1-93)

98. Unit 77. That portion of FRANKLIN COUNTY within the following boundary: beginning at U.S. 91 on the Idaho-Utah State line, then north to Preston, then north on State Highway 34 to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on the Hot Springs-Strawberry Canyon Road to the Strawberry Canyon-Emigration Canyon Road, ~~then east to the Franklin-Bear Lake County line, then south on the county line to the ridge at the head of Hillyard Canyon, then west approximately one mile along the ridge to the Franklin Basin Road, then south to the Idaho-Utah State line~~ then south on the Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415), then south on the Franklin Basin Road to the Idaho-Utah State line, then west on the state line to U.S. 91, the point of beginning. (7-1-93)()

99. Unit 78. Those portions of BEAR LAKE and FRANKLIN COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Ovid, then west on the Emigration Canyon-Strawberry Canyon Road ~~to the Bear Lake-Franklin County line, then south to the ridge at the head of Hillyard Canyon, then west approximately one mile along the ridge to Franklin Basin Road, then south on the Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415)~~, then south on Franklin Basin Road to the Idaho-Utah State line, then east on the state line to U.S. 89, the point of beginning. (7-1-93)()

601. -- 604. (RESERVED)

605. ELK ZONE DESCRIPTIONS.

- 01. Panhandle Zone.** All of Units 1, 2, 3, 4, 4A, 5, 6, 7, and 9. (7-1-99)
- 02. Palouse Zone.** All of Units 8, 8A, and 11A. (7-1-99)
- 03. Dworshak Zone.** All of Unit 10A. (7-1-99)
- 04. Hells Canyon Zone.** All of Units 11, 13, and 18. (7-1-99)
- 05. Lolo Zone.** All of Units 10 and 12. (7-1-99)
- 06. Elk City Zone.** All of Units 14, 15, and 16. (7-1-99)
- 07. Selway Zone.** All of Units 16A, 17, 19, and 20. (7-1-99)
- 08. Middle Fork Zone.** All of Units 20A, 26, and ~~36B~~ 27. (7-1-99)()
- 09. Salmon Zone.** All of Units 21, 21A, ~~27, and~~ 28, and 36B. (4-5-00)()
- 10. Weiser River Zone.** All of Units 22, 32, and 32A. (4-5-00)
- 11. McCall Zone.** All of Units 19A, 23, 24, and 25. (7-1-99)

12. **Lemhi Zone.** All of Units 29, 37, 37A, and 51. (7-1-99)
13. **Beaverhead Zone.** All of Units 30, 30A, 58, 59, and 59A. (7-1-99)
14. **Brownlee Zone.** All of Unit 31. (7-1-99)
15. **Sawtooth Zone.** All of Units 33, 34, 35, and 36. (7-1-99)
16. **Pioneer Zone.** All of Units 36A, 49, and 50. (7-1-99)
17. **Owyhee-South Hill Zone.** All of Units 38, 40, 41, 42, 46, 47, 54, 55, and 57. (4-5-00)
18. **Boise River Zone.** All of Unit 39. (7-1-99)
19. **Smoky Mountains Zone.** All of Units 43, 44, and 48. (3-15-02)
20. **Bennett Hills Zone.** All of Units 45 and 52. (7-1-99)
21. **Big Desert Zone.** All of Units 52A and 68. (4-7-11)
22. **Island Park Zone.** All of Units 60, 60A, 61, and 62A. (7-1-99)
23. **Teton Zone.** All of Units 62 and 65. (7-1-99)
24. **Palisades Zone.** All of Units 64 and 67. (7-1-99)
25. **Tex Creek Zone.** All of Units 66 and 69. (7-1-99)
26. **Bannock Zone.** All of Units 56, 70, 71, 72, 73, 73A, and 74. (7-1-99)
27. **Bear River Zone.** All of Units 75, 77, and 78. (7-1-99)
28. **Diamond Creek Zone.** All of Units 66A and 76. (7-1-99)
29. **Snake River Zone.** All of Units 53, 63, 63A, and 68A. (3-15-02)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0109-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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), 36-105, 36-1101 and 36-1102, 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.

Amend the Youth Waterfowl Day to correspond to the federal age qualification; and amend obsolete references to seasons, bag limits, and possession limits which are set by Commission Proclamation.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 300 through 309.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2011**.

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), 36-105, 36-1101, and 36-1102, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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:

Amend the Youth Waterfowl Day to correspond to the federal age qualification; and amend obsolete references to seasons, bag limits, and possession limits which are set by Commission Proclamation.

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.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group representing youth waterfowl hunters, and the need to correct obsolete 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:
N/A

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 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 26, 2011.

DATED this 26th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0109-1101

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, *common 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. (7-1-98)()

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 not obtain both a spring general and a spring controlled turkey tag during the spring.~~ 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. (5-8-09)()

b. Permits for Controlled Hunts: Any person who receives a controlled hunt permit for wild turkey is prohibited from using that permit ~~tag~~ to hunt in any other wild turkey controlled

hunt.

~~(4-5-00)~~()

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)

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. (7-1-98)()

~~**a.** *Controlled Hunts: No person shall hunt Canada geese during controlled, early September seasons (September 1-15) without having in his or her possession the appropriate hunting license and controlled hunt permit. Persons obtaining and using controlled hunt permits must comply with the following requirements:*~~ (7-1-98)

~~**i.** *Applications: Applications for 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 July 15, annually. Applications must comply with the following requirements:*~~ (4-5-00)

~~**ii.** *Fees: All applicants for controlled hunts must submit a nonrefundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. Successful applicants will be issued a permit that entitles them to hunt. The Federal Migratory Bird Stamp is required by any person seventeen (17) years of age and older, respectively (Title 50 Code of Federal Regulations, Part 20).*~~ (3-30-01)

~~**iii.** *The following rules previously established for wild turkey also apply to early September Canada goose hunts: Subsections 100.03.b., 100.03.c., 100.03.d., 100.03.e.ii., 100.03.e.iv. through 100.03.e.vi., and 100.03.f.*~~ (3-30-01)

~~**iv.** *Any controlled hunt permits for Canada geese that remain unsold after the controlled hunt drawing may be sold by the Department on a first-come, first-served basis.*~~ (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

300. UPLAND GAME BIRD METHODS OF TAKE.

01. Taking of Upland Game Birds. No person shall take upland game birds: (7-1-93)

a. Except wild turkey, from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. ~~Pheasants shall not be taken before twelve o'clock noon on the opening day in certain counties (see Rule 11, Pheasant Seasons).~~ Wild turkey shall not be taken between sunset and one-half (1/2) hour before sunrise. Upland game birds shall not be taken before 10 a.m. during the pheasant season on the Fort Boise, Montour, Payette River and C.J. Strike Wildlife Management Areas. (4-7-11)()

b. With a trap, snare, net, crossbow, or firearms EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, hand-held or thrown missiles, EXCEPT forest grouse. Forest grouse shall not be taken with a trap, snare, net, or crossbow. (3-30-01)

c. From any watercraft. (4-7-11)

d. By the use or aid of any electronic call. (7-1-93)

e. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (7-1-93)

f. When hunting on Wildlife Management Areas where pheasants are stocked without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. (5-8-09)

02. Wild Turkey. In addition to the methods listed above, wild turkey may not be taken: (7-1-93)

a. With lead shot exceeding BB size. (7-1-93)

b. With steel shot exceeding T size. (7-1-93)

c. By the use of dogs, except during fall hunts. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

600. PHEASANT SEASONS, BAG AND POSSESSION LIMITS.

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. ()

~~**01. Area 1.** Area 1 includes Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

~~**02. Area 2.** Area 2 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Minidoka, Oneida, Power, Twin Falls, and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

~~**03. Area 3.** Area 3 includes Ada, Adams, Boise, Blaine, Camas, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Owyhee, Payette, Twin Falls, Valley, and Washington Counties (including all islands in the Snake River EXCEPT PATCH AND PORTER ISLANDS). Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

041. WMA Upland Game Permit. (4-2-08)

a. Permit Requirement. Any person seventeen (17) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas must have a valid WMA Upland Game Bird Permit in his or her possession. (5-8-09)

b. Permit Limit. The WMA Upland Game Bird Permit limit is six (6) cocks. Additional permits may be purchased. (4-2-08)

c. Recording Harvest. Any person harvesting a pheasant on any of the Wildlife Management Areas listed in Subsection 600.041.a. must immediately record their harvest, in writing, on the back of their permit. (4-6-05)()

052. Youth Pheasant Season. This season shall be open statewide. (7-1-99)

a. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)

b. The Youth Pheasant Season shall be open for all licensed hunters fifteen (15) years of age or younger. All youth hunters must be accompanied by an adult eighteen (18) years or older. One (1) adult may take more than one (1) youth hunter. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

603. BOBWHITE QUAIL AND CALIFORNIA QUAIL SEASONS, BAG AND POSSESSION LIMITS.

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

~~**01. Area 1.** Area 1 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton Counties. Season for quail in Area 1 is CLOSED. (5-3-03)~~

~~**02. Area 2.** Area 2 includes Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Gem, Gooding, Idaho, Kootenai, Latah, Lewis, Nez Perce, Payette, Shoshone, Valley, Jerome, Lincoln, Minidoka, Twin Falls, Elmore, Washington, and Owyhee Counties. 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. (4-2-08)~~

(BREAK IN CONTINUITY OF SECTIONS)

605. SAGE GROUSE SEASONS, BAG AND POSSESSION LIMITS.

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

~~**01. Area 1.** Ada, Adams, Benewah, Blaine County within the Salmon River drainage, Boise, Bonner, Boundary, Canyon, Cassia County south of Interstate 86 and east of Interstate 84, Clearwater, Custer County within the Salmon River drainage upstream from and including Valley Creek, Elmore County EXCEPT that portion south and east of US Highway 20 and north of Interstate 84, Payette, Power County south of Interstate 86, Shoshone, Valley, and Washington counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

~~**02. Area 2.** Bannock, Bear Lake, Bingham, Blaine County east of the Arco-Minidoka road, Bonneville, Butte County south of US Highways 20/26 and 22/33 and the entire Birch Creek drainage, Caribou, Cassia EXCEPT that portion south of Interstate 86 and east of Interstate 84, Clark, Franklin, Fremont, Jefferson, Lemhi County within the Birch Creek drainage, Madison, Oneida EXCEPT that portion north and east of Interstate 84, Owyhee County north of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River, Owyhee County east of the Bruneau River, Power County north of Interstate 86, Twin Falls and~~

~~Teton County north of Interstate 86, Twin Falls and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

~~**03. Area 3.** Blaine County EXCEPT that part within the Salmon River drainage and that part east of the Arco-Minidoka Road, that part of Butte County north of US Highway 22/33 not within the Birch Creek drainage, and that part west of the Arco-Minidoka Road, Camas, Custer County EXCEPT that portion within the Salmon River drainage upstream from and including Valley Creek, Elmore County south and east of US Highway 20 and north of Interstate 84, Gooding, Jerome, Lemhi County EXCEPT that portion within the Birch Creek drainage, Lincoln, Minidoka, Owyhee County south of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River and west of the Bruneau River. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

606. SHARP-TAILED GROUSE SEASONS, BAG AND POSSESSION LIMITS.

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

~~**01. Area 1.** Area 1 includes the following counties or portions of counties: Ada, Adams, Bannock County west of Interstate 15 and north of Interstate 86, Benewah, Bingham County west of Interstate 15, Blaine, Boise, Bonner, Bonneville County west of Interstate 15, Boundary, Butte, Camas, Canyon, Cassia County west of Interstate 84 north of the Malta-Sublett Road and west of the Malta-Strevell Road, Clark County west of Interstate 15, Clearwater, Custer, Elmore, Gem, Gooding, Idaho, Jefferson County west of Interstate 15, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power County north of Interstate 86, Shoshone, Twin Falls, Valley, and Washington County. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

~~**02. Area 2.** Area 2 includes the following counties or portions of counties: Bingham County east of Interstate 15, Bonneville County east of Interstate 15, Clark County east of Interstate 15, Fremont, Jefferson County east of Interstate 15, Madison, Teton County, Bannock County east of Interstate 15 and south of Interstate 86, Bear Lake County, Caribou County, Cassia County east of Interstate 84 and that portion west of Interstate 84 south of the Malta-Sublett Road and east of the Malta-Strevell Road, Franklin County, Oneida County, and Power County south of Interstate 86. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

607. -- 614. (RESERVED)

615. SANDHILL CRANES.

No person shall hunt sandhill cranes without having in his or her possession the appropriate

hunting license ~~and controlled hunt permit. Persons obtaining and using a permit must comply with the following requirements:~~ that has been validated for the Federal Migratory Bird Harvest Information Program (Federal HIP). (7-1-98)()

~~**01. Applications.** Applications for 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 July 15, annually. (4-5-00)~~

~~**02. Fees.** All applicants for controlled hunts must submit a nonrefundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. Successful applicants will be issued a permit that entitles them to hunt. (The Federal Migratory Bird Stamp is not required.) (Idaho Code 36-414; Title 50 Code of Federal Regulations, Part 20.) (3-30-01)~~

~~**03. Hunt Rules.** (7-1-98)~~

~~**a.** The following rules previously established for wild turkey hunts also apply to sandhill crane hunts. Subsections 100.03.b., 100.03.c., 100.03.d., 100.03.e.ii, 100.03.e.iv through 100.03.e.vi., and 100.03.f. through 100.03.i. (3-30-01)~~

~~**b.** Any controlled hunt permits for sandhill cranes that remain unsold after the controlled hunt drawing may be sold by the Department on a first-come, first-served basis. (7-1-98)~~

616. SANDHILL CRANE SEASONS AND BAG AND POSSESSION LIMITS.

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)

~~**01. Controlled Hunts.** Controlled hunt areas include the following: (7-1-98)~~

~~**a.** Area 1 includes all of Bear Lake County and all of Caribou County EXCEPT that portion downstream from the dam at Alexander Reservoir south of U.S. Highway 30, and that portion lying within the Grays Lake Basin. (5-3-03)~~

~~**b.** Area 2 includes all of Teton County. (5-3-03)~~

~~**c.** Area 3 includes all of Fremont County. (5-3-03)~~

~~**d.** Area 4 includes all of Bonneville County. (5-8-09)~~

~~**e.** Area 5 includes all of Jefferson County. (5-8-09)~~

617. -- 619. (RESERVED)

620. EARLY SEPTEMBER CANADA GOOSE SEASONS AND BAG AND POSSESSION LIMITS.

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and

possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ()

~~**01. General Hunts.** General hunts include the following: All of Nez Perce County
EXCEPT: (5-3-03)~~

~~**a.** Mann Lake closure in Lewiston Orchards. This includes all of the lake and three hundred (300) yards beyond the Bureau of Reclamation property encompassing the lake. (5-3-03)~~

~~**b.** Lewiston Preserve along the Clearwater River from Lewiston City limits to Spalding between Highway 12-95 on the north side of the river and the Camas Prarie Railroad on the south side. (5-3-03)~~

~~**c.** Lewiston City limits on the Clearwater River and the Snake River. (5-3-03)~~

~~**d.** Hellsgate State Park along the Snake River from the north end of the park upstream to the besalt bluffs opposite Asotin. (5-3-03)~~

~~**02. General Hunt Seasons, Bag and Possession Limits, and Permits.** Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)~~

(BREAK IN CONTINUITY OF SECTIONS)

900. MIGRATORY GAME BIRD SEASONS, BAG AND POSSESSION LIMITS.

01. Mourning Dove. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (4-6-05)

02. Ducks Including Mergansers and American Coot. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)()

~~**a.** Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)~~

~~**b.** Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93~~

~~north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)~~

~~e. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. (3-30-01)~~

~~d. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)~~

03. Common Wilson's Snipe. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)()

~~a. Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)~~

~~b. Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)~~

~~e. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge;~~

~~Twin Falls; and Washington Counties. (3-30-01)~~

~~d. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)~~

04. Geese Including Dark Geese -- Black Brant, Canada, Emperor, and White-Fronted, and Light Geese - Ross' and Snow. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (9-1-93)()

~~a. Area 1 includes the following counties: Benewah; Bonner; Boundary; Clearwater; Idaho; Kootenai; Latah; Lewis; Nez Perce; and Shoshone Counties. (9-1-93)~~

~~b. Area 2 includes the following counties or portions of counties: Ada; Adams; Boise; Canyon; those portions of Elmore north and east of Interstate 84, and south and west of Interstate 84 west of State Highway 51, EXCEPT that portion within the Camas Creek drainage; Gem; Owyhee west of State Highway 51; Payette; Valley; and Washington Counties. (9-1-93)~~

~~c. Area 3 includes the following counties or portions of counties: Blaine; Camas; Cassia; those portions of Elmore south of Interstate 84 east of State Highway 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of State Highway 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls Counties. (7-1-99)~~

~~d. Area 4 includes the following counties or portions of counties: Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville; Butte; Caribou EXCEPT the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; and Teton Counties. EXCEPT, Fremont and Teton Counties are CLOSED to the taking of light geese. (7-1-99)~~

~~e. Area 5 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (7-1-93)~~

~~f. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)~~

05. Youth Waterfowl Hunting Day. (7-1-98)()

a. The youth waterfowl hunting day is open only to youth from twelve (12) through fifteen (15) years of age and younger. Any youth participating must: (7-1-98)()

i. Have in his or her possession the appropriate, valid hunting license. (The Idaho Migratory Waterfowl Stamp and the Federal Migratory Bird stamp are is not required (Idaho Code 36-414; Title 50 Code of Federal Regulations, Part 20)). (7-1-98)()

ii. Be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (7-1-98)

b. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.10 - RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 36-103, 36-104(b), 36-501, and 36-504, 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.

Amend the wildlife salvage rules to allow increased salvage of commercially valuable wildlife.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 312 through 314.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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 36-103, 36-104(b), 36-501, and 36-504, 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 19, 2011.

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:

Amend the wildlife salvage rules to allow increased salvage of commercially valuable wildlife.

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 funds greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

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 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 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0110-1101

300. RECOVERY, POSSESSION AND SALE OF WILDLIFE PARTS.

01. Wildlife Legally Killed. (3-23-94)

a. The possession, sale and purchase of wildlife or parts of wildlife that have been legally killed is lawful except as provided below and as provided in Chapter 5, Title 36, Idaho Code. (3-23-94)

i. The edible flesh of wildlife classified as big game animals, upland game animals, game birds, migratory birds, or rattlesnakes taken from the wild may not be purchased, bartered or sold. (4-7-11)

ii. The edible flesh of wildlife classified as game fish or crustacea that are taken from the wild may not be purchased, bartered or sold except as provided in Idaho Code Sections 36-501 and 36-801 through 36-805 and rules promulgated pursuant thereto. (3-23-94)

iii. The annual sale by holders of a valid Idaho hunting, trapping or combination hunting and fishing license of up to six (6) skins of legally taken rattlesnakes is lawful pursuant to IDAPA 13.01.06, "Classification and Protection of Wildlife," Subsection 300.02 and Subsection 100.06 of this rule. (4-7-11)

b. A written statement showing the taker's name, address, license and tag numbers, date and location of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Idaho Department of Fish and Game within ten (10) days after such sale. A department CE-50, Statement of Sale/Purchase of Wildlife Parts, may be used in lieu of a sales statement. (4-7-11)

c. Persons possessing a taxidermist or fur buyer license shall keep a record for two (2) years from the date the wildlife was received for mounting or preservation, furbearers purchased and raw black bear skins, raw mountain lion skins or parts of black bears or mountain lions purchased. Records may be written or retained on media other than paper and must comply with standards set forth in Section 9-328, Idaho Code. Copies of sales statements as per Subsection 300.01.b. satisfy provisions of this rule. (4-7-11)

02. Animals Found Dead. Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department of Fish and Game. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but ONLY under the conditions specified and ONLY if the wildlife has NOT been unlawfully killed. Natural causes shall not include any man-caused mortality. Accidental death shall include

accidental vehicle-collision caused mortality.

~~(7-1-98)~~()

a. Horns of Bighorn Sheep. (7-1-93)

i. Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed but may not be sold, bartered or purchased and may not be transferred to another person without a permit issued by the Director. All such pickup horns must be presented to an Idaho Department of Fish and Game regional or subregional office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. The insertion of a pin does not in itself certify that the animal was legally taken or possessed. The pin only identifies the horn(s) and indicates that mandatory check and report requirements were complied with.

(3-23-94)

ii. No person shall alter, deface or remove a pin placed in a bighorn sheep horn by the Idaho Department of Fish and Game. No person shall possess the horn(s) of a bighorn sheep that bears an altered, defaced or counterfeit Idaho pin or from which the Idaho pin has been removed.

(3-23-94)

b. Antlers, hides, bones, and horns of deer, elk, moose, pronghorn and mountain goat, parts of bear and mountain lion and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold. Reporting of bear and mountain lion parts is required pursuant to Subsection 300.01, of this rule.

~~(4-7-11)~~()

c. Parts, including meat, of big game animals, upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be recovered and possessed with notification to the Idaho Department of Fish and Game within twenty-four (24) hours of salvage and with written authorization within seventy-two (72) hours from the Director or a delegate on a form prescribed by the Department, if such taking is not in violation of state, federal, county, or city law, ordinances, rules, or regulations. Mandatory check and report requirements must be followed for bighorn sheep, black bear, mountain lion, mountain goat, moose, gray wolf, bobcat and river otter as described in IDAPA 13.01.08.420 and 13.01.16.500.

()

d. Parts, excluding meat, of big game animals (except bighorn sheep), upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be purchased, bartered, or sold, where sale is not specifically prohibited by federal statute or regulation or state statute, when accompanied by written authorization from the Director as described in IDAPA 13.01.10.300.02.c. Bighorn sheep that have been accidentally killed as a result of vehicle-collision mortality may not be purchased, bartered, or sold.

()

03. Wildlife Taken in Other States. Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such sale is not prohibited in Idaho or the state, province or country where taken, or by federal law or regulation;

(3-23-94)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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.

Amend and simplify definitions of certain terms; specify the conditions by which hatchery steelhead and salmon legally harvested may be transported without tails and heads attached; prohibit marking and releasing fish without a collecting permit; allow the use of a gaff hook when harvesting nongame fish taken with archery equipment, and correct obsolete rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 315 through 322.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2011**.

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 19, 2011.

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:

Amend and simplify definitions of certain terms; specify the conditions by which hatchery steelhead and salmon legally harvested may be transported without tails and heads attached; prohibit marking and releasing fish without a collecting permit; allow the use of a gaff hook when harvesting nongame fish taken with archery equipment, and correct obsolete rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 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 fishermen.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent the diverse interests of fishermen, and the need to correct obsolete 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:
N/A

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 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 26, 2011.

DATED this 26th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0111-1101

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. *No bait of any kind may be used with artificial lures when fishing artificial flies and lures-only waters.* (3-20-97)()

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.) *(See: Subsection 004.19 - NO BAIT.)* (3-20-97)()

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. ()

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. ()

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

0811. 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)

0912. 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. ()

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

15. Flat Water. Water where there is no observable direction of flow. ()

106. 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)

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

128. 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. ()

1320. Harvest. Reduce a fish to possession. (3-20-97)

~~14~~**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. ()

~~15~~**23. Ice Fishing.** Fishing through an opening broken or cut through the ice. (3-20-97)

~~16~~**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. ()

~~17~~**26. Motor.** Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)

~~18~~**27. Mouth of River or Stream.** The place where a river or stream enters a larger body of water. (3-20-97)

~~19~~**28. No Motors.** Fishing from a boat with a motor attached is prohibited. (3-20-97)

~~20~~**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)

~~21~~**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)

~~22~~**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. ()

~~23~~**33. 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)

~~24~~**34. 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)

~~35.~~ **Special Rule Waters.** Any water with a gear, season, or bag limit rule that is

different from the regional general rules. ()

~~2536~~. **Steelhead.** Steelhead are defined as any Rrainbow trout longer than twenty (20) inches in length in rivers and streams in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (~~excluding lakes and the Lemhi and the Pahsimeroi rivers~~), and the Clearwater River drainage (excluding that portion above Dworshak Dam, ~~and lakes~~). 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. (~~3-2-10~~)()

~~2637~~. **Tributary.** A stream flowing into a larger stream or lake. (3-20-97)

~~2738~~. **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)

~~2839~~. **Unattended Line.** A line not under the immediate surveillance by the angler. (3-20-97)

~~2940~~. **Unprotected Nongame Fish.** All fish species other than game fish and protected nongame fish. (3-30-07)

~~41~~. **Upstream.** Moving from a lower elevation towards a higher elevation point in the same stream. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. (~~3-20-97~~)()

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)

(BREAK IN CONTINUITY OF SECTIONS)

201. FISHING METHODS AND GEAR.

Unless modified by a regional exception, the following fishing methods and restrictions are applicable in all Idaho waters. (3-20-97)

01. Archery and Spear Fishing. Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of bullfrogs and unprotected nongame fish, and only in those waters during the season set for the taking of game fish. (7-1-99)

~~**02. Bait Restricted.** It is unlawful to fish with bait in waters designated as artificial flies and lures only, fly fishing only, or no bait. (3-30-07)~~

~~**032. Barbed Hooks.** It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead or *Chinook* salmon with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. ~~It is unlawful to fish in no bait waters with barbed hooks.~~ (3-2-10)()~~

043. Fishing Gear. It is unlawful to fish in any waters of Idaho with more than one (1) handline or pole with a line attached, except a person with a two (2) pole permit may use two (2) poles; or with more than five (5) lines while ice fishing; or by archery, spearfishing, snagging, hands, and netting except as permitted. Not more than five (5) hooks may be attached per line. The line or lines must be attended by the person fishing. In conjunction with the Angler Incentive Program, unlimited poles and lines may be used while fishing from a boat on Lake Pend Oreille. A sliding sinker must be used when fishing for sturgeon. (3-2-10)

054. Fishing Shelters. Any enclosure or shelter which is left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. (7-1-99)

065. Gaff Hook. It is unlawful to land fish of any species with a gaff hook except through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species or when landing nongame fish species taken with archery equipment. (~~3-20-97~~)()

076. Molesting Fish. It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. (3-20-97)

087. Snagging. It is unlawful to snag game fish, unless otherwise stated by Commission rules/exceptions. Snagging of unprotected nongame fish species is permitted. (3-20-97)

098. Trapping and Seining Minnows or Crayfish. It is lawful to take unprotected nongame fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, subject to the following restrictions: (3-2-10)

a. Unprotected nongame fish, yellow perch, and crayfish may be taken only in waters open to fishing; provided the seine or net does not exceed ten (10) feet in length or width and nets

and seines must have three-eighths (3/8) inch square or smaller mesh; and the minnow or crayfish trap does not exceed two (2) feet in length, width or height. If the trap is of irregular dimension, but its volume does not exceed the volume of an eight (8) cubic foot trap, it is also lawful to use. (3-2-10)

b. Nets and seines may not be left unattended. Traps must be checked at least every forty-eight (48) hours. All game fish (except yellow perch) and protected nongame fish incidentally taken while trapping or seining must be immediately released alive. All fish so taken must immediately be killed except where stated otherwise. (3-2-10)

c. All traps must have a tag attached bearing the owner's name and address. (3-2-10)

d. Minnows and crayfish may only be taken during the season set for the taking of game fish in those waters. Crayfish may be taken alive to be used as bait **ONLY** on the water where captured. (3-2-10)

~~409.~~ **Use of Bait.** It is unlawful to use live fish, leeches, frogs, salamanders, waterdogs or shrimp as bait, except that live crayfish and bull frogs may be used if caught on the body of water being fished. (5-8-09)

~~140.~~ **Use of Hands.** It is lawful to take bull frogs and crayfish with the hands. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

300. GENERAL FISHING SEASONS.

The following general seasons apply to all waters of the state, except as listed in [“Regional Exceptions.” the Commission’s proclamation. Pursuant to Section 36-105\(3\), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure and is available at Department offices and through license vendors.](#) (3-20-97)()

01. Lakes, Ponds and Reservoirs (Including Alpine Lakes). Extends **ONLY** to the edge of flat waters, excluding small, unnamed irrigation diversion ponds, beaver ponds and mill ponds.
OPEN ALL YEAR (3-20-97)

02. Ditches and Canals. Man-made structures used to transport water for irrigation or hydropower purposes.
OPEN ALL YEAR (3-20-97)

03. Rivers and Streams. Small, unnamed irrigation diversion ponds, beaver ponds and mill ponds have the same season as the river or stream on which they are located.

~~Saturday of Memorial Day Weekend through November 30~~ **OPEN ALL YEAR**
(4-6-05)()

04. General Whitefish Season. Fishing gear or bait restrictions which apply to a river or stream section during the season open for other species apply during the whitefish season.

~~January 1—March 31 and: December 1—December 31~~

NOTE: Whitefish or brook trout may also be taken in any waters during seasons open for other species, including reduced bag limit or size restricted waters, closed to harvest, and catch-and-release waters. ~~(4-6-05)()~~

05. General Steelhead Season. See Rule Sections 400 through 499. (3-20-97)

06. General Salmon Season. See Rule Sections 500 through 599. (4-6-05)

07. Bullfrogs, Crayfish and Nongame Fish. Bullfrogs, crayfish, and nongame fish may be taken ONLY during the season set for the taking of game fish in those waters. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

401. STEELHEAD DEFINITION.

See Subsection 004.236.

~~(4-6-05)()~~

(BREAK IN CONTINUITY OF SECTIONS)

404. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Provisions for Processing and Transporting Steelhead. No person shall have in the field or in transit ~~any hatchery-produced anadromous~~ steelhead trout ~~from which that has been processed by removing the head or and tail has been removed.~~ unless the following conditions are met: ~~(3-20-97)()~~

a. The fish has been recorded on the taker's steelhead permit; ()

b. The fish is processed and packaged with the skin naturally attached to the flesh including a portion with a healed, clipped, adipose fin scar; and ()

c. The fish must be packaged in a manner that the number of fish harvested can be readily determined. ()

02. Restrictions on Processing and Transporting Steelhead. No person shall process steelhead until they are ashore and done fishing for the day. No person shall transport

processed steelhead via boat. Any processed steelhead count towards an angler's possession limit while in the field or in transit. ()

(BREAK IN CONTINUITY OF SECTIONS)

500. ~~CHINOOK~~ SALMON.

501. ANADROMOUS SALMON DEFINITIONS.

01. Chinook Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes and the North Fork of the Clearwater River above Dworshak Dam), and the Boise River Drainages. (3-2-10)

02. Coho Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus kisutch* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and Clearwater River drainage (excluding lakes and the North Fork of the Clearwater River above Dworshak Dam). ()

03. Sockeye Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus nerka* in the Snake River drainage below Hells Canyon Dam and the Salmon River drainage. ()

502. SALMON LICENSES AND PERMITS.

01. Licenses. Any person fishing for salmon, except those expressly exempt, must have in his or her possession a valid fishing license. (4-6-05)

02. Permits. Any person fishing for, reducing to possession, or catching and releasing ~~Chinook~~ salmon must have a valid salmon permit in his or her possession. However, when a salmon is immediately released unharmed, or a jack salmon is reduced to possession, the angler is not required to make an entry on the permit. (~~4-6-05~~)()

503. PERMIT VALIDATION.

When an ~~Chinook~~ adult salmon has been hooked, landed, and reduced to possession, the angler hooking the fish must immediately complete the following: (~~3-2-10~~)()

01. Permit. Cut out and completely remove one (1) numbered notch from the permit. (3-20-97)

02. Number Code. Look up the number code from the location code list in Subsection 403.02 of these rules and write it in the space provided. (4-6-05)

03. Date Entry. Enter in the space provided, the month, and day the fish was caught. (3-20-97)

504. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Provisions for Processing and Transporting Salmon. No person shall have in the field or in transit ~~any Chinook~~ hatchery-produced adult anadromous salmon ~~from which that has been processed by removing~~ the head ~~or and~~ tail ~~has been removed.~~ unless the following conditions are met: ~~(4-6-05)~~()

a. The fish has been recorded on the taker's salmon permit; ()

b. The fish is processed and packaged with the skin naturally attached to the flesh including a portion with a healed, clipped, adipose fin scar; and ()

c. The fish must be packaged in a manner that the number of fish harvested can be readily determined. ()

02. Restrictions on Processing and Transporting Salmon. No person shall process salmon until they are ashore and done fishing for the day. No person shall transport processed salmon via boat. Jack salmon may not be processed while in the field or in transit. Any processed salmon count towards an angler's possession limit while in the field or in transit. ()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.12 - RULES GOVERNING COMMERCIAL FISHING

DOCKET NO. 13-0112-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 36-804, 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.

Remove mountain sucker from the list of fish species that may be commercially harvested.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 324 and 325.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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 36-104(b) and 36-804, 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 19, 2011.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Remove mountain sucker from the list of fish species that may be commercially harvested.

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 funds greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

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 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 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0112-1101

010. DEFINITIONS.

01. Commercial Fishing. Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale. (7-1-93)

02. Commercial Fish Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03 of this rule, only the following fish species may be taken for commercial purposes: (4-6-05)

- a. Bridgelip sucker -- *Catostomus columbianus*. (7-1-93)
- b. Common carp -- *Cyprinus carpio*. (4-2-08)
- c. Chiselmouth -- *Acrocheilus alutaceus*. (4-2-08)
- d. Fathead minnow -- *Pimephales promelas*. (7-1-93)
- e. Goldfish -- *Carassius auratus*. (7-1-93)
- f. Lake trout -- *Salvelinus namaycush*. (4-2-08)
- g. Lake whitefish -- *Coregonus clupeaformis*. (4-2-08)
- h. Largescale sucker -- *Catostomus macrocheilus*. (4-2-08)
- i. Longnose dace -- *Rhinichthys cataractae*. (7-1-93)
- ~~j. Mountain sucker -- *Catostomus platyrhynchus*. (7-1-93)~~
- ~~kj.~~ Northern pikeminnow -- *Ptychocheilus oregonensis*. (4-2-08)
- ~~lk.~~ Peamouth -- *Mylocheilus caurinus*. (7-1-93)
- ~~ml.~~ Redside shiner -- *Richardsonius balteatus*. (7-1-93)
- ~~nm.~~ Speckled dace -- *Rhinichthys osculus*. (7-1-93)
- ~~on.~~ Tench -- *Tinca tinca*. (7-1-93)

- p0.** Tui chub -- *Gila bicolor*. (7-1-93)
- q1.** Utah chub -- *Gila atraria*. (7-1-93)
- q2.** Utah sucker -- *Catostomus ardens*. (7-1-93)

03. Commercial Crustacea Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03, only the Crayfish - species of the genus *Pacifastacus*, may be taken for commercial purposes. (7-1-93)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0116-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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, 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.

Commission direction to work with trappers to determine if or how trapping closures near campgrounds and picnic areas could be adjusted; provide detail specifications on trap break-away devices; specify allowable jaw size for foothold traps in ground sets now that wolves have been delisted; and set wolf trap equipment specifications.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 326 through 328.](#)

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 16th day of November, 2011.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715, Fax (208) 258-2881

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

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2011**.

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, 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 19, 2011.

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:

Commission direction to work with trappers to determine if or how trapping closures near campgrounds and picnic areas could be adjusted; provide detail specifications on trap break-away devices; specify allowable jaw size for foothold traps in ground sets now that wolves have been delisted; and set wolf trap equipment specifications.

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 trappers.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to set wolf trap specifications now that wolves have been delisted, and informal negotiations with and input from trappers and trapping organizations were incorporated.

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

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 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 26, 2011.

DATED this 26th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0116-1101

400. METHODS OF TAKE.

01. Furbearing Animals. No person shall take beaver, muskrat, mink, marten, or otter by any method other than trapping. In Valley County and portions of Adams County in the Little Salmon River drainage, red fox may be taken only by trapping. (5-3-03)

02. Hunting. No person hunting permissible furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

a. Hunt with any weapon the possession of which is prohibited by state or federal law. (7-1-93)

b. Hunt with dogs unless they comply with IDAPA 13.01.15, "Rules Governing the Use of Dogs." (7-1-93)

c. Hunt any furbearing animal with or by the aid of artificial light. (4-7-11)

d. Persons may hunt raccoon with the aid of an artificial light without a permit from the Director but no person hunting raccoon at night shall: (4-7-11)

i. Hunt from a motorized vehicle. (7-1-93)

ii. Use any light attached to any motor vehicle. (7-1-93)

iii. Hunt on private land without obtaining written permission from the landowner or

lessee. (7-1-93)

03. Trapping. No person trapping furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

a. Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife. (4-7-11)

b. Use any set within thirty (30) feet of any visible bait. (4-6-05)

c. Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (4-7-11)

d. Use live animals as a bait or attractant. (4-6-05)

e. Place any ground, water, or other sets on, across, or within five (5) feet of center line of any maintained public trail. (4-7-11)

f. Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. (4-7-11)

g. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, or picnic area. Cage or box live traps are permitted within three hundred (300) feet of designated public campgrounds, trailheads, or picnic areas as allowed by city, county, state, and federal law. ~~(4-7-11)~~()

h. Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. ~~(4-7-11)~~()

i. Place or set any wolf snare without a diverter; or without a break-away device or cable stop incorporated within the loop of the snare. ()

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

IDAPA 20 - DEPARTMENT OF LANDS

20.07.02 - RULES GOVERNING OIL AND GAS CONSERVATION IN THE STATE OF IDAHO

DOCKET NO. 20-0702-1102

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the temporary rule is **December 21, 2011**. This rule has been adopted by the agency and is now pending review by the 2012 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is also adopting a temporary rule. The action is authorized pursuant to Section 47-317(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and 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.

The existing rules are almost twenty years old, and industry practices and expectations have changed considerably. The rule changes are needed to ensure that oil and gas development in Idaho is conducted in a manner that prevents waste of oil and gas, protects correlative rights, and protects Idaho's fresh water supplies as required by Section 47-3, Idaho Code. The temporary rule is needed to protect the public health, safety, and welfare.

Rule format is revised to conform with Title 67, Chapter 52, Idaho Code, and IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator." Definitions are changed for consistency and clarity. Well drilling permit requirements are expanded to ensure that the department has the information needed to properly review them. A public comment period on applications is added. Application, operating, and reporting requirements for well treatments, including hydraulic fracturing, are added. Bond amounts are increased and additional bonding requirements are added to decrease the potential well plugging liabilities present in other states. Basic surface owner protections are added, and geophysical exploration requirements are expanded, to reduce conflicts between surface and mineral owners and thereby enhance orderly development of oil and gas resources. Well drilling and plugging rules are modified to better prevent waste and protect fresh waters. Comprehensive pit requirements and surface reclamation standards are added to protect fresh waters. Well completion and well log reporting is clarified to improve the flow of information and stimulate additional exploration. Active and inactive wells are defined to reduce the potential liability of abandoned wells. The periodic testing of well integrity is added to prevent waste and protect fresh waters. Class II injection wells are no longer permitted under this rule as the Idaho Department of Water Resources currently prohibits their use in IDAPA 37.03.03 and they will pursue permitting authority with the

Environmental Protection Agency. Basic emergency response requirements were added to ensure that accidents and fires are handled appropriately and public safety issues are addressed. Other sections of the rules addressing wellhead equipment, tools with radioactive material, the pulling of casing, gas-oil ratios, and multiple zone completions were upgraded or added based on the existing standards used in other states to prevent waste, protect correlative rights, and protect fresh water supplies. Responsibilities of the department and the Oil and Gas Conservation Commission are clarified. Multiple documents are incorporated by reference to allow the industry standards to be adopted in Idaho.

A few changes were made to the proposed rule in response to comments received. As part of the public notification process, an electronic copy of certain applications will be forwarded to the local county. The fresh water protections for well treatments were clarified by prohibiting fractures within five hundred (500) vertical feet below all fresh water aquifers. The prohibition on the use of volatile organic compounds or BTEX compounds for hydraulic fracturing was clarified, and some reference errors were corrected. Bonding and pit reclamation requirements were clarified. Surface equipment and the measurement of gas were consolidated and reorganized. Lastly, some well plugging requirements were clarified.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice and includes changes made to the pending rule. The text of the pending rule has been modified in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 454 through 497](#).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Protection of the public health, safety, or welfare

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 the pending rule, contact Eric Wilson, Minerals Program Manager, at (208) 334-0261 or ewilson@idl.idaho.gov.

DATED this 21st day of December, 2011.

Eric Wilson
Minerals Program Manager
Idaho Department of Lands
PO Box 83720
Boise, Idaho 83720-0050
(208) 334-0261
Fax (208) 334-3698
ewilson@idl.idaho.gov

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(s) 47-317(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Wednesday, October 12, 2011, 7:00 pm - 9:00 pm

Capitol Building, Room WW55
Boise, ID

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:

Rule format is revised to conform with Section 67-52, Idaho Code, and IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator." Definitions are changed for consistency and clarity. Well drilling permit requirements are expanded to ensure that the Department has the information needed to properly review them. A public comment period on applications is added. Application, operating, and reporting requirements for well treatments, including hydraulic fracturing, are added. Bond amounts are increased and additional bonding requirements are added to decrease the potential well plugging liabilities present in other states. Basic surface owner protections are added, and geophysical exploration requirements are expanded, to reduce conflicts between surface and mineral owners and thereby enhance orderly development of oil and gas resources. Well drilling and plugging rules are modified to better prevent waste and protect fresh waters. Comprehensive pit requirements and surface reclamation standards are added to protect fresh waters. Well completion and well log reporting is clarified to improve the flow of information and stimulate additional exploration. Active and inactive wells are defined to reduce the potential liability of abandoned wells. The periodic testing of well integrity is added to prevent waste and protect fresh waters. Class II injection wells are no longer permitted under this rule as the Idaho Department of Water Resources currently prohibits their use in IDAPA 37.03.03 and they will pursue permitting authority with the Environmental Protection Agency. Basic emergency response requirements were added to ensure that accidents and fires are handled appropriately and public safety issues are addressed. Other sections of the rules addressing wellhead equipment, tools with radioactive material, the pulling of casing, gas-oil ratios, and multiple zone completions were upgraded or added based on the existing standards used in other states to prevent waste, protect

correlative rights, and protect fresh water supplies. Responsibilities of the Department and the Oil and Gas Conservation Commission are clarified. Multiple documents are incorporated by reference to allow the industry standards to be adopted in Idaho.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [July 6, 2011 Idaho Administrative Bulletin, Volume 11-7, page 133](#).

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:

The following documents are being incorporated by reference into these rules to give them the force and effect of law. The documents are not being published in this chapter of rules due to the cost of republication.

API Bulletin E3, Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document. 1st Edition, January 1993 and Reaffirmed June 2000.

API SPEC 5CT, Specifications for Casing and Tubing. The 8th edition dated 7/1/05 and amendments dated 3/31/06 and 4/7/06.

API SPEC 10a, Specification for Cements and Materials for Well Cementing. The 24th Edition dated December, 2010.

ASTM D698-07e1, Standard Test Methods For Laboratory Compaction Characteristics Of Soil Using Standard Effort (12,400 ft-lbf/ft³ (600 kN-m/m³

ASTM D1250-08, Standard Guide For Use Of The Petroleum Measurement Tables. 2008 revision.

ASTM D1557-09, Standard Test Methods For Laboratory Compaction Characteristics Of Soil Using Modified Effort (56,000 ft-lbf/ft³ (2,700 kN-m/m³

EPA SW-846 Method 9090A, Compatibility Test For Wastes And Membrane Liners. Revision 1, July 1992.

OSHA Standard 1910.1200 (Hazard Communication). Last revised 1996.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

COMMENTS: For assistance on technical questions concerning the proposed rule, contact Eric Wilson, Minerals Program Manager, at (208) 334-0261 or ewilson@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 October 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0702-1102

000. ~~(RESERVED)~~ LEGAL AUTHORITY.

This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Sections 58-104(6), 58-105, and 58-127, Idaho Code; Title 47, Chapter 3, Idaho Code; and Title 67, Chapter 52, Idaho Code. ()

001. TITLE AND SCOPE.

~~General rules shall be statewide in application unless otherwise specifically stated. These rules set forth the policy and procedures for the conservation of crude oil and gas.~~ (10-21-92)

01. Title. These rules shall be cited as IDAPA 20.07.02, “Rules Governing Oil and Gas Conservation in the State of Idaho.” ()

02. Scope. These rules apply to the exploration and extraction of any and all crude oil and natural gas resources in the state of Idaho, not including biogas, manufactured gas, or landfill gas, regardless of ownership. ()

03. Other Laws. Owners or operators engaged in the exploration and extraction of crude oil and natural gas resources shall comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: ()

a. Idaho water quality standards and waste water treatment requirements established in Title 39, Chapter 1, Idaho Code; IDAPA 58.01.02, “Water Quality Standards”; IDAPA 58.01.16, “Wastewater Rules”; and IDAPA 58.01.11, “Ground Water Quality Rule,” administered by the IDEQ. ()

b. Idaho air quality standards established in Title 39, Chapter 1, Idaho Code and IDAPA 58.01.01 “Rules for the Control of Air Pollution in Idaho,” administered by the IDEQ. ()

c. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including IDAPA 58.01.05, “Rules and Standards for Hazardous Waste”; IDAPA 58.01.06, “Solid Waste Management Rules”; and IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive

Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended,” administered by the IDEQ. ()

d. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and rules promulgated thereunder including IDAPA 37.03.07, “Stream Channel Alteration Rules,” administered by the IDWR. ()

e. Injection Well Act, Title 42, Chapter 39, Idaho Code and rules promulgated thereunder including IDAPA 37.03.03, “Rules and Minimum Standards for the Construction and Use of Injection Wells,” administered by the IDWR. ()

f. Department of Water Resources – Water Resource Board Act, Title 42, Chapter 17, Idaho Code and rules promulgated thereunder including IDAPA 37.03.06, “Safety of Dams Rules,” administered by the IDWR. ()

002. WRITTEN INTERPRETATIONS.

The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals and other written guidance which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals and other written interpretations, if applicable, are available for public inspection and copying at the director’s office of the Idaho Department of Lands, 300 North 6th Street, Suite 103, Boise, Idaho. ()

003. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the Commission shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01, Title 47, Chapter 3, Idaho Code, and IDAPA 20.07.01, “Rules of Practice and Procedure before the Idaho Oil and Gas Conservation Commission.” ()

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: ()

01. API Bulletin E3, Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document. 1st Edition, January 1993 and Reaffirmed June 2000 available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

02. API SPEC 5CT, Specifications for Casing and Tubing. The 8th edition dated July, 1, 2005 and the amendments dated March, 31, 2006 and April, 7, 2006 are available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

03. API SPEC 10a, Specification for Cements and Materials for Well Cementing. The 24th Edition dated December, 2010 is available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

04. ASTM D698-07e1, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 ft-lbf/ft³ (600 kN-m/m³)). 2007 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite

103. ()

05. ASTM D1250-08, Standard Guide for Use of the Petroleum Measurement Tables. 2008 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

06. ASTM D1557-09, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³ (2,700 kN-m/m³)). 2009 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

07. EPA SW-846 Method 9090A, Compatibility Test for Wastes and Membrane Liners. Revision 1, July 1992. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: <http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/9090a.pdf>. ()

08. OSHA Standard 1910.1200 (Hazard Communication). Last revised 1996. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10099. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Idaho Department of Lands is 300 North 6th Street, Suite 103, Boise, Idaho and it is open from 8 a.m. To 5 p.m., Monday through Friday, except legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone number of the office is (208) 334- 0200 and the fax number is (208) 334-2339. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

01. Promulgation. The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

02. Confidentiality. Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code. Upon request in any application or material submitted to the Department, confidentiality protection shall be provided for trade secrets consistent with Section 9-340D(1), Idaho Code, and for “[a]rchaological and geologic records concerning exploratory drilling, logging, mining and other excavation” consistent with Section 9-340E(2), Idaho Code. Only those parts of an application or other materials that fall under these provisions of Section 9-340, Idaho Code, can be held as confidential. The owner or operator shall not unreasonably designate other parts of their application or other materials as confidential. ()

0027. -- 009. (RESERVED)

010. DEFINITIONS.

Unless the context otherwise requires, the words defined shall have the following meaning when found in these rules: (10-21-92)

- 01.** Act. The Idaho Oil and Gas Conservation Act, Title 47, Chapter 3, Idaho Code. (10-21-92)
- 02.** Active Well. A permitted well used for production, disposal, or injection that is not idled for more than twenty-four (24) continuous months. ()
- 023.** Barrel. Forty-two (42) U. S. gallons at sixty (60) Degrees F at atmospheric pressure. (10-21-92)
- 034.** Blowout. An unplanned sudden or violent escape of ~~oil or natural gas, as~~ fluids from a ~~drilling~~ well ~~when high formational pressure is encountered~~. (10-21-92)()
- 045.** Blowout Preventer. A ~~heavy~~ casinghead control equipped with special gates or rams that can be closed around the drill pipe, or that completely closes the top of the casing. (10-21-92)()
- 056.** Casing Pressure. The pressure ~~built-up~~ within the casing or between the casing, and tubing, ~~when the casing and tubing are packed off at the top of the well~~ or drill pipe. (10-21-92)()
- 07.** Casinghead. A metal flange attached to the top of the conductor pipe that is the primary interface for the diverter system during drilling out for surface casing. ()
- 068.** Casinghead Gas. Any gas or vapor, or both ~~gas and vapor~~, indigenous to an oil stratum and produced from such stratum with oil. (10-21-92)()
- 079.** Commission. The Oil and Gas Conservation Commission of the state of Idaho. (10-21-92)
- 0810.** Common Source of Supply. ~~Synonymous with pool.~~ The geographical area or horizon definitely separated from any other such area or horizon and which contains, or from competent evidence appears to contain, a common accumulation of oil or gas or both. Any oil or gas field or part thereof which comprises and includes any area which is underlaid, or which from geological or other scientific data or experiments or from drilling operations or other evidence appears to be underlaid by a common pool or accumulation of oil or gas or both oil and gas. (10-21-92)
- 09.** ~~Condensate.~~ ~~Liquid hydrocarbons that were originally in the gaseous phase in the reservoir.~~ (10-21-92)
- 11.** Completion. An oil well shall be considered completed when the first new oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after the production casing has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production casing has been run. ()
- 12.** Conductor Pipe. The first and largest diameter string of casing to be installed in a

well. This casing extends from land surface to a depth great enough to keep surface waters from entering and loose earth from falling in the hole and to provide anchorage for the diverter system prior to setting surface casing. ()

103. Cubic Foot of Gas. The volume of gas contained in one (1) cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be fourteen ~~point~~ and seventy-three ~~hundredths~~ (14.73) pounds per square inch absolute and the standard temperature base shall be sixty (60) Degrees F. (10-21-92)()

14. Day. A period of twenty-four (24) consecutive hours from 8 a.m. one day to 8 a.m. the following day. (10-21-92)()

15. Department. The Idaho Department of Lands or its designee. ()

126. Development. Any work which actively promotes bringing in production. (10-21-92)

~~**13. Developed Area.** A spacing unit on which a well has been completed that is capable of producing oil or gas, or the acreage that is otherwise attributed to a well by the Commission.~~ (10-21-92)

147. Director. The ~~Director~~ head of the Idaho Department of Lands and secretary to the Oil and Gas Conservation Commission, or his designee. (10-21-92)()

18. Drilling Logs. The recorded description of the lithologic sequence encountered in drilling a well, and any electric, gamma ray, geophysical, or other logging done in the hole.()

159. Field. The general area underlaid by one (1) or more pools. (10-21-92)

~~**16. Gas.** All natural gas and all other fluid hydrocarbons not herein below defined as oil, including condensate because it originally was in the gaseous phase in the reservoir.~~ (10-21-92)

20. Fresh Water. All surface waters and those ground waters that are used, or may be used in the future, for drinking water, agriculture, aquaculture, or industrial purposes other than oil and gas development. The possibility of future use is based on hydrogeologic conditions, water quality, future land use activities, and social/economic considerations. ()

~~**1721. Gas-Oil Ratio.** The volume of gas produced in standard cubic feet to each ~~stock~~ tank barrel of oil or condensate produced concurrently during any stated period.~~ (10-21-92)()

~~**1822. Gas Well.**~~ (10-21-92)

a. A well which produces primarily natural gas ~~only~~; (10-21-92)()

b. Any well capable of producing gas in commercial quantities and also producing oil from the same common source of supply but not in commercial quantities; or (10-21-92)

- c. Any well classed as a gas well by the Commission for any reason. (10-21-92)

~~19. **Just and Equitable Share of the Production.** As to each person, that part of the production from the pool that is substantially in the proportion that the amount of recoverable oil or gas or both in the developed area of the person's tract(s) in the pool bears to the recoverable oil or gas or both in the total of the developed areas in the pool. (10-21-92)~~

~~23. **Geophysical or Seismic Operations.** Any geophysical method performed on the surface of the land utilizing certain instruments operating under the laws of physics respecting vibration or sound to determine conditions below the surface of the earth that may contain oil or gas and is inclusive of, but not limited to, the preliminary line survey, the acquisition of necessary permits, the selection and marking of shot-hole locations, necessary clearing of vegetation, shot-hole drilling, implantation of charge, placement of geophones, detonation and backfill of shot-holes, and vibroseis. ()~~

~~24. **Hydraulic Fracturing, or Fracing.** A method of stimulating or increasing the recovery of hydrocarbons by perforating the production casing and injecting fluids or gels into the potential target reservoir at pressures greater than the existing fracture gradient in the target reservoir. ()~~

~~25. **Inactive Well.** An unplugged well that has no reported production, disposal, injection, or other permitted activity for a period of greater than twenty-four (24) continuous months, and for which no extension has been granted. ()~~

~~26. **Intermediate Casing.** The casing installed within the well to seal intermediate zones above the anticipated bottom hole depth. The casing is generally set in place after the surface casing and before the production casing. ()~~

~~27. **Junk.** Debris in a hole that impedes drilling or completion. ()~~

~~208. **Lease.** A tract(s) of land which by virtue of an oil and gas lease, fee or mineral ownership, a drilling, pooling or other agreement, a rule, regulation or order of a governmental authority, or otherwise constitutes a single tract or leasehold estate for the purpose of the development or operation thereof for oil or gas or both. (10-21-92)~~

~~21. **Oil.** Crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir. (10-21-92)~~

~~29. **Mechanical Integrity Test.** A test designed to determine if there is a significant leak in the casing, tubing, or packer of a well. ()~~

~~2230. **Oil and Gas.** Oil or gas or both. (10-21-92)~~

~~231. **Oil Well.** Any well capable of primarily producing oil in paying quantities, but not a gas well. (10-21-92)()~~

~~2432. **Operator.** Any duly authorized person who is in charge of the development of a~~

lease or the operation of a producing well. (10-21-92)

2533. Owner. The person who has the right to drill into and produce from a pool and to appropriate the oil or gas that produces there from either for himself and/or others. (10-21-92)

2634. Person. Any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any government or any political subdivision or any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter gender. (10-21-92)

35. Pit. Any excavated or constructed depression or reservoir used to contain reserve, drilling, well treatment, produced water, or other fluids at the drill site. This does not include enclosed, mobile, or portable tanks used to contain fluids. ()

36. Pollution. Constituents of oil, gas, salt water, or other materials used in oil and gas extraction, occurring in fresh water supplies at levels that exceed the standards in IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.11, "Ground Water Quality Rules," as the result of the drilling, casing, treating, operation or plugging of wells. ()

37. Pool or Reservoir. An underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure that is completely separated from any other zone in the same structure is a pool. (10-21-92)()

38. Pressure Maintenance. The injection of gas, water, or other fluids into oil or gas reservoirs to maintain pressure or retard pressure decline in the reservoir for the purpose of increasing the recovery of oil or other hydrocarbons therefrom. (10-21-92)

39. Produced Water. Water that is produced along with oil or gas. ()

3940. Producer. The owner of a well(s) capable of producing oil or gas or both. (10-21-92)

41. Production Casing. The casing set across the reservoir interval and within which the primary completion components are installed. ()

~~**30. Protect Correlative Rights.** The action or regulation by the Commission should afford a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in such person's tract(s) or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent. (10-21-92)~~

42. Proppant. Sand or other materials used in hydraulic fracturing to prop open fractures. ()

43. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. ()

44. Surface Casing. The first casing which is run after the conductor pipe to anchor

blow out prevention equipment and to seal out fresh water zones. ()

45. Tubing. Pipe used inside the production casing to convey oil or gas from the producing interval to the surface. ()

46. Volatile Organic Compound. Organic chemical compounds whose composition makes it possible for them to evaporate under normal indoor atmospheric conditions of sixty-eight (68) degrees F and an absolute pressure of fourteen point seven (14.7) psi atmospheric. ()

3147. Waterflooding. The injection into a reservoir through one (1) or ~~several~~ more wells ~~of~~ with volumes of water for the purpose of increasing the recovery of oil therefrom. (10-21-92)()

3248. Waste as Applied to Oil. Underground waste; inefficient, excessive, improper use, or dissipation of reservoir energy, including gas energy and water drive; surface waste, open-pit storage, and waste incident to the production of oil in excess of the producer's above-ground storage facilities and lease and contractual requirements, but excluding storage (other than open-pit storage) reasonably necessary for building up and maintaining crude stocks and products thereof for consumption, use, and sale; the locating, drilling, equipping, operating, or producing of any well in a manner that causes, or tends to cause, reduction of the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations. (10-21-92)

3349. Waste as Applied to Gas. The escape, blowing or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas in an excessive or unreasonable amount from wells producing oil or both oil and gas; and the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced; excepting gas that is reasonably necessary in the drilling, completing, and testing of wells and in furnishing power for the production of wells. (10-21-92)

3450. Well Log Report. The written record progressively describing the strata, water, oil, or gas encountered in drilling a well with such additional information as to give volumes, pressures, rate of fill-up, water depths, caving strata, casing record, etc., as is usually recorded in normal procedure of drilling; also, it includes electrical radioactivity, or other similar logs run, lithologic description of all cores, and all drill-stem tests, including depth-tested, cushion-used, time tool open, flowing and shut-in pressures and recoveries. (10-21-92)()

51. Well Treatment. Actions performed on a well to acidize, fracture, or stimulate the target reservoir. ()

352. Wildcat Well. An exploratory well drilled ~~to discover a previously unknown pool in an area of unknown subsurface conditions.~~ (10-21-92)()

011. ABBREVIATIONS.

01. API. American Petroleum Institute. ()

- 02.** ASTM. American Society for Testing and Materials. ()
- 03.** BOP. Blowout Preventer. ()
- 04.** CAS. Chemical Abstracts Service. ()
- 05.** EPA. United States Environmental Protection Agency. ()
- 06.** F. Fahrenheit. ()
- 07.** GPS. Global Positioning System. ()
- 08.** HDPE. High Density Polyethylene. ()
- 09.** IDAPA. Idaho Administrative Procedure Act. ()
- 10.** IDEO. Idaho Department of Environmental Quality. ()
- 11.** IDWR. Idaho Department of Water Resources. ()
- 12.** MSDS. Material Safety Data Sheet. ()
- 13.** OSHA. Occupational Safety & Health Administration. ()
- 14.** PSI. Pounds per Square Inch. ()

01~~2~~. -- 014. (RESERVED)

015. ~~**SPECIAL RULES**~~ **PROTECTION OF CORRELATIVE RIGHTS.**

~~Special rules will be issued when required and shall prevail as against general rules if in conflict therewith.~~ The Commission and the Department should afford a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in such person's tract(s) or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent. (10-21-92)()

016. -- **0~~3~~19**. (RESERVED)

020. APPLICABILITY.

01. Oil and Gas Development. These rules apply to oil and gas development and carry out the Commission's duty to prevent waste, protect correlative rights, and prevent pollution of fresh water supplies through activities authorized by these rules. ()

02. Exclusions. These rules do not apply to the exploration and development of other mineral resources covered by Title 47, Chapter 13, Idaho Code; Title 47, Chapter 15, Idaho Code; or Title 42, Chapter 40, Idaho Code. ()

021. -- **039.** (RESERVED)

040. NOTICES - GENERAL.

01. **Written Authorization Required.** Any written notice of intention to do work or to change plans previously approved must be filed with the ~~director~~ Department, unless otherwise directed, and must ~~reach the director and receive his approval~~ be approved before the work is begun. Such approval may be given orally and, if so given, shall thereafter be confirmed by the ~~director~~ Department in writing. (10-21-92)()

02. **Emergency Authorization.** In case of emergency, or a situation where operations might be unduly delayed, any written notice required by these rules and regulations to be given the ~~director~~ Department may be given orally or by wire and if approval is obtained, the transaction shall be confirmed in writing, as a matter of record. (10-21-92)()

041. -- 049. (RESERVED)

050. PERMIT TO DRILL, DEEPEN, OR PLUG BACK.

01. **Permits Required.** Prior to the commencement of operations to drill, deepen, or plug back to any source of supply other than the existing producing horizon, application shall be delivered to the ~~Commission~~ Department of intention to drill, deepen, or plug back any well for oil or gas, and approval obtained. (10-21-92)()

02. **Fees.** An ~~one hundred dollar (\$100) service~~ application fee must accompany each application for permit to drill, deepen, or plug back ~~for any well on which the service fee has not been paid~~. No service fee is required for a permit to deepen or plug back in a well for which the fee has been paid for permit to drill unless the drilling permit has expired. (10-21-92)()

03. **Time Required to Commence Operations; Term of Permit.** On the first anniversary of the date of issuance of a permit to drill, deepen, or plug back, said permit ~~shall terminate~~ will expire and be of no further force or effect, unless the work for which the permit was issued has been started. Prior to the anniversary date, the owner or operator may apply for a one-time, six-month extension if work has not started. If conditions have not changed and no changes to the permit are requested, the extension may be approved by the Department. If a permit expires due to the failure to commence operations, then reapplication is required prior to commencing operations. (10-21-92)()

04. **Plat Application.** The Application for Permit to Drill shall ~~be accompanied by an~~ include a Department approved form and the following: ()

a. An accurate plat showing the location of the proposed well with reference to the nearest lines of an established public survey. ()

b. The location of the nearest structure with a water supply, or the nearest water well as shown on the IDWR registry of water rights or well log database. ()

c. Information ~~to be included in such notice shall be~~ on the type of tools to be used, and the proposed logging program. ()

d. ~~p~~Proposed total depth to which the well will be drilled, estimated depth to the top of the important geologic markers, and the estimated depth to the top of ~~objective horizons,~~ the target formations. ()

e. ~~T~~The proposed casing program, including size and weight thereof, the depth at which each casing ~~string~~ type is to be set, ~~and~~ ()

f. ~~T~~The type and amount of cement to be used, and the intervals cemented. ()

g. Information ~~shall also be given relative to~~ on the drilling plan, ~~together with~~ ()

h. Best management practices to be used for erosion and sediment control. ()

i. Plan for interim reclamation of the drill site after the well is completed, and a plan for final reclamation of the drill site following plugging and abandonment of the well. These plans must contain the information needed to implement reclamation as described in Subsection 080.15 and Section 325 of these rules. ()

j. Applications that include the following actions must also provide the information from the respective Section of these rules: ()

i. Well treatments require the submittal of the information in Section 055. ()

ii. Pit construction and use requires the submittal of the information in Section 085. ()

iii. Directional or horizontal drilling requires the submittal of the information in Section 170. ()

k. ~~a~~Any other information which may be required by the ~~Commission~~ Department based on site specific reasons. ~~(10-21-92)~~()

05. Permit Denial. Applications may be denied for the following reasons: ()

a. Application fee was not submitted. ()

b. Application is incomplete. ()

c. Failure to post required bonds. ()

d. Proposed well will result in a waste of oil or gas, a violation of correlative rights, or the pollution of fresh water supplies. ()

051. PUBLIC COMMENT.

Applications submitted under Sections 050, 055, 085, and 170 of these rules will be posted on the Department's website for a fifteen-day (15) written comment period. The Department will also

send an electronic copy of the application to the respective county, and city if applicable, where the proposed operation is located. The purpose of the comment period is to receive written comments on whether a proposed application complies with these rules. These comments will be considered by the Department prior to permit approval or denial. Relevant comments will be posted on the Department's website following the comment period. ()

0512. -- 0594. (RESERVED)

055. WELL TREATMENTS.

01. Application Required. An Application for Permit to Drill required by Section 050 must include any plans for well treatment if they are known before the well is drilled. If well treatments are not covered in the original drilling permit, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the well treatments being implemented. Actions to clean the casing or perforations not in excess of pressures sufficient to overcome the fracture gradient in the surrounding formation are not considered to be well treatments, but a notice to the Department as described in Section 350 of these rules is still required. Applications for well treatments must include the permit number, well name, well location, as-built description if drilling has been completed, and the following: ()

- a.** Depth to perforations or the openhole interval; ()
- b.** The source of water or type of base fluid; ()
- c.** Additives, meaning any substance or any combination of substances including proppant, having a specified purpose that is combined with base treatment fluid by trade name, if available, and MSDS for each additive; ()
- d.** Type of proppant(s); ()
- e.** Anticipated percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s); ()
- f.** Estimated pump pressures; ()
- g.** Method and timeline for the management, storage, and disposal of well treatment fluids, including anticipated disposal site of treatment fluids or plans for reuse; ()
- h.** Size and design of storage pits, if proposed, in conformance with Section 085 of these rules; ()
- i.** Information specific to hydraulic fracturing as described in Section 056 of these rules; ()
- j.** Summary identifying all water bearing zones from the surface down to the bottom of the well; ()
- k.** Fresh water protection plan that describes the proposed site specific measures to

protect water quality from activities associated with well treatments. The Department will review this plan in consultation with the IDEQ. The Fresh Water Protection Plan shall include the following information: ()

i. Ground water and storm water best management practices; ()

ii. Statement certifying that the owner or operator is complying with Spill Prevention, Control, and Countermeasures (SPCC) requirements administered by the EPA; ()

iii. A preconstruction topographic site map or aerial photos identifying all habitable structures, wells, perennial and intermittent springs, surface waters, and irrigation ditches within one-quarter (1/4) mile of the oil or gas well. The distance or location may be changed based on site specific factors such as horizontal drilling, the expected length of fractures, or lack of suitable water sample locations within one-quarter (1/4) mile; ()

iv. A brief description of the structural geology that may influence ground water flow and direction; and ()

v. The general hydrogeological characteristics of the treatment area and surrounding land. ()

l. Certification by the owner or operator that all aspects of the well construction, including the suitability and integrity of the cement used to seal the well, are designed to meet the requirements of proposed well treatments; ()

m. Affidavit signed by the owner or operator stating that all home owners and water well owners within one-quarter (1/4) mile of the oil or gas well, and all owners of a public drinking water system that have a IDEQ recognized source water assessment or protection area within one-quarter (1/4) mile of the oil or gas well, have been notified of the proposed treatment. If a well deviates from the vertical, these surface distances will be from the entire length of the wellbore from the surface to total depth. The notification will also offer an opportunity to have the owner or operator sample and test the water, at the owner or operator's cost, prior to and after the oil or gas well being treated. Notification shall be by certified mail to the surface owner as identified by the county assessor's records, or to the well owner as identified on the IDWR registry of water rights or well log database; ()

n. Proof of publication in a newspaper of general circulation in the county where the well is located of a legal notice briefly describing the well treatment to be performed. Notice shall also advise all water well or public drinking water system owners, as described in paragraph 055.01.m. of these rules, of the opportunity to have their water tested at the owner's or operator's cost before and after the well treatment; and ()

o. Additional information as required by the Department. ()

02. Master Drilling/Treatment Plans. Where multiple stimulation activities will be undertaken for several wells proposed to be drilled in the same field within an area of geologic similarity, approval may be sought from the Department for a comprehensive master drilling/treatment plan containing the information required. The approved master drilling/treatment plan

must then be referenced on each individual well's Application for Permit to Drill. ()

03. Application Denial. The Department may deny well treatment applications for one (1) or more of the following reasons: ()

a. Application does not contain the information in Subsection 055.01 of these rules; ()

b. Application fee was not submitted. ()

c. Proposed treatment will result in a waste of oil or gas, a violation of correlative rights, or the pollution of fresh water supplies. ()

04. Time Limit. If a treatment approved in a drilling permit or amended drilling permit is not started within one (1) year of the approval of the well treatment, the well treatment permit will expire and reapplication will be required prior to conducting the well treatment. Prior to the anniversary date, the owner or operator may apply for a six-month (6) extension. If conditions have not changed, and no changes to the permit are requested, the extension may be approved by the Department. ()

05. Inspections. The Department may conduct inspections prior, during, and after well treatments. ()

06. Reporting Requirements. A report on the well treatment must be submitted within thirty (30) days of the treatment. The report shall present a detailed account of the work done and the manner in which such work was performed, including: ()

a. The daily production of oil, gas, and water both prior to and after the operation. ()

b. The size and depth of perforations. ()

c. Percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s). This requirement can be met by the submittal of well completion field tickets if they contain this information. ()

d. Information specific to hydraulic fracturing, as described in Section 056 of these rules. ()

e. Static pressure testing results before and after the well treatment. ()

f. The amounts, handling, and if necessary, disposal at an identified appropriate disposal facility, or reuse of the well stimulation fluid load recovered during flow back, swabbing, and/or recovery from production facility vessels. Reporting of recovered fluids shall be included with other monthly production reports required by the Department. Storage of such fluid shall be protective of ground water as demonstrated by the use of either tanks or authorized lined pits as described in Section 085 of these rules. ()

g. Any other information related to operations which alter the performance or characteristics of the well. ()

07. Fresh Water Protections for Well Treatments. ()

a. The Department will not authorize pits, lagoons, ponds, or other methods of subsurface storage for treatment fluids within IDEQ recognized source water assessment or protection areas for public drinking water systems. Owners or operators must store and transport treatment fluids using above ground storage facilities and tanker trucks for well treatments in these locations. ()

b. The Department will not authorize well treatments to create fractures within five hundred (500) vertical feet below fresh water aquifers. ()

c. The Department shall require the owner or operator to complete fresh water monitoring at the owner's or operator's cost before and after a well treatment unless the Department, in consultation with the IDEQ, determines that the proposed treatment does not pose a threat of pollution to fresh waters. The Department will review and approve all monitoring proposals with the IDEQ. The monitoring will be done using representative existing water wells or surface waters within one-quarter (1/4) horizontal mile of the treated well. For wells that deviate from the vertical, sampling may be required within one-quarter (1/4) horizontal mile of the wellbore's projected location on the surface. If no water wells or surface waters are present in this area, the sampling area may be enlarged as needed with approval by the Department. If the Department determines that existing water wells are not representative of the ground waters that could be impacted, then the Department may require the owner or operator to install one (1) or more ground water monitoring wells at the owner's or operator's cost. The owner or operator must obtain consent from appropriate property owners to gain access prior to any sampling or well construction. When monitoring is required by the Department, the operator will prepare a monitoring plan that includes the following: ()

i. Location of proposed monitoring sites; ()

ii. Construction details of any sampled or constructed wells including total well depth, depth of screened interval(s), screen size, and drilling log. For existing wells, the operator must make every reasonable attempt to locate this information; ()

iii. When possible, data from the existing wells collected within the last five (5) years and analyzed in a state or EPA certified drinking water lab; ()

iv. List of proposed analytes, testing methods, and their detection limits; ()

v. Additional tests such as stable isotopic analysis; and ()

vi. Pre-treatment sampling and analysis when no relevant data exists, and a schedule for post-treatment sampling and analysis. ()

d. The owner or operator will provide the Department with copies of any analysis or reports within thirty (30) days of samples being taken. All samples must be analyzed in a state or

EPA certified drinking water lab. ()

e. Pollution of fresh water supplies due to a well treatment is a violation of these rules and Title 47, Chapter 3, Idaho Code. ()

056. HYDRAULIC FRACTURING.

01. Application Requirements. In addition to the information required by Subsection 055.01 of this rule, the owner or operator shall provide the following application information regarding hydraulic fracturing: ()

a. The geological names and descriptions of the formation into which well stimulation fluids are to be injected; ()

b. Detailed information on the base stimulation fluid source. For each stage of the well stimulation program, provide the chemical additives and proppants and concentrations or rates proposed to be mixed and injected, including: ()

i. Stimulation fluid identified by additive type (such as but not limited to acid, biocide, breaker, brine, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, surfactant); ()

ii. The chemical compound name and Chemical Abstracts Service (CAS) number as found on the previously submitted MSDS shall be identified (such as the additive biocide is glutaraldehyde, or the additive breaker is ammonium persulfate, or the proppant is silica or quartz sand, and so on for each additive used); ()

iii. The proposed rate or concentration for each additive and the total volume of each shall be provided (such as gel as pounds per thousand gallons, or biocide at gallons per thousand gallons, or proppant at pounds per gallon, or expressed as percent by weight or percent by volume, or parts per million, or parts per billion); and ()

iv. The formulary disclosure of the chemical compounds used in the well stimulation(s) for the purpose of protecting public health and safety. ()

c. A detailed description of the proposed well stimulation design that shall include: ()

i. The anticipated surface treating pressure range; ()

ii. The maximum injection treating pressure, which shall be within accepted safety limits. Accepted safety limits are generally 80% of the maximum pressure rating of the pressurized system; ()

iii. The estimated or calculated fracture height in both the horizontal and vertical directions. ()

02. Volatile Organic Compounds and Petroleum Distillates. The injection of volatile

organic compounds, such as benzene, toluene, ethyl benzene and xylene, also known as BTEX compounds, or any petroleum distillates into ground water in excess of the applicable ground water quality standards is prohibited. *Volatile organic compounds or petroleum distillates* may be appropriate as additives, but they are not appropriate for use as the base fluids. The proposed use of *volatile organic* compounds or any petroleum distillates for well stimulation into hydrocarbon bearing zones may be authorized with prior approval of the director. Water that is produced with oil and gas, and which may contain small amounts of naturally occurring volatile organic compounds or petroleum distillates, may be used as well stimulation fluid in hydrocarbon bearing zones. ()

03. Well Integrity. Prior to the well stimulation, the owner or operator will perform a suitable mechanical integrity test of the casing or of the casing-tubing annulus or other mechanical integrity test methods and submit an affidavit certifying that the well was tested in anticipation of proposed treatment pressures. The owner or operator will notify the Department of this test twelve (12) to twenty-four (24) hours in advance. ()

04. Pressure Monitoring. During the well stimulation operation, the owner or operator shall monitor and record the annulus pressure at the casinghead. If intermediate casing has been set on the well being stimulated, the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded. If the annulus pressure increases by more than five hundred (500) psi gauge as compared to the pressure immediately preceding the stimulation, the owner or operator shall verbally notify the Department as soon as practicable but no later than twenty-four (24) hours following the incident. ()

05. Post Treatment Report. In addition to the information required by Subsection 055.06 of this rule, the owner or operator shall provide the following post-treatment reporting: ()

- a.** The actual total well stimulation treatment volume pumped; ()
- b.** The actual surface pressure and rate at the end of each fluid stage and the actual flush volume, rate and final pump pressure; ()
- c.** The instantaneous shut-in pressure, and the actual fifteen (15) minute and thirty (30) minute shut-in pressures when these pressure measurements are available; ()
- d.** A continuous record of the annulus pressure during the well stimulation; ()
- e.** A copy of the well stimulation service contractor's job log, without any cost/pricing data from the field ticket, in lieu of paragraphs (a) through (d) above. If the job log does not contain all the needed information, it must be supplemented with additional information needed to satisfy paragraphs 056.05.a. through 056.05.d. of this rule. ()
- f.** A report containing all details pertaining to any annulus pressure increases of more than five hundred (500) psi gauge as described in Subsection 056.04 of this rule. The report shall include corrective actions taken, if necessary. ()
- g.** Results of post treatment fluid analysis used to help determine where the fluid can

be disposed. ()

057. -- 059. (RESERVED)

060. TRANSFER OF DRILLING PERMITS.

No person to whom a permit has been issued shall transfer the permit to any other location or to any other person until the following requirements have been complied with: (10-21-92)

01. Prior to Drilling Well. If, prior to the drilling of a well, the person to whom the permit was originally issued desires to change the location, he shall submit a letter so stating and another application properly filled out showing the new location. *No additional fee is necessary; but drilling shall not be started until the transfer has been approved and the new permit posted at the new location.* (10-21-92)()

02. During Drilling or After Completion. If, while a well is *drilling being drilled* or after it has been completed, the person to whom the permit was originally issued disposes of his interest in the well, he shall submit a written statement to the *Commission Department* setting forth the facts and requesting that the permit be transferred to the person who has acquired the well. (10-21-92)()

03. Terms for Acceptance of Transfer~~by Commission~~. Before the transfer of a drilling permit shall be recognized, the person who has acquired the well must submit a written statement setting forth that he has acquired such well and assumes full responsibility for its operation and abandonment in conformity with the law, rules, regulations, and orders issued by the Commission. If bond is required to guarantee compliance with the rules and regulations of the Commission, the person acquiring such well shall furnish bond. (10-21-92)()

061. -- 069. (RESERVED)

070. BONDING.

01. Individual Bond. The *Commission Department* shall, except as hereinafter provided, require from the owner or operator a good and sufficient bond in the sum of not less than ten thousand dollars (\$10,000) *plus one dollar (\$1) for each foot of planned well length* in favor of the *Commission, Department*. *The bond shall be* conditioned upon the performance of the *owner's or operator's* duty to comply with the requirements of the *Idaho Oil and Gas Conservation* Act and the rules *and regulations* of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas *and the reclamation of surface disturbance associated with these activities*. Said bond shall remain in force and effect until the plugging of said well is approved by the *Commission Department and the well site is reclaimed as described in Section 325 of these rules*, or the bond is released by the *Commission Department*. ()

02. Blanket Bond. *It is provided that In lieu of the bond in Subsection 070.01 of this rule, any owner or operator in lieu of such bond may file with the Commission Department a good and sufficient blanket bond in a sum of not less than twenty five thousand dollars (\$25,000), covering all active wells drilled or to be drilled in the state of Idaho by the principal in said bond, and the acceptance and approval by the Commission of such blanket bond shall be in full*

~~compliance with the above provision requiring an individual well bond.~~ The bond(s) herein before referred to shall be by a corporate surety authorized to do business in the state of Idaho or in cash. The amount of the blanket bond will be as follows according to the number of active wells covered by the bond: ~~(10-21-92)~~()

- a. Up to ten (10) wells, fifty thousand dollars (\$50,000); ()
- b. Eleven (11) to thirty (30) wells, one hundred thousand dollars (\$100,000); or ()
- c. More than thirty (30) wells, one hundred fifty thousand dollars (\$150,000). ()

03. Inactive Well Bond. An owner or operator must provide the Department with a bond of at least ten thousand dollars (\$10,000) plus one dollar (\$1) for each foot of planned well length for each inactive well conditioned upon the performance of the duty to comply with the requirements of the Act and the rules of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas. Said bond shall remain in force and effect until the plugging of said well is approved by the Department, or the bond is released by the Department. Inactive wells may not be covered by a blanket bond as provided in Subsection 070.02 of this rule. ()

04. Additional Bonding. The Department may impose additional bonding on an owner or operator given sufficient reason, such as non-compliance, unusual conditions, horizontal drilling, or other circumstances that suggest a particular well or group of wells has potential risk or liability in excess of that normally expected. The owner or operator may request a hearing to appeal either the decision to impose an additional bond or the proposed amount of the bond. ()

071. -- 0794. (RESERVED)

075. SURFACE OWNER PROTECTIONS.

01. Surface Use Agreement. If the mineral estate has been severed from the surface estate where an oil or gas well is to be located, the owner or operator shall attempt a good faith negotiation of a surface use agreement with the surface owner. The surface use agreement must address how the surface owner will be compensated for lost agricultural income and lost value of improvements directly caused by oil and gas exploration and production. The owner or operator may rely on the tax records of the respective county assessor to identify the surface owner. ()

02. Surface Owner Notification. If a surface use agreement cannot be negotiated, then the owner or operator must notify the surface owner of the intent to drill by certified mail at least sixty (60) days prior to the commencement of surface disturbing activities, unless otherwise agreed to by the surface owner. The notification must include a proposed surface use bond amount, and a copy must be sent to the Department. ()

03. Surface Owner Objection. If the surface owner disagrees with the owner's or operator's proposed surface use bond amount, the surface owner must send a written objection to

the Department within thirty (30) days of receiving the notification from the owner or operator. The objection must contain the owner's or operator's proposed surface use bond amount. Any objection filed will not delay the owner's or operator's proposed start of surface disturbing activities. ()

04. Surface Use Bond. The minimum surface use bond in all instances with no surface use agreement will be five thousand dollars (\$5,000), and will be paid in cash to the Department. If the surface owner objects to the owner's or operator's proposed bond amount, the Department will determine a surface use bond based on the information received from both the owner or operator and the surface owner. The Department will then request that the owner or operator submit this bond. The Department may issue the permit and authorize the commencement of drilling operations after this bond has been received. The purpose of this bond is to safeguard the surface owner's loss of agricultural income and improvement values pending the results of a hearing on the final bond. ()

05. Hearing to Determine Surface Use Bond. When the owner, operator, or surface owner objects to the Department's proposed surface use bond, a hearing will be scheduled as soon as possible to determine the final bond amount. The owner, operator, surface owner, and Department may offer testimony to the hearing officer. The hearing officer will recommend a final bond amount to the Commission. After the Commission's final order, the owner or operator and surface owner will have twenty-eight (28) days to file a request for judicial review. ()

06. Release of Surface Use Bond. The Department will hold the bond pending either a surface use agreement between the two (2) parties that negates the need for a surface use bond, or reclamation of the surface disturbance. ()

07. Forfeiture of Surface Use Bond. The Department may forfeit this bond upon failure of the owner or operator to reclaim the disturbed area in a timely manner, or upon failure of the parties to reach a surface use agreement, upon the completion of drilling operations. ()

076. -- 079. (RESERVED)

080. GENERAL DRILLING RULES.

~~Unless altered, modified, or changed for a particular pool(s), upon hearing before the Commission, the following shall apply to the drilling of all wells:~~ (10-21-92)

01. General Design Requirements for Casing and Cementing. Casing and cementing programs adopted for wells must be so planned as to protect any potential oil- or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. Owners and operators shall follow the standards for casing and tubing in API SPEC 5CT and the standards for cementing in API SPEC 10A. ()

02. Wildcat and High-Pressure Conditions. When drilling wildcat territory or in any field where high pressures are likely to exist, the owner or operator shall take all necessary precautions to keep the well under control at all times and shall use proper high-pressure fittings and equipment at the time the well is started. Under such conditions all strings of casings must be securely anchored. ()

03. High Temperature Conditions. Due to high geothermal gradients in Idaho, the temperature of the return drilling mud shall be monitored daily during the drilling of the surface casing hole and all deeper holes. The owner or operator must use cements appropriate for the temperatures expected or encountered. ()

014. ~~Wildcat and High Pressure Conditions; Conductor Pipe or Casing and Well Control~~ Requirements. ~~When drilling "wildcat" territory or in any field where high pressures are likely to exist, the owner shall take all precautions for keeping the well under control at all times and shall provide at the time the well is started proper high pressure fittings and equipment. Under such conditions the conductor string of casings must be cemented throughout its length, unless other procedure is authorized or prescribed by the director, and all strings of casings must be securely anchored. A minimum of forty (40) feet of conductor pipe shall be installed. If geologic conditions are such that forty (40) feet is not feasible, the owner or operator may request a variance from the Department. The annular space is to be cemented solid to the surface. A twenty-four (24) hour cure period for the grout must be allowed prior to drilling out the shoe unless sufficient additives, as determined by the Department, are used to obtain early strength.~~ (-10-21-92)()

025. Surface Casing Requirements; ~~Unknown Formation and Pressure Conditions.~~ ~~In areas where pressure and formations are unknown, sufficient surface casing shall be run to reach a depth below all known or reasonably estimated utilizable domestic freshwater levels and to prevent blowouts or uncontrolled flows and shall be of sufficient size to permit the use of an intermediate string(s) of casing. Surface casing shall be set in or through an impervious formation and shall be cemented by the pump and plug or displacement or other approved method with sufficient cement to fill the annulus to the top of the hole, in accordance with reasonable requirements of the director.~~ (-10-21-92)()

a. Surface casing must be set at a minimum depth equal to ten percent (10%) of the proposed total depth of the well. In areas where pressures and formations are unknown, a minimum of two hundred (200) feet of surface casing shall be set. ()

b. This casing shall provide for control of formation fluids, protection of fresh water, and for adequate anchorage of blow out prevention equipment. The casing must be seated through a sufficient series of low permeability, competent lithologic units such as claystone, siltstone, basalt, etc., to insure a solid anchor for blow out prevention equipment and to protect usable ground water from contamination. Additional surface casing may be required if the first string has not been cemented through a sufficient series of low permeability, competent lithologic units, or rapidly increasing thermal gradients or formation pressures are encountered. ()

c. All surface casing shall be cemented solid to the surface by pump and plug, displacement, or other approved method. When surface samples are cured, additional drilling activities may commence. ()

03. ~~Surface Casing Requirements; Known Subsurface Conditions.~~ ~~In wells drilled in areas where subsurface conditions have been established by drilling experience, surface casing, size at the owner's option, shall be set and cemented to the surface by the pump and plug or displacement or other approved method at a depth sufficient to protect all utilizable domestic~~

~~fresh water and to insure against blowouts or uncontrollable flows.~~ (10-21-92)

~~04. Cement Minimum Set Up Time. Cement shall be allowed to set a minimum of eight (8) hours under pressure before drilling the plug. The term "under pressure" as used herein will be complied with if one (1) float valve is used or if pressure is otherwise held.~~ (10-21-92)

056. Requirements for ~~Blowout Prevention~~ BOP Equipment. Unless altered, modified, or changed for a particular pool(s) upon hearing before the Commission, ~~blowout preventers~~ BOP and related equipment shall be installed and maintained during the drilling of all wells in accordance with the following rules: (10-21-92)()

a. BOP equipment installed on wells in which formation pressures to be encountered are abnormal or unknown shall consist of a double-gate, hydraulically operated preventer with pipe and blind rams or two (2) single-ram-type preventers; one (1) equipped with pipe rams, the other with blind rams and an annular type preventer. In addition, upper and lower kelly cocks, pit level indicators with alarms and/or flow sensors with alarms, and surface facilities to handle pressure kicks shall be installed prior to drilling any formation with known abnormal pressure. (10-21-92)

i. Accumulators shall maintain a pressure capacity reserve at all times to provide for operation of the hydraulic preventers and valves with no outside source. (10-21-92)

ii. In all other drilling operations, BOP equipment shall consist of at least one (1) double-gate preventer with pipe and blind rams or two (2) single-ram-type preventers, one (1) equipped with pipe rams, the other with blind rams, and sufficient valving to permit fluid circulation at the surface. (10-21-92)

b. All blowout preventers, choke lines, and manifolds shall be installed above ground level. Casing heads and optional spools may be installed below ground level provided they are visible and accessible. (10-21-92)()

c. ~~Blowout preventer~~ BOP equipment and related casing heads and spools shall have a vertical bore no smaller than the inside diameter of the casing to which they are attached. (10-21-92)()

d. The working pressure rating of all blowout preventers and related equipment shall equal or exceed the maximum anticipated pressure to be contained at the surface. (10-21-92)

e. All ram-type blowout preventers and related equipment, including casing, shall be tested to the full working pressure rating of said equipment upon installation, provided that components need not be tested to levels higher than the lowest working pressure rated component. Annular type blowout preventers are to be tested in conformance with the manufacturer's published recommendations. If, for any reason, a pressure seal in the assembly is disassembled, a test to a full working pressure rating of that seal shall be conducted prior to the resumption of any drilling operation. In addition to the initial pressure tests, ram-type preventers shall be checked for physical operation ~~each trip~~ at least once per week and all components, again with exception of the annular-type blowout preventer, tested ~~monthly~~ at least once every twenty-one (21) days to at least fifty percent (50%) of the rated pressure of the BOP equipment and/or to the maximum

anticipated pressure to be contained at the surface, whichever is greater. ~~(10-21-92)~~()

f. The ~~Commission~~ Department may require an affidavit covering the initial pressure tests after installation signed by the owner, operator, or contractor attesting to the satisfactory pressure tests. The ~~Commission staff~~ Department is to be advised at least twenty-four (24) hours in advance of all tests. ~~(10-21-92)~~()

g. A schematic diagram of the BOP and well head assembly shall be submitted to the ~~Commission staff~~ Department upon application for a permit to drill. The schematic diagram should indicate the minimum size and pressure rating of all components of the well head and BOP assembly. ~~(10-21-92)~~()

h. Studs on all well head and BOP flanges shall be checked for tightness each week. Hand wheels for locking screws shall be installed and operational, and the entire BOP and well head assembly shall be kept clean of mud and ice. (10-21-92)

i. A drillstem safety valve shall be available on the rig floor at all times with correct thread for the pipe in use. ~~(10-21-92)~~()

j. A drillstem float valve shall be installed in bit sub or as close to bit as reasonably possible. ()

07. Intermediate Casing. ()

a. Intermediate casing, if installed, shall be cemented solidly to the surface or to the top of the casing. ()

b. Intermediate casing not run to surface will be lapped into at least one hundred (100) feet of the surface casing, or at least one hundred (100) feet of the next larger casing to provide overlap and secure a seal. ()

c. Such casing shall be cemented and pressure tested before cement plugs are drilled. ()

068. Production ~~String~~ Casing; Cementing and Testing Requirements. ()

a. If and when it becomes necessary to run a production ~~string~~ casing, such ~~string casing~~ shall be cemented ~~by the pump and plug method and shall be properly~~ and pressure tested ~~by the pressure method~~ before cement plugs are drilled. ~~(10-21-92)~~()

a. When not run to the surface, production casing will be cemented from the bottom of the hole up into at least one hundred (100) feet of the next larger casing to provide overlap and secure a seal. ()

b. If the bottom plug will be drilled out, the open hole interval must be completed to protect any potential oil-bearing or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. ()

079. Blowout Control (Rotary Tools); Auxiliary Reserve Mud Tanks. When drilling with rotary tools, the owner or operator shall provide, as required by the ~~director~~ Department, ~~an auxiliary a reserve~~ mud pit or tank of suitable capacity for the anticipated depth of the well and maintain ~~therein an on-site~~ supply of mud ~~having the proper characteristics for emergency use additives that can raise the mud weight by one (1) pound per gallon~~ in case of blowouts. (10-21-92)()

0810. Mud Pits. Before commencing to drill, proper and adequate mud pits shall be constructed for the reception and confinement of mud and cuttings and to facilitate the drilling operation. Special precautions shall be taken, if necessary, to prevent contamination of ~~streams and potable~~ fresh waters. These pits must conform to the standards in Section 085 of these rules. If tanks will be used, then mud pits may not be required. (10-21-92)()

0911. Well Control (Cable Tools); Fluid Containment and Gas Flaring. Natural gas or oil which may be encountered in a substantial quantity in any section of a cabletool drilled hole above the ultimate objective shall be shut off with reasonable diligence either by mudding or by casing, or other approved method, and confined to its original source to the satisfaction of the ~~director~~ Department. Any gas escaping from the well during drilling operations shall be, as far as practicable, conducted to a safe distance from the well site and burned. (10-21-92)()

12. Drilling Mud Disposal. Drilling mud will be disposed of at an appropriate facility in compliance with applicable state and federal requirements. ()

~~10. Casing Programs; General Design Requirements. Casing programs adopted for wells must be so planned as to protect any potential oil or gas bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another.~~ (10-21-92)

113. Report of Fresh Waters Encountered; Owner's or Operator's Duties. It shall be the duty of any ~~person, owner or operator or contractor~~ drilling an oil or gas well or drilling a seismic, core or other exploratory hole to report to the ~~Commission~~ Department all ~~freshwater sands~~ potential water bearing zones encountered; such report shall be in writing and give the location of the well or hole, the depth at which the ~~sands zones~~ sands zones were encountered, the thickness of such ~~sands zones~~ sands zones, and the rate of flow of water if known. This requirement can be met by the submittal of the logs required in Section 090 of this rule. (10-21-92)()

14. Spill Prevention, Control, and Countermeasures Plan. The owner or operator must have a Spill Prevention, Control, and Countermeasures Plan in conformance with the requirements of the EPA. This plan must be updated as needed when facilities or activities change. ()

15. Interim Drill Site Clean Up. If a well is completed for production or other purposes, interim reclamation must be completed within six (6) months of the rig being removed. Interim reclamation includes the following activities: ()

a. Debris and waste materials including, but not limited to, concrete, sack bentonite and other drilling mud additives, sand, plastic, pipe, and cable associated with the drilling, re-

entry, or completion operations shall be removed and disposed of properly. ()

b. All disturbed areas affected by drilling or subsequent operations, except areas reasonably needed for production operations or for subsequent drilling operations to be commenced within twelve (12) months, shall be reclaimed and revegetated to approximately the pre-drilling condition or to the condition specified in an agreement with the surface owner. The reclamation standards in Subsections 325.04 through 325.07 of these rules, shall apply. ()

081. -- ~~0894~~. (RESERVED)

085. PIT REQUIREMENTS.

01. Plans Required. If pits are proposed to be constructed in connection with another permit application required by these rules, then the owner or operator must include plans for pit construction in the application. If a pit is needed after the other permits have been approved, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the pit being constructed unless the pit is necessary for an emergency action. Pit applications must include the permit number, well name, well location, as-built description if drilling has been completed, proposed pit location, and plans for pit construction, operation, and reclamation. ()

02. Location. ()

a. Pits must be located where they are structurally sound and the liner systems can be adequately protected against factors such as wild fires, floods, landslides, surface and ground water systems, equipment operation, and public access. ()

b. Pits located in a one hundred-year floodplain must be in conformance with any applicable floodplain ordinances pertaining to activities within the one hundred-year floodplain. ()

c. Pits shall not be located within an IDEQ recognized source water assessment or protection areas for public drinking water systems. ()

03. Site Preparation. All sites must be properly prepared prior to pit construction. Vegetation, roots, brush, large woody debris and other deleterious materials, topsoil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction, must be removed from the footprint of the pit unless approved by the Department. ()

04. Pit Sizing Criteria. ()

a. Pits that have constructed berms ten (10) or more feet in height or hold fifty (50) acre-feet or more of fluid must also comply with the dam safety requirements of IDAPA 37.03.06, "Safety of Dams Rules." ()

b. Pits must be designed to hold the maximum volume of fluids being used for drilling or well treatment and the volume of water associated with a one hundred-year, twenty-four-hour precipitation event. ()

- c. Snowmelt events shall be considered in determining the containment capacity. ()
- d. Pits that are left over winter must be able to contain one hundred twenty-five percent (125%) of the average annual precipitation that falls from October through May. ()
- e. Pits must be designed to maintain a minimum two (2) foot freeboard at all times. Contingency plans for managing excesses of fluids shall be described in the application. At no time shall fluids in a pit be allowed to escape from the impoundment. ()
- 05. Minimum Plans and Specifications for Reserve, Well Treatment, and Other Short Term Pits.** Pits used for one (1) year or less, not including extensions, are short term pits. Construction plans and specifications for short term pits must include the requirements under Subsections 085.02 through 085.04 of this rule and the following: ()
- a. A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials, and compacted to ninety-five percent (95%) of Standard Proctor Test ASTM D698-07e1 or ninety-five percent (95%) of Modified Proctor Test ASTM D1557-09; ()
- b. Slopes of two (2) feet horizontal to one (1) foot vertical (2H:1V) or flatter for all interior and exterior pit walls. The top of a bermed pit wall must be a minimum of two (2) feet wide; ()
- c. A primary liner system consisting of a synthetic liner of at least twenty (20) mils thickness and constructed according to manufacturers' standards with at least four (4) inches of welded seam overlap and complete coverage on the floor and inside walls of the pit. Seams must run parallel to the line of maximum slope so they do not traverse across the slope. The liner edges shall be anchored in a compacted earth filled trench at least eighteen (18) inches in depth. The liner must be protected against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities. Liner compatibility shall comply with EPA SW-846 method 9090A. Alternative liner systems with similar standards may be proposed by the owner or operator and approved at the Department's discretion; ()
- d. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining system of the pit; ()
- e. Site-specific methods for excluding people, terrestrial animals, and avian wildlife from the pits; ()
- f. Segregation and stockpiling of topsoil in a manner that will support reestablishment of the pre-disturbance land use after pit closure; and ()
- g. A closure plan including the following: ()
- i. Testing of residual fluids and any accumulated solids, if anything other than water

based drilling fluid was placed in the pit; ()

ii. Plans for removal and disposal of residual fluids and accumulated solids, with the liner material, at an appropriate facility; ()

iii. Regrading plan, replacement of topsoil, and erosion control measures; and ()

iv. Reseeding and Revegetation. ()

06. Minimum Plans and Specifications for Long Term Pits. Pits used for more than one (1) year, not including extensions, are long term pits. Construction plans and specifications for long term pits must include the requirements under Subsections 085.02 through 085.05 of this rule and the following: ()

a. A quality control/quality assurance construction and installation plan; ()

b. Type of fluids to be contained in the pit; ()

c. Secondary containment synthetic liners, which shall have a minimum thickness of sixty (60) mils consisting of HDPE and a maximum coefficient of permeability of 10^{-9} cm/sec, or comparable liners approved by the Department; ()

d. Leak detection and collection systems. The plans and specifications shall: ()

i. Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all fluids that pass through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be reasonably expected to result in discharges through the secondary containment synthetic liner; ()

ii. Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of fluids from the layer placed between primary and secondary containment synthetic liners. The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; ()

iii. Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; and ()

iv. Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems. ()

e. All piping, including that contained in the leak detection and collection system, shall have a minimum wall thickness of schedule 80 and be designed to: ()

i. Withstand chemical attack from oil field waste or leachate; ()

ii. Withstand structural loading from stresses and disturbances from cover materials or equipment operation; and ()

iii. Facilitate clean-out and maintenance. ()

f. Protections for the liner from excessive hydrostatic force or mechanical damage at the point of discharge into, or suction from, the pit. External discharge or suction lines shall not penetrate the liner; ()

g. Plans for erosion control during and immediately following construction; and ()

h. Operating and maintenance plans. ()

07. Time Limits for Short Term Pits. Reserve, well treatment, and other short term pits must be closed out and reclaimed within one (1) year of being constructed. The owner or operator may request a one-time extension for up to six (6) months. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for ensuring that the pit is adequately monitored and maintained. ()

a. Fluids may be left in a pit for up to six (6) months after the associated well activities are conducted. The owner or operator may request a one-time extension for up to one (1) year. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for keeping the fluids in a usable state. ()

b. Notwithstanding the above time limits, the owner or operator may request additional time based upon conditions wholly outside of the owner's or operator's control including, but not limited to, governmental lease requirements and delays related to difficult drilling conditions. The Department may impose additional construction or monitoring requirements prior to granting additional time. ()

08. Emergency Pits. Pits constructed during an emergency situation may be approved by an after-the -fact application submitted to the Department. The requirements in Subsections 085.02 through 085.05 of this rule shall apply, and the pit must be closed out and reclaimed within six (6) months of being constructed. The Department must be notified within twenty-four (24) hours of an emergency situation requiring an emergency pit. ()

09. Operating Requirements. ()

a. Waste oil, hydraulic fluid, transmission fluids, trash, or any other miscellaneous waste products must not be disposed of in a pit. Placement of these materials into a pit may result in the creation of a mixed waste that requires handling and disposal as a hazardous waste. ()

b. If a pit liner's integrity is compromised, or if any penetration of the liner occurs above the liquid's surface, then the owner or operator shall notify the appropriate Department area office within forty-eight (48) hours of the discovery and repair the damage or replace the liner. ()

c. If a pit or closed-loop system develops a leak, or if any penetration of the pit liner occurs below the liquid's surface, then the owner or operator shall remove all liquid above the damage or leak line within forty-eight (48) hours, notify the appropriate Department area office within forty-eight (48) hours of the discovery, and repair the damage or replace the pit liner. ()

d. The owner or operator shall install, or maintain on site, an oil absorbent boom or other device to contain and remove oil from a pit's surface. Visible oil must be removed from short term pits immediately following the cessation of activity for which the pit was constructed. Visible oil must be removed from long term pits as soon as it is discovered. ()

10. Closure of Pits. ()

a. The owner or operator shall remove all liquids from the pit prior to closure and dispose of them at an appropriate facility or reuse them at a different location. If the nature of the fluids has substantially altered during their use, then the fluids must be sampled and tested to determine which disposal facility can accept them. ()

b. Any solids that have been accumulated in the bottom of the pit will be tested to determine which disposal facility can accept the material. The solid material and liner will then be removed and disposed of at an appropriate facility. ()

c. The owner or operator must notify the Department at least forty-eight (48) hours prior to removal of the pit liner so an inspection may be conducted. ()

d. The pit foundation will be inspected for signs of leakage. If evidence of leakage is observed, the owner or operator must contact the Department and the IDEQ within twenty-four (24) hours and report the type of fluids released and the estimated extent of release. The owner or operator must then remediate the site in conformance with the applicable standards administered by IDEQ in IDAPA 58.01.02, "Water Quality Standards," Sections 850 through 852. ()

e. After addressing any pit leakage concerns, the owner or operator shall perform the activities described in Subsections 325.04 through 325.08 of these rules. ()

11. Condemnation Due to Improper Impoundment. The Department shall have authority to condemn any pit that does not properly impound fluids and order the disposal of such fluids in conformance with IDAPA 58.01.16, "Wastewater Rules," and other applicable rules. ()

086. -- 089. (RESERVED)

090. WELL COMPLETION/RECOMPLETION REPORT AND WELL LOG REPORT. Within thirty (30) days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different source of supply, or where the producing interval is changed, a completion report shall be filed with the Commission Department, on a form prescribed by the Commission Department. Such report shall include name, number, and exact location of the well; lease name, date of completion and date of first production, if any; name and depth of hydrocarbon reservoir(s), if a multiple completion, from which well is producing; annulus pressure test; initial

production test, including oil, gas, and water, if any; a well log report as defined in Section 010; and such other relevant information as the Commission Department may require.

~~(10-21-92)~~()

091. DRILLING LOGS.

01. Minimum Required Logs. All wells shall have a lithologic log from the bottom of the hole to the top, to the extent practicable. ()

02. Bottom Hole Survey. All wells shall have a bottom hole location survey. ()

03. Cement Bond Log. All wells that are cased and cemented shall have a cement bond log run across the casing. ()

04. Other Logs. If other logs are run, including, but not limited to, resistivity, gamma-neutron log, sonic log, etc., then the owner or operator shall retain a copy regardless of results. ()

05. Log Submittal. The above logs shall be submitted to the Department in paper and digital formats within thirty (30) days of the log being run. If logs were run in color, then the submitted copies shall also be in color. Digital formats must be Tiff and LAS 2.0 or higher.()

092. -- 094. (RESERVED)

095. ACTIVE WELLS.

01. Gas Storage Wells. Gas storage wells are to be considered active at all times unless physically plugged. ()

02. Extension of Active Status. An owner or operator may request an extension of active well status for wells that are idled for more than twenty-four (24) continuous months. The owner or operator shall provide a written request to the Department stating the reason for the extension, the length of extension, the method used to close the well to the atmosphere, and the plans for future operation. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed five (5) years and may be renewed upon request. ()

03. Annual Reports for Active Wells. The owner or operator shall submit an annual report to the Department describing the current status of the well and the plans for future well operation. Failure to submit the annual report may result in the Department declaring the well inactive. ()

096. INACTIVE WELLS.

01. Determination of Inactive Status. The Department shall declare a well inactive after twenty-four (24) continuous months of inactivity if the owner or operator has not received approval for an extension of active status, or after an owner or operator fails to submit an annual report for an active well. The Department will immediately notify an owner or operator of this

determination by certified mail, and the owner or operator may appeal this determination to the Commission. ()

02. Owner's or Operator's Responsibility for Inactive Wells. The owner or operator must plug and abandon an inactive well in accordance with Section 320 of these rules within six (6) months of being notified by the Department unless the owner or operator supplies the following information within the six-month time period: ()

a. A written request to extend inactive status; ()

b. An individual bond, as provided for in Subsection 070.03 of these rules, if the well was covered by a blanket bond; and ()

c. A description of how the well is closed to the atmosphere with a swedge and valve, packer, or other approved method, and how the well is to be maintained. ()

03. Inactive Review and Decision. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed three (3) years and may be renewed upon request. ()

04. Testing of Inactive Wells. In addition to the requirements of Section 105 of these rules, inactive wells shall have a mechanical integrity test performed within two (2) years after the date of last use in order to retain inactive status. ()

05. Converting Inactive Wells to Active Wells. The owner or operator must apply to the Department to change the status of a well from inactive to active. The Department shall review the request for approval, modification, or denial. A mechanical integrity test may be required by the Department if the well has been worked over or if a test has not been conducted for five (5) years or longer. If approved, the well may again be covered by a blanket bond. ()

~~097.~~ -- 099. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

101. -- ~~104.~~ (RESERVED)

105. MECHANICAL INTEGRITY TESTING.

01. Mechanical Integrity Testing. ()

a. The mechanical integrity test shall include one (1) of the following tests to determine whether leaks are present in the casing, tubing, or packer: ()

i. A pressure test with liquid or gas at a pressure of not less than three hundred (300) psi or the minimum injection pressure, whichever is greater, and not more than the maximum

injection pressure; or ()

ii. The monitoring and reporting to the Department, on a monthly basis for sixty (60) consecutive months, of the average casing-tubing annulus pressure, following an initial pressure test; or ()

iii. In lieu of Subsections 105.01.a.i. and 105.01.a.ii. of this rule, any equivalent test or combinations of tests approved by the Department. ()

b. The mechanical integrity test shall include one (1) of the following tests to determine whether there are fluid movements in vertical channels adjacent to the well bore: ()

i. Tracer surveys; ()

ii. Cement bond log or other acceptable cement evaluation log; ()

iii. Temperature surveys; or ()

iv. In lieu of Subsections 105.01.b.i. through 105.01.b.iii. of this rule, any other equivalent test or combination of tests approved by the Department. ()

c. Mechanical integrity tests shall be performed at the rate of not less than one (1) test every five (5) years, regardless of well status. The first five-year period shall commence on the date the initial mechanical integrity test is performed. ()

02. Inactive Wells. If, at any time, surface equipment excluding the wellhead is removed or the well becomes incapable of production, a mechanical integrity test shall be performed within thirty (30) days. The mechanical integrity test for an inactive well shall be isolation of the wellbore with a bridge plug or similar approved isolating device set one hundred (100) feet or less above the highest perforations and a pressure test with liquid or gas at a pressure of not less than three hundred (300) psi surface pressure or any equivalent test or combination of tests approved by the Department. ()

03. Prior Notification. Not less than ten (10) days prior to the performance of any mechanical integrity test required by this rule, any person required to perform the test shall notify the Department, in writing, of the scheduled date on which the test will be performed. ()

04. Reporting Requirements. Mechanical integrity test results shall be submitted to the Department within thirty (30) days of testing. ()

05. Mechanical Integrity Required. All wells shall maintain mechanical integrity. All wells that fail a mechanical integrity test, or that are determined through any other means to lack mechanical integrity, shall immediately be investigated by the owner or operator. The well shall be repaired or immediately shut down following the investigation. Repairs shall be completed within six (6) months, or the well shall be plugged and abandoned. If the repair cannot be completed within six (6) months, the owner or operator may request an extension and provide a plan for the repair. ()

106. -- 109. (RESERVED)

110. DESIGNATION OF AGENT.

A "Designation of Agent" shall be submitted to the *director* Department in a manner and form approved by the *director* Department prior to the commencement of operations. A Designation of Agent(s) will be accepted as authority of agent to fulfill the obligations of the owner and to sign any papers or reports required under these oil and gas operating regulations, and all authorized orders or notices given by the *director* Department when given in the manner hereinafter provided shall be deemed service of such orders or notices upon the owner and the lessee. All changes of address and any termination of the agent's authority shall be immediately reported in writing to the *director* Department and, in the latter case, the designation of a new agent(s) shall be immediately made. If the designated agent(s) shall at any time be incapacitated for duty or absent from the address provided, the owner shall designate in writing a substitute to serve in his or their stead, and in the absence of such owner or of notice of appointment of a substitute then, in such case, notices may be given by the *director* Department by delivering a registered letter to the United States Post Office at Boise, Idaho, directed to the agent(s) at the address shown on the current Designation of Agent on file in the *director* Department's office, and such notice will be deemed service upon the owner and lessee. (10-21-92)()

111. -- ~~119~~24. (RESERVED)

~~120. SURFACE EQUIPMENT.~~

~~Meter fittings of adequate size to measure the gas efficiently for the purpose of obtaining gas-oil ratios shall be installed on the gas vent line of every separator or proper connections made for orifice well tester. Well head equipment shall be installed and maintained in excellent condition. Valves shall be installed so that pressures can be readily obtained on both casing and tubing.~~ (10-21-92)

~~121. -- 129. (RESERVED)~~

125. LOSS OF TOOL WITH RADIOACTIVE MATERIAL.

01. Recovery or Cementing of Tool. If a gamma ray tool, or some other tool containing radioactive material, becomes lost in a well, the owner or operator shall make every reasonable attempt to retrieve the tool from the well. If the tool cannot be recovered, the owner or operator must immediately cover the tool with cement sufficient to secure it in place and prevent it from contacting any fluids in the well. A whipstock or other approved deflection device shall be placed on top of the cement plug to prevent accidental or intentional mechanical disintegration of the radioactive source. ()

02. Sidetracking. If the hole is later sidetracked above the radioactive material, the sidetracked hole must be at least fifteen (15) feet from the original hole with the lost radioactive material. ()

03. Reporting. A report must be sent to the Department and IDEQ within thirty (30) days of cementing the tool. The report must describe the tool that was lost, the depth it was lost at, the specific type and amount of radioactive material in the tool, and an estimate of the length of

cement covering the tool. This report may be included in a plugging report if the well will be plugged. ()

126. -- 129. (RESERVED)

130. FIRE HAZARD.

Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred (100) feet from the well location, tanks, and separator. ~~All waste oil shall be burned or disposed of in a manner to avert creating a fire hazard.~~ (10-21-92)()

(BREAK IN CONTINUITY OF SECTIONS)

160. FIRE PROTECTION.

Dikes or firewalls shall be required where it is deemed necessary by the ~~Commission~~ Department to protect life, health, or property. Such dikes or firewalls must be erected and continuously maintained in good condition around all permanent oil tanks or batteries that are within the corporate limits of any city, town, or village, or where such tanks are closer than one hundred fifty (150) feet to any highway or inhabited dwelling, or closer than one thousand (1,000) feet to any school or church. The capacity of the dike, or firewall, shall be one and one-half (1 1/2) times the capacity of the tank(s) that it surrounds. The reservoir so formed within the dike shall be kept free from vegetation, water, and oil. (10-21-92)()

161. -- 169. (RESERVED)

170. WELL DIRECTIONAL CONTROL.

01. General Restrictions; Allowable Deviation. The maximum point at which a well penetrates the producing formation shall not unreasonably vary from the vertical drawn from the center of the hole at the surface. Deviation is permitted without special permission to remedy blowouts and, for short distances, to straighten the hole, sidetrack junk, or correct other mechanical difficulties. (10-21-92)

02. Controlled Directional Drilling. Except for the purposes recited in Subsection 170.01, no well hereafter drilled may be intentionally directionally deviated from the vertical unless the owner or operator thereof shall first file ~~application and obtain a permit from the Commission~~ an application and application fee to amend the drilling permit and receive approval from the Department. Such application shall contain the following information: (10-21-92)()

- a. Name and address of the owner or operator. (10-21-92)()
- b. Lease name, well number, name of field and reservoir and county. (10-21-92)
- c. Description of surface location and proposed location of the producing interval (footage from lease and section or block and survey lines). (10-21-92)

- d. Reason for intentional deviation. (10-21-92)
- e. List of offset operators and statement that each has been furnished a copy of the application by registered mail. (10-21-92)
- f. Signature of representative of owner or operator. (~~10-21-92~~)()
- g. Notification to offset operators that any objection they may have to the proposed intentional deviation of the well must be filed with the Commission Department within fifteen (15) days of receipt of a copy of the application. (~~10-21-92~~)()
- h. The application shall be accompanied by a neat, accurate plat or sketch of the lease and all offset leases showing the names of all offset operators and the surface and proposed producing interval locations of the well. Plat shall be drawn to a scale which will permit facile observation of all pertinent data. (10-21-92)

03. Copy of Application to Offset Operators. At the time the application is filed with the Commission Department, a copy of the application and the plat shall be forwarded by registered mail to all offset operators to the lease on which the well is to be drilled. (~~10-21-92~~)()

04. Commission Department Action. Upon receipt, the Commission Department will hold the application for fifteen (15) days. If objection from any offset operator to the proposed intentional deviation is received within fifteen (15) days of receipt of the application by said operator, or if the Commission Department is not in agreement with the proposed deviation, the application shall be set down for public hearing. If no objection from either an offset operator or the Commission Department is interposed within the fifteen (15) day period, the application shall be approved and permit issued by the Commission Department. If written consent of the offset operator(s) is filed concurrently with the application to drill directionally, the Commission Department may immediately approve the application without waiting fifteen (15) days. (~~10-21-92~~)()

05. Angular Deviation and Directional Survey. Upon completion, a complete angular deviation and directional survey of the well obtained by an approved well surveying company shall be filed with the Commission Department, together with other regularly required reports. (~~10-21-92~~)()

06. Application for Exceptions. In the event the proposed, or final, location of the producing interval of the directionally deviated well is not in agreement with spacing or other rules of the Commission applicable to the reservoir, proper applications shall be made to obtain approval of exceptions to such rules. Such approval shall be granted or denied at the discretion of the Commission Department, and shall be accorded with the same consideration and treatment as if the well had been drilled vertically to the producing interval. (~~10-21-92~~)()

171. -- 179. (RESERVED)

180. VACUUM PUMPS PROHIBITED.

The use of vacuum pumps or other devices for the purpose of placing a vacuum on any gas- or oil-bearing stratum is prohibited; however, the ~~Commission~~ Department may upon application and hearing and for good cause shown permit the use of vacuum pumps. ~~(10-21-92)~~()

181. -- 189. (RESERVED)

190. PULLING OUTSIDE STRINGS OF CASING.

Casing shall not be recovered if its recovery will expose any abnormal pressure, lost circulation, oil, gas, or water zone. In pulling outside strings of casing from any oil or gas well, the space outside the casing left in the hole shall be kept and left full of mud-laden fluid of adequate specific gravity to seal off all fresh and saltwater strata and any strata bearing oil or gas which is not producing. Casing may not be pulled without first making application to the Department and receiving approval. The application must describe how fresh waters will be protected.

~~(10-21-92)~~()

191. -- 199. (RESERVED)

200. ACCIDENTS AND FIRES.

The owner or operator shall take all reasonable precautions to prevent accidents and fires; ~~shall~~ An emergency response plan will be prepared and available at the well for use or inspection. Coordination with local emergency responders and the Idaho Bureau of Homeland Security is recommended prior to rig set up. The following actions must be taken in event of a release, industrial accident, or fire of major consequence: ()

01. Provide Information to Emergency Response. Emergency workers will be given information on all fluids or chemicals involved in a spill or accident as needed according to OSHA Standard 1910.1200 (Hazard Communication). Nothing in this rule shall authorize any person to withhold information that is required by state or federal law to be provided to a health care professional, a doctor, or a nurse. All information required by a health care professional, a doctor, or a nurse shall be supplied, immediately upon request, by the owner or operator, or their contractors, directly to the requesting health care professional, doctor, or nurse, including the percent by volume of the chemical constituents (and associated CAS numbers) in the fluids and the additives; ()

02. Initiate Spill Response and Corrective Actions. Owner or operator must comply with the requirements of IDAPA 58.01.02, "Water Quality Standards," Sections 850 through 852; and ()

03. Notify the Department. ~~#~~Notify the ~~director~~ Department within twenty-four (24) hours ~~of all accidents (other than personal injuries and deaths) or fires of major consequence,~~ and ~~shall~~ submit a full report thereon within fifteen (15) days. ~~(10-21-92)~~()

201. -- 209. (RESERVED)

210. PRODUCING FROM DIFFERENT POOLS THROUGH THE SAME CASING STRING.

No well shall be permitted to produce either oil or gas from different pools through the same string of casing without first receiving written permission from the ~~director~~ Department.

~~(10-21-92)~~()

211. -- 219. (RESERVED)

220. MULTIPLE ZONE COMPLETIONS.

01. Requirements of the Owner or Operator; Request for Approval. A multiple zone completion may be approved by the ~~director~~ **Department** upon application ~~therefor by the owner or operator and payment of an application fee~~, as herein provided. The application shall be accompanied by an exhibit showing the location of wells on applicant's lease and all offset wells on leases, and shall set forth all material facts involved and the manner and method of completion proposed, including a diagrammatic sketch of the mechanical installation of the proposed well. ~~The application fee may not exceed that required by Subsection 050.02 of these rules.~~ Notice of the filing of such application shall be given by the applicant by mailing to each ~~owner within one-half (1/2) mile of the affected well(s)~~ **offset operator** a notice containing a full description of the proposed completion for which approval is requested, and proof of mailing such notice shall be made by affidavit, which shall be attached to the application showing names and addresses of those to whom notice was mailed. ~~(10-21-92)~~()

02. Conditions for Approval; Cause for Hearing. In the event the ~~director~~ **Department** is in agreement with the application and that no ~~owner~~ **offset operator** files a written objection to the application with the ~~director~~ **Department** within fifteen (15) days of the date of the ~~owner's~~ **offset operator's** receipt of application, the application shall be approved **as an amendment to the drilling permit**. If any ~~owner~~ **offset operator** shall file in writing with the ~~director~~ **Department** an objection to such multiple completion, or if the ~~director~~ **Department** is not in agreement with the application, the matter shall be immediately set for hearing and Notice of Hearing duly given by the ~~Commission~~ **Department**. ~~(10-21-92)~~()

03. Zone Effectiveness; Requirement for Production Testing. The ~~director~~ **Department** may require such tests as ~~he determines~~ necessary to determine the effectiveness of the segregation of the different productive zones. ~~(10-21-92)~~()

04. Commingling Production. The Department may require that oil or gas from multiple zones be produced through different sets of tubing, if needed to protect correlative rights or to prevent waste. ()

(BREAK IN CONTINUITY OF SECTIONS)

231. -- ~~234~~9. (RESERVED)

~~240. DISPOSAL OF BRINE OR SALT WATER.~~

~~01. Conditions for Disposal by Earthen Evaporation Pit; Impervious Floor. Brine or salt water may be disposed of by evaporation when impounded in excavated earthen pits, which may only be used for such purpose when the pit is underlaid by tight soil such as heavy clay or~~

~~hardpan.~~ (10-21-92)

~~02. **Conditions for Disposal by Earthen Evaporation Pit; Porous Floor.** When the soil under the pit is porous and closely underlaid by a gravel or sand stratum, impounding brine or salt water in such earthen pits is hereby prohibited. When such water is impounded in an earthen pit, it shall be constructed and maintained to prevent escape of such water therefrom.~~ (10-21-92)

~~03. **Earthen Pits; Condemnation Due to Improper Impoundment.** The Commission shall have authority to condemn any pit which does not properly impound such water and order the disposal of such water into an underground formation as herein provided.~~ (10-21-92)

~~04. **Earthen Pits; General Conditions for Operation.** The level of brine or salt water in earthen pits shall at no time be permitted to rise above the lowest point of the ground surface level. All pits shall have a continuous embankment surrounding them sufficiently above the level of the surface to prevent surface water from running into the pit. Such embankment shall not be used to impound brine or salt water.~~ (10-21-92)

~~05. **Earthen Pits; Prohibition of Adjacent Land or Stream Pollution.** At no time shall brine or salt water impounded in earthen pits be allowed to escape over adjacent lands or into streams.~~ (10-21-92)

~~06. **Disposal Wells; Pollution Prohibited.** Disposal wells shall be cased and the casing cemented in such manner that damage will not be caused to oil, gas, or freshwater sources. See Section 250.~~ (10-21-92)

~~241.—249. (RESERVED)~~

250. PROCEDURE FOR UNDERGROUND DISPOSAL OF WATER CLASS II INJECTION WELLS.

Class II injection wells, as described in IDAPA 37.03.03, “Rules and Minimum Standards for the Construction and Use of Injection Wells,” are currently not authorized under this rule. Permits for Class II injection wells must be obtained through IDAPA 37.03.03. ()

~~01. **Approval Required.** The underground disposal of salt water, brackish water, or other water unfit for domestic, livestock, irrigation, or other general uses is permitted only upon order of the Commission or upon approval of the director as provided in this rule.~~ (10-21-92)

~~02. **Procedures for Application.** The application for underground disposal of salt water, brackish water, or other water unfit for domestic, livestock, irrigation, or other general uses shall be verified by applicant and filed with the director containing:~~ (10-21-92)

~~a. A plat showing location of the disposal well(s), including abandoned and drilling wells and dry holes and the names of owners within one-half (1/2) mile of the proposed disposal well(s).~~ (10-21-92)

~~b. The names, description, and depth of the formation into which water is to be injected, including a mechanical log of the proposed disposal well(s) if one is available.~~

(10-21-92)

~~e. A description of the casing in the disposal well(s) or the proposed casing program and the proposed method for testing casing before use of the disposal well(s). (10-21-92)~~

~~d. A statement specifying the source of water to be injected. (10-21-92)~~

~~e. The estimated minimum and maximum amount of water to be injected daily. (10-21-92)~~

~~f. Notice of the filing of such application shall be given by the applicant by mailing to each owner within one half (1/2) mile of the affected well(s) a notice containing a full description of the proposed disposal operation for which approval is required, and proof of mailing such notice shall be made by affidavit which shall be attached to the application showing names and addresses of those to whom notice was mailed. (10-21-92)~~

~~g. Conditions for Approval; Cause for Hearing. In the event the director is in agreement with the application and that no owner files a written objection to the application with the director within fifteen (15) days of receipt of the application, the application shall be approved. If any owner shall file in writing with the director an objection to such disposal program, or if the director is not in agreement with the application, the matter shall be immediately set for hearing and notice of hearing duly given by the Commission. (10-21-92)~~

251. -- 2594. (RESERVED)

255. SURFACE EQUIPMENT.

01. General Requirements. *Meter fittings of adequate size to measure the gas efficiently for the purpose of obtaining gas-oil ratios shall be installed on the gas vent line of every separator or proper connections made for orifice well tester. Well-head equipment shall be installed and maintained in excellent condition. Valves shall be installed so that pressures can be readily obtained on both casing and tubing. ()*

02. Meter Calibration. *All required meters shall be calibrated at least once per calendar year. The records of such calibration shall be maintained or made available by the owner or operator of the well and shall be available for inspection by the Department. Such records shall be maintained by the owner or operator for a period of at least five (5) years. ()*

03. Visibility. *All required meters shall be accessible and viewable by the Department for the purpose of monitoring daily, monthly and/or cumulative production volumes from individual wells. ()*

256. -- 259. (RESERVED)

260. MEASUREMENT OF OIL.

The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of meter measurements or tank measurements of oil-level difference made and recorded to the nearest quarter-inch (1/4") of one hundred percent (100%) capacity tables, subject to the

following corrections:

(10-21-92)

01. Correction for Impurities. The percentage of impurities (water, sand, and other foreign substances, not constituting a natural component part of the oil) shall be determined to the satisfaction of the ~~director~~ Department, and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities. ~~(10-21-92)~~()

02. Temperature Correction. The observed volume of oil corrected for impurities shall be further corrected to the standard volume at sixty (60) Degrees F in accordance with ASTM D-1250-08, Table 7, or any revisions thereof and any supplements thereto, or any close approximation thereof approved by the ~~director~~ Department. ~~(10-21-92)~~()

03. Gravity Determination. The gravity of oil at sixty (60) degrees F shall be determined in accordance with ASTM D-1250-08, Table 5, or any revisions thereof and any supplements thereto approved by the ~~director~~ Department. ~~(10-21-92)~~()

261. -- 269. (RESERVED)

270. MEASUREMENT OF GAS.

~~Gas of all kinds shall be measured by meter unless otherwise authorized by the director.~~

01. Gas Metering. ~~For protection of correlative rights of all parties, the owner or operator of a natural gas well shall meter or caused to be metered all natural gas produced from a well, utilizing a standard industry meter approved by the American Gas Association and capable of recording accurately the volume of natural gas produced at each well, unless another methodology, approved by the director, is utilized to provide for proper production allocation back to the individual well from a central point production meter or central point sales meter, which ever meter occurs first.~~ ()

02. Gas Measurement. For computing volume of gas to be reported to the ~~director~~ Department, the standard of pressure shall be fourteen point seventy-three (14.73) psi ~~at~~ atmospheric, and the standard of temperature shall be sixty (60) Degrees F. All volumes of gas to be reported to the ~~director~~ Department shall be adjusted by computation to these standards, unless otherwise authorized by the ~~director~~ Department. ~~(10-21-92)~~()

271. -- 279. (RESERVED)

280. GAS-OIL RATIO LIMITATION.

01. Waste Prevention; Conditions for Emergency Order. ~~To further prevent waste resulting from the production of wells with inefficient gas-oil ratios, the Department may enter an emergency order temporarily prohibiting the production of oil or gas from all wells in a pool producing both oil and gas when the Department believes that waste may be occurring or is imminent in said pool by reason of the operation of wells with inefficient gas-oil ratios. The order shall specify a date for the hearing described in Subsection 280.02 of these rules. The Department may use information provided by an offset operator or an owner or operator in a common source of supply to determine if waste is occurring.~~ ()

012. Notice and Cause for Hearing. ~~To prevent waste resulting from the operation of wells with inefficient gas-oil ratios, the Commission may upon its own motion, or upon the application of any interested party, if reasonable cause exists, hold a hearing to determine whether waste is occurring or is imminent in a pool by reason of the operation therein of wells with inefficient gas-oil ratios. The Commission will notify all offset operators and owners or operators in the common source of supply of the hearing date. A hearing regarding waste due to inefficient gas-oil ratios will held for any of the following reasons:~~ (10-21-92)()

i. ~~If an emergency order is issued as described in Subsection 280.01 of these rules. The hearing will be scheduled between five (5) and fifteen (15) days after the effective date of the order.~~ ()

ii. ~~Upon application to the Department from any person with an ownership interest in the common source of supply who believes that waste is occurring due to inefficient oil and gas ratios. The application must include credible evidence of such waste. The hearing shall be held within thirty (30) days of the Department receiving the application.~~ ()

iii. ~~Prior to an emergency situation and upon its own motion with reasonable cause, the Department may schedule a hearing regarding potential waste due to inefficient gas-oil ratios.~~ ()

023. Determination of Inefficient Ratios; Power to Limit Production. ~~If the Commission~~ Department after notice and hearing, whether held upon its own motion, upon the application of an interested party, or pursuant to an emergency order entered as hereinafter provided for, shall find that a well(s) in the pool are operating with inefficient gas-oil ratios, and that waste is occurring or is imminent as a result thereof, it shall enter an order limiting the production of oil and gas from said pool to that amount which the pool can produce without waste and in accordance with sound engineering practice. The order shall also limit the amount of oil or gas, or both, that may be produced from any well in the pool, so that each owner or operator is given an opportunity to produce his just and equitable share in the pool in accordance with sound engineering practice. (10-21-92)()

03. Waste Prevention; Conditions for Emergency Order. ~~To further prevent waste resulting from the production of wells with inefficient gas-oil ratios, the Commission will enter an emergency order temporarily prohibiting the production of oil or gas from all wells in a pool producing both oil and gas when:~~ (10-21-92)

a. ~~The director believes that waste may be occurring or is imminent in said pool by reason of the operation of wells with inefficient gas-oil ratios; or when~~ (10-21-92)

b. ~~An application is filed by any interested party alleging that a well(s) completed in the pool is producing therefrom at a gas-oil ratio in excess of two thousand (2,000) cubic feet of gas for each barrel of oil produced and that waste is occurring or is imminent as a result thereof. Any such applicant shall also show the name and address of each owner of a well completed in and capable of producing from said pool.~~ (10-21-92)

04. Emergency Order; Requirement for Hearing. ~~Any emergency order issued under this rule shall provide for a hearing to be held to determine whether waste is occurring or is~~

imminent. The date for the hearing shall be not less than five (5) nor more than fifteen (15) days after the effective date of the emergency order and shall be specified in said order. In addition to any other notice required by the Act, the Commission shall mail a copy of said emergency order to each owner of a well completed in and capable of producing from said pool. (10-21-92)

281. -- 289. (RESERVED)

290. GAS-OIL RATIO SURVEYS AND REPORTS.

Within thirty (30) days following the completion or recompletion of each well producing oil and gas and thereafter as the Commission Department may require, the owner or operator of such well shall make a gas-oil ratio test of such well and the results of such test shall be reported to the Commission Department within twenty (20) days after the test is made. Certain wells may be excepted from this rule by the director Department upon written request. Entire fields may be excepted from this rule after notice and hearing. (10-21-92)()

291. -- 299. (RESERVED)

300. GAS UTILIZATION.

After the owner or operator has completed and has had a reasonable opportunity to test a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized without waste. (10-21-92)()

~~**301. -- 309. (RESERVED)**~~

~~**310. SECONDARY RECOVERY (INCLUDING WATER FLOODING) AND PRESSURE MAINTENANCE OPERATIONS.**~~

~~**01. Applications for Secondary Recovery Projects. (10-21-92)**~~

~~**a. Applications Required.** Applications for water flooding or other secondary recovery operations, repressuring, or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, shall be filed by one (1) or more of the parties involved, or the operator of said project with the director. (10-21-92)~~

~~**b. Requirements of the Application.** The application for all permits for pressure maintenance or secondary recovery shall contain the following: (10-21-92)~~

~~**i.** Plat showing the unit, lease, or group of leases included within the proposed project. Plat shall also show the location of the proposed intake well(s) and the location of all oil and gas wells, including abandoned and drilling wells and dry holes, and the names of all operators offsetting the area encompassed within the project; (10-21-92)~~

~~**ii.** Formations in which all wells are currently completed; (10-21-92)~~

~~**iii.** Name, description, and depth of the formation (common reservoir or common source of supply) to be affected by injection; (10-21-92)~~

- ~~iv. Log of any existing intake well(s) or such information as is available; (10-21-92)~~
- ~~v. Description of the intake well's casing or the proposed casing program, and proposed method for testing casing before use of the input wells; (10-21-92)~~
- ~~vi. Statement as to the injection medium to be used, its source, and the estimated amounts to be injected daily; (10-21-92)~~
- ~~vii. Tabulations showing recent oil-gas ratios and oil and water production tests for each of the producing oil and gas wells; (10-21-92)~~
- ~~viii. Statement of the plan of development of the area included within the project; and (10-21-92)~~
- ~~ix. Names and addresses of the operator(s) of the project. (10-21-92)~~
- ~~e. Notification of Adjacent Property Owners. In addition to the notice required by law, a copy of such application shall be mailed or delivered by the applicant to each owner within three-fourths (3/4) mile of the project as shown on the application. Such copy of application shall be mailed or delivered on or before the date the application is filed with the Commission. A statement shall be attached to the application showing the parties to whom such copies have been mailed or delivered and their addresses. (10-21-92)~~
- ~~d. Conditions for Approval; Cause of Hearing. If the application has requested approval of the operation as a pilot project; if director is in agreement with the application; and if no owner within three-fourths (3/4) mile files a written objection to the application with the director within fifteen (15) days of the date of receipt of the application, the application shall be approved as a pilot project without the necessity of a hearing. In all other cases, the matter shall be immediately set for hearing. Notice of the hearing shall be given by the Commission. At any time after the approval of an operation as a pilot project, if the director or the operator of the project believes that sufficient information has been obtained so that the operation is no longer a pilot project, either of them may request a hearing before the Commission for approval of the operation. (10-21-92)~~
- ~~02. Casing and Cementing of Injection Wells. Wells used for injection of gas, air, or water or other extraneous fluids into the producing formation shall be cased with safe and adequate casing or tubing to prevent leakage or damage to oil, gas, or freshwater sources. (10-21-92)~~
- ~~03. Notice of Commencement and Discontinuance of Injection Operations. The following provisions shall apply to all injection projects: (10-21-92)~~
- ~~a. Immediately upon commencement of injection operations, the operator shall notify the director of the injection date. (10-21-92)~~
- ~~b. Within fifteen (15) days after the discontinuance of injection operations, the operator shall notify the director of the date of such discontinuance and the reasons therefor. (10-21-92)~~

~~e. Before any intake well shall be plugged, notice shall be served to the director by the owner of said well, and the same procedure shall be followed in the plugging of such well as provided for the plugging of oil and gas wells. (10-21-92)~~

~~04. **Records and Reports.** Each operator of a pressure maintenance or secondary recovery project shall keep accurate records showing oil produced, injected volumes, and injection pressure. Each operator shall file with the director a monthly report which shall show all produced and injected volumes and other data as required by the Commission. (10-21-92)~~

~~3101. -- 319. (RESERVED)~~

320. WELL PLUGGING.

01. Plugging Required. The operator or owner shall not permit any well drilled for oil, gas, saltwater disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled or converted. (10-21-92)

02. Notice of Intention to Abandon Well. Before beginning abandonment work on ~~any well, whether drilling well, an~~ oil or gas well, ~~injection well, or so-called dry hole,~~ a Notice of Intention to Abandon shall be filed with the ~~director~~ **Department** and approval obtained as to the method of abandonment before the work is started. The notice must show the reason for abandonment and must give a detailed statement of the proposed work, including such information as kind, location, and length of plugs (by depths), and plans for mudding, cementing, shooting, testing, and removing casing as well as any other pertinent information. (10-21-92)()

03. Plugging Dry Holes. ~~If a nonproductive well, or dry hole, is drilled and not needed for any specific purpose, it must be plugged and abandoned prior to removal of the drill rig. A verbal notification and approval may be used for dry holes in lieu of the written notification referenced in Subsection 320.02 of these rules. The standards in Subsections 320.04 through 320.06 of these rules will still apply. ()~~

034. Plugging of Wells. The owner ~~or operator~~ of any well drilled for oil or gas, or any seismic, core, or other exploratory holes, whether cased or uncased, and regardless of diameter shall be responsible for the plugging of said hole in a manner sufficient to properly protect all freshwater-bearing and possible or probable oil- or gas-bearing formations ~~in agreement with the requirements of the director.~~ ~~The material used in plugging, whether cement, mechanical plug, or some other equivalent method approved in writing by the Director, must be placed in the well in a manner to permanently prevent migration of oil, gas, water, or other substance from the formation or horizon in which it originally occurred. The preferred plugging cement slurry is that recommended in API Bulletin E3. Pozzolan, gel, and other approved extenders may be used if the owner or operator can document to the Department's satisfaction that the slurry design will achieve a minimum compressive strength of three hundred (300) psi after twenty-four (24) hours, and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five (95) degrees F and at eight hundred (800) psi.~~ No substances of any nature or description other than those normally used in plugging operations shall be placed in any well at any time during plugging

operations.

~~(10-21-92)~~()

05. Plugged Intervals. The following plugging standards shall be followed for all wells: ()

a. Cement must be placed for a length of at least one hundred (100) feet on either side of each casing shoe, or casing bottom if no shoe is present. If the bottom of the hole is less than one hundred (100) feet from the bottom of the lowest casing, then the entire length of the uncased hole below the casing will be cemented. ()

b. In the uncased portions of a well, cement plugs must be placed to extend from one hundred (100) feet below the bottom up to one hundred (100) feet above the top of any oil, gas, and abnormally high pressure zones, so as to isolate fluids in the strata in which they are found and to prevent them from escaping into other strata. ()

c. A cement plug shall be placed a minimum of one hundred (100) feet above all producing zones in uncased portions of a well. ()

d. A cement plug shall be placed a minimum of fifty (50) feet above and below the following intervals: ()

i. Where the casing is perforated or ruptured. If no cement is present behind the casing, then cement must also be squeezed out the perforations or ruptures and into the annular space between the casing and the borehole. ()

ii. Top and bottom of fresh water zones. If fresh water zone is less than one hundred (100) feet thick, then continuous cement must be placed from fifty (50) feet below the zone upward to fifty (50) feet above the zone. ()

e. The top of all cement plugs will be tagged to verify their depth. ()

f. The owner or operator shall have the option as to the method of placing cement in the hole by: ()

i. Dump bailer; ()

ii. Pumping a balanced cement plug through tubing or drill pipe; ()

iii. Pump and plug; or ()

iv. Equivalent method approved by the Director prior to plugging. ()

g. Unless prior approval is given, all wellbores shall have water based drilling muds, high viscosity pills, or other approved fluids between all plugs. ()

h. All abandoned wells shall have a plug or seal placed at the surface of the ground or the bottom of the cellar in the hole in such manner as not to interfere with soil cultivation or other surface use. The top of the pipe must be sealed with either a cement plug and a screw cap, or

cement plug and a steel plate welded in place or by other approved method, or in the alternative be marked with a permanent monument which shall consist of a piece of pipe not less than four (4) inches in diameter and not less than ten (10) feet in length, of which four (4) feet shall be above the general ground level, the remainder to be embedded in cement or to be welded to the surface casing. ()

046. Subsequent Report of Abandonment. If a well is plugged or abandoned, a subsequent record of work done must be filed with the ~~director~~ Department. This report shall be filed separately within thirty (30) days after the work is done. The report shall give a detailed account of the manner in which the abandonment of plugging work was carried out, including the weight of mud, the nature and quantities of materials used in plugging, the location and extent (by depths) of the plugs of different materials, and the records of any tests or measurements made and of the amount, size, and location (by depths) of casing left in the well. If an attempt was made to part any casing, a complete report of the method used and the results obtained must be included. (10-21-92)()

057. Wells Used for Fresh Water (Cold Water < 85 degrees Fahrenheit), Low Temperature Geothermal (85 - 212 Degrees Fahrenheit) or Geothermal Wells (>212 Degrees Fahrenheit). ~~When the well, seismic, core, or other exploratory hole to be plugged may safely be used as a fresh water well, and such utilization is desired by the landowner, the well need not be filled above the required sealing plug set below fresh water; provided that written authority for such use is secured from the landowner and in such written authority, the landowner assumes the responsibility to plug the well upon its abandonment as a water well in agreement with applicable law. Such written authority and assumption of responsibility shall be filed with the director.~~ (10-21-92)()

a. Oil and gas wells, seismic, core or other exploratory holes no longer being used for their original purpose may not be converted into fresh water, low temperature geothermal, or geothermal wells unless the following actions occur: ()

i. Owner, operator, or surface owner files an application with the IDWR describing the conversion and the proposed use for the water or geothermal resource and any modifications necessary to meet the applicable well construction standards; ()

ii. The surface owner provides written documentation assuming responsibility for the converted well including, should it become necessary, decommissioning (plugging) of the converted well in accordance with applicable law; ()

iii. IDWR issues a permit for a geothermal resource well, a water right, or recognizes a domestic exemption authorizing the withdrawal of water from the converted well; and ()

iv. A licensed driller in Idaho inspects and certifies that the converted well meets all well construction standards for its intended purpose. ()

b. The Department's bond may not be released, and the oil and gas permit cancelled, until all requirements in Paragraph 320.07.a. of these rules are met. ()

321. -- 3294. (RESERVED)

325. SURFACE RECLAMATION.

01. Timing of Reclamation. After the plugging and abandonment of a well or closure of other oil and gas facilities, all reclamation work described in this Section shall be completed within twelve (12) months. The Director may grant an extension where unusual circumstances are encountered, but every reasonable effort shall be made to complete reclamation before the next local growing season. ()

02. General Clean Up. All debris, abandoned gathering line risers and flowline risers, surface equipment, supplies, rubbish, and other waste materials shall be removed within three (3) months of plugging a well. The burning or burial of such material on the premises shall be performed in accordance with applicable local, state, or federal solid waste disposal and air quality regulations. In addition, material may be burned or buried on the premises only with the prior written consent of the surface owner. ()

03. Road Removal. All access roads to plugged and abandoned wells and associated production facilities shall be ripped, regraded, and recontoured unless otherwise specified in a surface use agreement. Culverts and any other obstructions that were part of the access road(s) shall be removed. Roads to be left will be graded to drain and prepared with rolling dips or other best management practices to minimize erosion. ()

04. Regrading. Drill pads, pits, berms, cut and fill slopes, and other disturbed areas will be regraded to approximate the original contour. Where possible, slopes should be reduced to three (3) horizontal feet to one (1) vertical foot (3H:1V) or flatter. ()

05. Compacted Areas. All areas compacted by drilling and subsequent oil and gas operations that are no longer needed following completion of such operations shall be cross-ripped. Ripping shall be undertaken to a depth of eighteen (18) inches or bedrock, whichever is reached first. ()

06. Topsoiling. Stockpiled topsoil shall be replaced in a manner that will support reestablishment of the pre-disturbance land use and contoured to control erosion and provide long-term stability. If necessary, topsoiled areas shall be tilled adequately in order to establish a proper seedbed. ()

07. Revegetation. ()

a. The owner or operator shall select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands prior to the oil and gas operations. Certified weed free seed should be used in revegetation. The owner or operator may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation. ()

b. The disturbed areas shall be reseeded in the first favorable season following rig demobilization, site regrading, and topsoil replacement. ()

c. Unless otherwise specified in the approved permit, the success of revegetation

efforts shall be measured against the existing vegetation on site prior to the oil and gas operations, or against an adjacent reference area supporting similar types of vegetation. Reseeding or replanting is required until the following cover standards are met: ()

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on an adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation, if used; ()

ii. Ground cover shall be considered comparable if the planted area has at least seventy percent (70%) of the pre-disturbance, or adjacent reference area, ground cover; ()

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the Department, in approving a drilling permit or a pit, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species; ()

iv. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation; and ()

v. In all cases, vegetative cover shall be established to the extent necessary to control erosion. ()

d. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-reclamation land use, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species shall not be used in revegetation. ()

e. By mutual agreement of the Department, the surface owner, and the owner or operator, a site may be converted to a different, more desirable or more economically suitable habitat. ()

f. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. ()

g. The owner or operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to oil and gas operations. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the surface owner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs shall be protected from erosion by vegetation, chemical binders, or other acceptable means during establishment of

the shrubs. ()

h. Tree stocking of forestlands should meet the following criteria: ()

i. Trees that are adapted to the site should be planted in a density which can be expected over time to yield a timber stand comparable to pre-disturbance timber stands; ()

ii. Trees shall be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and ()

iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. ()

i. Revegetation is not required on areas that the surface owner wishes to incorporate into an irrigated field and any roads which will be used for other oil and gas operations. ()

i. Mulch should be used on severe sites and may be required by the permit where slopes are steeper than three (3) horizontal feet to one (1) vertical foot (3H:1V) or the mean annual rainfall is less than twelve (12) inches. When used, straw, or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. ()

08. Reclamation Under a Surface Use Agreement. Notwithstanding the requirements of Subsections 325.03 through 325.07 of this rule, reclamation may be superseded by the conditions of a surface use agreement as long as the site is left in a stable, non-eroding condition that will not impact fresh waters. ()

326. -- 329. (RESERVED)

330. WELL SPACING.

In the absence of an order by the Commission setting spacing units for a pool, or a unit operation as described in Section 340, the following rules shall apply: ~~(10-21-92)~~()

01. Wells Drilled for Oil; Standard Spacing Unit and Well Location. Every well drilled for oil must be located in the center of a forty (40) acre governmental quarter quarter section, lot or tract, or combination of lots or tracts substantially equivalent thereto as shown by the most recent governmental survey, with a tolerance of two hundred (200) feet in any direction from the center location; provided that no oil well shall be drilled less than nine hundred twenty (920) feet from any other well drilling to or capable of producing oil from the same pool, or no oil well shall be completed in a known pool unless it is located more than nine hundred twenty (920) feet from any other well completed in and capable of producing oil from the same pool.

(10-21-92)

02. Wells Drilled for Gas; Standard Spacing Unit and Well Location. Every well drilled for gas must be located on a drilling unit consisting of approximately six hundred forty

(640) contiguous surface acres, which shall be one governmental section or lot(s) equivalent thereto, upon which there is not located, and of which no part is attributed to, any other well completed in or drilling to the same pool. In areas not covered by United States Public Land Surveys, such drilling unit shall consist of an area which is: 1) bounded by four (4) sides intersecting at angles of not less than eighty five (85) degrees or more than ninety five (95) degrees; 2) the distance between two (2) points farthest apart thereon shall not exceed eight thousand five hundred (8,500) feet; and 3) shall contain at least six hundred (600) contiguous surface acres. In areas covered by United States Public Land Surveys, such drilling unit shall consist of one governmental section containing not less than six hundred (600) surface acres. Each well drilled for gas shall be located within a square, each side of which is one thousand six hundred sixty (1,660) feet in length and parallel to a center line of the section. The center of such square shall coincide with the geometric center of the section. (10-21-92)

03. Well Locations Adjacent to Spaced Areas. The Commission shall have the discretion to determine the pattern location of wells adjacent to an area spaced by the Commission, or under application for spacing where there is sufficient evidence to indicate that the pool or reservoir spaced or about to be spaced may extend beyond the boundary of the spacing order or application, and the uniformity of spacing patterns is necessary to insure orderly development of the reservoir pool. (10-21-92)

04. Exceptions to Location of Wells and Well-Spacing Orders. Upon proper application therefore, the ~~director~~ **Department** may approve, as an administrative matter, an exception to Subsections 330.01 and 330.02 or any order of the Commission establishing well spacing for a pool. ~~If for any reason the Commission shall fail or refuse to approve such an exception, the director may, after notice and hearing, grant the exception.~~ The application for an exception shall state fully the reasons why such an exception is necessary or desirable and shall be accompanied by a plat showing: (10-21-92)()

a. The location at which an oil or gas well could be drilled in compliance with Subsections 330.01 or 330.02 or the applicable order; (10-21-92)

b. The location at which the applicant requests permission to drill; and (10-21-92)

c. The location at which oil or gas wells have been drilled or could be drilled, in agreement with Subsections 330.01 or 330.02 or the applicable order, directly or diagonally offsetting the proposed exception. No exception shall prevent any owner **or operator** from drilling an oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by Subsections 330.01 or 330.02 or any applicable order of the Commission establishing oil or gas well-spacing units for the pool involved. (10-21-92)()

331. -- 339. (RESERVED)

340. UNIT OPERATIONS.

Any person desiring to obtain the benefits of Section 47-323, Idaho Code, relating to any method of unit, cooperative development, or operation of a field or pool or a part of either, shall file an application with the ~~director~~ **Department** for approval of such agreement which shall have attached a copy of such agreement. Notice of the hearing of such application shall be given by publication **of a legal notice** in a newspaper of general circulation in Ada County, Idaho, and the

county of the unit operation.

(10-21-92)()

341. -- 349. (RESERVED)

350. WRITTEN NOTICES, REQUESTS, PERMITS AND REPORTS.

The ~~Commission~~ Department shall adopt such forms of notices, requests, permits, and reports as it may deem advisable or necessary in carrying out the provisions of law and its rules and regulations.

(10-21-92)()

351. -- 359. (RESERVED)

360. GEOPHYSICAL OPERATIONS.

~~01. Notice to Inhabitants. Before a geophysical contractor conducts surface shooting operations, he shall give notice to an occupant of every inhabited dwelling within a one-mile radius of each shot point. Such notice shall be given in writing or by in-person contact. The notice shall tell the occupant of the nature and approximate time period of the seismic surface shooting activity.~~

(10-21-92)

021. Permit Required. Before beginning seismic *shothole* operations in the state of Idaho, a representative of the client company and the seismic contractor shall meet with the staff of the ~~Commission and~~ Department, file an application for a permit to conduct seismic operations, and pay an application fee. No seismic operation shall be conducted without such a permit. The ~~director~~ Department has discretion to waive the requirement of the pre-permit meeting for the client company. The permit for seismic operations may be revoked or suspended or the application for the permit denied by the ~~Commission or director~~ Department for failure to comply with the Commission's rules, statutes, and orders. The ~~director~~ Department may revoke, suspend, or deny the application for a seismic permit without a hearing; provided that the seismic contractor shall be given an opportunity for a hearing at the next regularly scheduled Commission meeting. The fact that a permit is revoked or suspended does not excuse the seismic contractor or client company from properly plugging existing seismic holes but does prohibit the person(s) from drilling any more. The application for a permit for seismic operations must include:

(10-21-92)()

a. The proposed route of the seismic line on a topographic or recent air photo base map at a sufficient scale to show roads, buildings, surface waters, and Section, Township, and Range lines. The map must also show additional area as needed for any alternative routing. The alternative routing must be within at least one-half (1/2) mile of the proposed route. Reapplication must be made if the final route strays from the proposed route and outside the designated alternative routing areas; and

()

b. The energy sources proposed to be used for the seismic operation, such as vibroseis, shot holes, surface shot, or others.

()

c. The approximate number, depth, and location of the seismic holes and the size of the explosive charges. The application shall be accompanied by a map with a scale of one inch equaling two (2) miles that shows the depth and location of the shotholes.

(10-21-92)

bd. The name and permanent address of the client company the ~~Commission or director~~ Department may contact about the seismic operation. ~~(10-21-92)~~()

ee. The name, permanent address, and phone number of the seismic contractor and his local representative whom the ~~Commission or director~~ Department may contact about the seismic activity. ~~(10-21-92)~~()

df. The name, phone number, and permanent address of the hole plugging contractor, if different from the seismic contractor. (10-21-92)

eg. A detailed description of the hole plugging procedures, and a description of the surface reclamation procedures, if such reclamation is needed. ~~(10-21-92)~~()

fh. The anticipated starting date of seismic ~~and plugging~~ operations. ~~(10-21-92)~~()

gi. The anticipated completion date of seismic ~~and plugging~~ operations, and the anticipated date of any required reclamation or hole plugging. ~~(10-21-92)~~()

hj. A description of the identifying mark that will be on the hat or nonmetallic plug to be used in the plugging of the seismic hole. (10-21-92)

02. Operating Requirements. All geophysical operations must comply with the following requirements: ()

a. All vehicles utilized by the permit holder, or its agents or contractors, shall be clearly identified by signs or markings utilizing letters or numbers, or a combination thereof, a minimum of three (3) inches in height and one-half (1/2) inch wide, indicating the name of such agent. ()

b. No seismic source generation from vibroseis, shot holes, surface shot, or other method shall be conducted within two hundred (200) feet of any residence, water well, oil well, gas well, injection well or other structure without having first secured the express written authority of the owner(s) thereof and the permit holder shall be responsible for any resulting damages. ()

c. Written authority from the owner of a residence, water well, oil well, gas well, injection well or other structure must also be obtained from the owner(s) if any explosive charge exceeds the maximum allowable charge within the scaled distance below:

<u>DISTANCE TO STRUCTURE (Feet)*</u>	<u>MAXIMUM ALLOWABLE CHARGE WEIGHTS (Pounds)*</u>
<u>50</u>	<u>0.5</u>
<u>100</u>	<u>2.0</u>
<u>150</u>	<u>4.5</u>
<u>200</u>	<u>8.0</u>
<u>250</u>	<u>12.0</u>

<u>DISTANCE TO STRUCTURE (Feet)*</u>	<u>MAXIMUM ALLOWABLE CHARGE WEIGHTS (Pounds)*</u>
<u>300</u>	<u>18.0</u>
<u>350</u>	<u>25.0</u>
<u>* Based upon a charge weight of seventy (70) Foot/Pound^{1/2}.</u>	

()

d. The maximum allowable charge weight is twenty-five (25) pounds, unless the permit holder requests and secures the prior written authorization from the Department. ()

e. All seismic sources placed for detonation shall contain additives to accelerate the biodegradation thereof and shall be handled with due care in accordance with industry standards. The cap leads for any seismic sources that fail to detonate shall be buried at least three (3) feet deep. ()

f. All vegetation cleared to the ground shall be cleared in a competent and workmanlike manner in the exercise of due care. ()

g. Unless otherwise consented to by the surface owner in writing, permit holder shall not cut down any tree measuring six (6) inches or more in diameter, as measured at a height of three (3) feet from the ground surface, unless there are no reasonable alternatives to the removal of such tree(s) available to permit holder. Permit holder shall compensate surface owner the value of all such trees. ()

h. All excessive rutting or soil disturbances shall be repaired or restored to the original condition and contour to the extent reasonable, unless otherwise agreed to by the permit holder and the surface owner in writing. ()

i. All fences removed shall be replaced, unless otherwise agreed to by the permit holder and the surface owner in writing. ()

j. All debris associated with the seismic activity shall be removed and properly disposed. ()

03. Bond Required. ()

a. Before beginning geophysical operations, the geophysical contractor must file and have approved by the ~~director~~ Department a bond in the amount of at least ten thousand dollars (\$10,000). The Department may increase this bonding requirement for geophysical contractors based on the amount of potential damage from the contemplated operation. The condition of such bond shall comply with the ~~Oil and Gas Conservation Law Act~~, the rules and orders of the Commission, and orders of the ~~director and/or his duly authorized representatives~~ Department. The obligation of the bond shall not be discharged until one (1) year from completion of the survey or until the geophysical contractor has complied with the Oil and Gas Conservation Law, the Commission's rules, and the orders of the Commission and ~~director and their agents~~ the Department. ~~Provided, upon verified application, the director may waive or modify this bonding requirement for geophysical contractors based on the amount of potential damage from the~~

~~contemplated operation.~~

~~(10-21-92)()~~

~~**a.b.** Persons or other entities who engage in the plugging of seismic holes and are not a regular full-time employee of the seismic company, owner, or operator shall have posted with the director a surety bond in favor of the Commission Department. Said bond shall be on a form prescribed by the Commission Department and in the amount of five thousand dollars (\$5,000). The condition of the bond shall comply with the Oil and Gas Conservation Law and the regulations and orders of this the Commission and the director and their duty authorized agents and employees Department.~~

~~(10-21-92)()~~

~~**04. Newspaper Notice.** Before a geophysical contractor conducts the geophysical operation, the contractor shall publish a legal notice in a newspaper of general circulation in the county where the survey will be conducted. The notice shall state the nature and approximate time period of the seismic operations. These requirements do not apply to operations conducted within a well or conducted by aerial surveys.~~

~~()~~

~~**05. Owner and Occupant Notification.** No entry shall be made by any person to conduct seismic operations, upon the lands where such seismic operations are to be conducted, without the permit holder having first given notice at least thirty (30) calendar days prior to commencement of field seismic operations.~~

~~()~~

~~**a.** The notice shall be in writing and given either personally or by certified United States mail to the following persons:~~

~~()~~

~~**i.** Surface owners reflected in the tax records of the counties where the lands are located, at the mailing addresses identified for such surface owners in such records;~~

~~()~~

~~**ii.** Occupants residing on the lands who are not the surface owners, if it can be reasonably ascertained that there are such occupants; and~~

~~()~~

~~**iii.** Owners or operators of oil and gas wells within the seismic survey area, as reflected in Department records.~~

~~()~~

~~**b.** The notice shall contain the following:~~

~~()~~

~~**i.** Name of the person or entity that is conducting the seismic operations;~~

~~()~~

~~**ii.** Proposed location of the seismic operations; and~~

~~()~~

~~**iii.** Approximate date the person or entity proposes to commence seismic operations.~~

~~()~~

~~**06. Department Notifications.**~~

~~()~~

~~**a.** The permit holder shall also notify the Department within five (5) business days of the commencement and completion of each seismic operation.~~

~~()~~

~~**b.** Before beginning geophysical operations other than seismic operations, the~~

geophysical contractor shall file a notice of intention to do so with the Department. Said notice shall describe the geophysical method to be used and be accompanied by a map of a scale of one (1) inch equals two (2) miles showing the location of the project. ()

047. Reports and Notices Required. (10-21-92)

a. Activity Report. Upon completion of the seismic activity or at thirty (30) day intervals after the work has commenced, whichever occurs first, the seismic contractor shall file with the ~~director~~ Department a report of the completion or progress of the seismic project. The final completion report shall be in affidavit form and shall include a seven and one-half (7.5) - or fifteen (15) minuted United States Geological Survey topographic quadrangle map (at a scale of one (1) inch equals two thousand (2,000) feet or one (1) inch equals four thousand (4,000) feet that shows section, township, and range) and the location of each ~~shot~~ shothole survey so that the shotholes and other potential impacts can be easily located. The final completion report shall also include a statement that all work has been performed in compliance with the application for a permit to perform seismic activity, Commission Rule 360, and permit provisions. Said maps, applications, and reports shall be kept confidential by the ~~Commission~~ Department for a period of ~~five one (51)~~ years from the date of receipt, subject to the needs of the ~~director~~ Department to use them to enforce these regulations, the ~~Oil and Gas Conservation Law Act~~, and the orders of the Commission or ~~director~~ the Department. Also, the owner of the surface of the land may be advised of the location of seismic lines or seismic holes on his land and of the exploration method used. (10-21-92)()

b. Plugging Notice. Seismic contractors shall give the ~~Commission or director~~ Department at least twenty-four (24) hours advance notice of shothole plugging operations, provided that notice of plugging operations planned for Sunday or Monday may be given on the previous Friday. (10-21-92)()

~~c. Other Notices. Before beginning geophysical operations other than seismic operations, the geophysical contractor shall file a notice of intention to do so with the Commission. Said notice shall describe the geophysical method to be used and be accompanied by a map of a scale of one inch equals two (2) miles showing the location of the project.~~ (10-21-92)

058. Client-Contractor Responsibility. The client company may be held responsible along with the seismic contractor for conducting the operation in compliance with the Commission's rules and orders, the ~~director's~~ Department's orders, and the ~~Idaho Oil and Gas Conservation Law Act~~ for the seismic contractor's failure to comply with such rules, statutes, and orders. The hats used in the plugging of seismic holes shall be imprinted with the name of the contractor responsible for the plugging of the hole. (10-21-92)()

069. Plugging. Unless the seismic contractor can prove to the satisfaction of the ~~director~~ Department that another method will provide better protection to ground water and long-term land stability, seismic shothole operations shall be conducted in the following manner: (10-21-92)()

a. When water is used in conjunction with the drilling of seismic shotholes and artesian flow is not encountered at the surface, seismic holes are to be filled with a high grade

bentonite/water slurry mixture. Said slurry shall have a density that is at least four percent (4%) greater than the density of fresh water; said slurry shall also have a Marsh funnel viscosity of at least sixty (60) seconds per quart. Density and viscosity are to be measured prior to adding cuttings to the slurry. Cuttings not added to the slurry are to be disposed of in accordance with Subsections 360.069.f. of this rule. Any other suitable plugging material commonly used in the industry may be substituted for the bentonite/water slurry as long as the physical characteristics of said substitute are at least comparable to those of the bentonite/water slurry. Between November 1 and May 1, coarse ground bentonite approved by the ~~director~~ **Department** shall be used as a plugging material. (10-21-92)()

b. The hole will be filled with the slurry from the bottom up to a depth of three (3) feet (three (3) feet below ground level). A nonmetallic plug will be set at this depth of three (3) feet, and the remaining hole will be filled and tamped to the surface with cuttings and native soil. (10-21-92)

c. When drilling with air and nonartesian water is encountered, the hole shall be plugged with the slurry mixture, or coarse ground bentonite, as specified in Subsections 360.069.a., supra. (10-21-92)()

d. When drilling with air only and in completely dry holes, plugging may be accomplished by returning the cuttings to the hole, tamping the returned cuttings to the above-referenced depth of three (3) feet, and setting the permaplug topped with more cuttings and soil as per Subsection 360.069.b. above. A small mound will be left over the hole for settling allowance. **Auger holes twenty (20) feet or less in depth may be plugged in this same manner.** (10-21-92)()

e. The foregoing seismic holes shall be properly plugged and abandoned as soon as practical after the shot has been fired; however, a shot hole shall not be left unplugged for more than thirty (30) days without approval of the ~~director~~ **Department**. (10-21-92)()

f. Any slurry, drilling fluid, or cuttings which are deposited on the surface around the seismic hole will be raked or otherwise spread out to at least within one (1) inch of the surface, so that the growth of the natural grasses or foliage will not be impaired. (10-21-92)

~~**g.** Seismic shothole operations will not be conducted within one quarter (1/4) mile of any building or water well, flowing spring, or stockwater pipeline. (10-21-92)~~

~~**hg.** Guidelines: Subsections~~ **The requirements of Paragraphs** 360.069.a. through 360.069.gf. **above of this rule** may be modified by any reasonable written agreement between the seismic company and the surface owner. (10-21-92)()

~~**ih.** If artesian flow (water flowing at the surface) is encountered in the drilling of any seismic hole, cement will be used to seal off the water flow thereby preventing cross-flow, erosion, and/or contamination of freshwater supplies. Said holes shall be cemented immediately; unless severe weather conditions prevent access. Landowners may assume liability for seismic holes that are capable of conversion to water wells by sending a letter assuming such liability to the director and filing an application for appropriation of underground water with the Department of Water Resources. (10-21-92)()~~

j. After completing the plugging of seismic shot holes and spreading the cuttings as required by this rule, the seismic contractor shall ~~mark~~ **record** the ~~exact~~ **GPS** location of the seismic hole, ~~with a wooden stake that extends approximately two (2) inches above ground. This requirement may be waived by the director if the landowner consents to it~~ **and the contractor shall provide the location data to the Department.** ~~(10-21-92)~~()

10. Forfeiture of Geophysical Exploration Bond. The Department may forfeit the bond submitted under Subsection 360.03 of this rule upon failure of the owner or operator to conduct the seismic survey and complete reclamation in conformance with Section 360 of this rule. The owner or operator will be given an opportunity to address compliance issues prior to the Department taking action against the bond. ()

361. -- ~~99~~369. (RESERVED)

370. ENFORCEMENT.

The Department shall enforce these rules pursuant to Section 47-325, Idaho Code. ()

371. -- 999. (RESERVED)

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.02 - BENEFICIAL USE EXAMINATION RULES

DOCKET NO. 37-0302-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 Section 42-1805(8), Idaho Code, and Section 42-217a, 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.

Pursuant to Sections 42-217 through 42-219, Idaho Code, the Department of Water Resources (IDWR) processes proofs of beneficial use and issues water right licenses confirming new water rights. Section 42-217, Idaho Code, requires an examination before a license can be issued. Depending on the water right permit holder's choice, examinations may be conducted by IDWR staff members or by Certified Water Right Examiners (CWREs) from the private sector. The Beneficial Use Examination Rules (IDAPA 37.03.02) establish acceptable standards for conducting examinations and reporting beneficial use. Some of the rules contain ambiguous language that causes confusion about the information to be provided. The pending rule changes would alter or clarify certain examination requirements to make it easier for CWREs to complete reports. Complete, accurate reports result in water right licenses being issued more quickly. The proposed changes are important at this time because IDWR has a water right licensing backlog of about 3500 permits, and IDWR anticipates more examinations being conducted by CWREs to help address the backlog. The most significant among the proposed changes are:

Clarifying that examinations for some water rights may be conducted without an "on-site" inspection.

Clarifying when the examiner must report an annual diversion volume and clarifying how annual diversion volumes are to be determined.

Establishing that an aerial photograph must be submitted with all field reports.

Removing the water measurement exemption for diversion systems where IDWR did not require the permit holder to install a measuring device or access port.

Clarifying that IDWR employees are not CWREs, but they may be authorized by the Director to conduct beneficial use examinations.

Conforming the descriptions of large tracts of irrigated land to the provisions of Section 42-219, Idaho Code.

Establishing that irrigated acreage shall be reported to the tenth of an acre for parcels of land covering less than 10 acres.

The text of the pending rule differs from the text of the proposed rule in four places:

To be consistent throughout the Beneficial Use Examination Rules, the last sentence of Rule 10.05 was changed to say that department employees are authorized to conduct water right examinations rather than to complete them.

To be consistent with the use of the word authorize elsewhere in the Beneficial Use Examination Rules, the first sentence of Rule 30.08 was changed to say that the Director may authorize department employees to conduct water right examinations.

So that the rules apply equitably to CWREs and department employees, Rule 30.10 was changed to indicate that the IDWR will not accept a field examination report from a CWRE or a department employee who may have a conflict of interest.

For clarification, an additional sentence was added to Rule 50.01.b to affirm that the department will not charge an examination fee for a supplemental examination conducted on its own initiative.

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. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 711 through 722.](#)

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 the pending rule, contact Shelley Keen at 208-287-4947 or shelley.keen@idwr.idaho.gov.

DATED this 25th day of November, 2011.

Shelley Keen
Water Rights Section Manager
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
Phone 208-287-4947 / FAX 208-287-6700

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 42-1805(8), Idaho Code, and Section 42-217a, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, October 25, 2011 at 9:00 am

**Idaho Department of Water Resources
322 East Front Street, Boise, ID
6th Floor Conference Rooms C and D**

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:

Pursuant to Sections 42-217 through 42-219, Idaho Code, the Department of Water Resources (IDWR) processes proofs of beneficial use and issues water right licenses confirming new water rights. Section 42-217, Idaho Code, requires an examination before a license can be issued. Depending on the water right permit holder's choice, examinations may be conducted by IDWR staff members or by Certified Water Right Examiners (CWREs) from the private sector. The Beneficial Use Examination Rules (IDAPA 37.03.02) establish acceptable standards for conducting examinations and reporting beneficial use. Some of the rules contain ambiguous language that causes confusion about the information to be provided. The proposed rule changes would alter or clarify certain examination requirements to make it easier for CWREs to complete reports. Complete, accurate reports result in water right licenses being issued more quickly. The proposed changes are important at this time because IDWR has a water right licensing backlog of about 3500 permits, and IDWR anticipates more examinations being conducted by CWREs to help address the backlog.

The most significant among the proposed changes are:

1. Clarifying that examinations for some water rights may be conducted without an "on-site" inspection.
2. Clarifying when the examiner must report an annual diversion volume and clarifying how annual diversion volumes are to be determined.
3. Establishing that an aerial photograph must be submitted with all field reports.

4. Removing the water measurement exemption for diversion systems where IDWR did not require the permit holder to install a measuring device or access port.
5. Clarifying that IDWR employees are not CWREs, but they may be authorized by the Director to conduct beneficial use examinations.
6. Conforming the descriptions of large tracts of irrigated land to the provisions of Section 42-219, Idaho Code.
7. Establishing that irrigated acreage shall be reported to the tenth of an acre for parcels of land covering less than 10 acres.

NEGOTIATED RULEMAKING: At the end of fiscal year 2011, the Department re-evaluated its water right programs and recognized an opportunity to shift some emphasis from the diminishing backlog of transfer applications to the chronic backlog of field examinations. On July 30, 2011, the Director decided to request authorization to pursue rule changes that would enhance the Certified Water Right Examiner option to address the examination backlog. Between the Director's decision on July 30, 2011, and the August 31, 2011, deadline for submitting proposed rules, there was insufficient time to conduct negotiated rulemaking. Prior to the hearing concerning this proposed rulemaking, the Department will seek input from current Certified Water Right Examiners, the Idaho Water Users Association, and the general public.

INCORPORATION BY REFERENCE: No documents are incorporated into this rule by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Shelley Keen at 208-287-4947 or shelley.keen@idwr.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 October 28, 2011.

DATED this 30th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0302-1101

~~002. 003.~~ **(RESERVED)**

002. WRITTEN INTERPRETATIONS (RULE 2).

There are no written interpretations of these rules.

()

003. ADMINISTRATIVE APPEALS (RULE 3).

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Section 42-1701A, Idaho Code, and IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of

Water Resources.” ()

004. APPLICABILITY INCORPORATION BY REFERENCE (RULE 4).
No documents have been incorporated by reference into these rules. ()

~~01. **Proof of Beneficial Use.** These rules apply to all permits for which proof of beneficial use is not yet due and has not been submitted to the department except as exempted in Rule Subsection 004.04. (7-1-93)~~

~~02. **Examination.** These rules apply to all permits for which an examination has not been conducted except as exempted in Rule Subsection 004.04. (7-1-93)~~

~~03. **Re-Examination.** These rules apply to all permits which have been examined but the license has not been issued due to a request for a re-examination by the permit holder except as exempted in Rule Subsection 004.04. (7-1-93)~~

~~04. **Examination Fee.** The examination fee requirements of these rules do not apply to a permit for single family domestic use, stockwatering, or other small uses for which the use does not exceed four one hundredths (0.04) cfs or four (4) AF/year. The examination fee is required for multiple use permits which exceed four one hundredths (0.04) cfs or four (4) AF/year even though single family domestic use or stockwater use is included as one (1) of the uses on the permit. (7-1-93)~~

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ()

02. Mailing Address. The mailing address for the state office is Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098. ()

03. Street Address. The street address for the state office of the Department of Water Resources, and the regional offices in Idaho Falls, Coeur d'Alene, Twin Falls, and Boise may be obtained by calling the state office at (208) 287-4800, or by visiting the department's website at <http://www.idwr.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).
Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

0057. -- 0098. (RESERVED)

009. APPLICABILITY (RULE 9).

01. Proof of Beneficial Use. These rules apply to all permits for which proof of beneficial use is not yet due and has not been submitted to the department. ()

02. Examination. These rules apply to all permits for which an examination has not been conducted. ()

03. Re-Examination. These rules apply to all permits which have been examined but the license has not been issued due to a request for a re-examination by the permit holder. ()

04. Examination Fee. The examination fee requirements of these rules do not apply to a permit for single family domestic use, stockwatering, or other small uses for which the use does not exceed four one-hundredths (0.04) cfs or four (4) AF/year. The examination fee is required for multiple use permits which exceed four one-hundredths (0.04) cfs or four (4) AF/year even though single family domestic use or stockwater use is included as one (1) of the uses on the permit. ()

010. DEFINITIONS (RULE 10).

Unless the context otherwise requires, the following definitions govern these rules. (7-1-93)

01. Acre-Foot (AF). A volume of water sufficient to cover one (1) acre of land one (1) foot deep and is equal to forty-three thousand, five hundred sixty (43,560) cubic feet. (7-1-93)

02. Acre-Foot/Annum. An annual volume of water that may be diverted under a given use or right. (7-1-93)

03. Amendment. A change in point of diversion, place, period or nature of use or other substantial change in the method of diversion or use of a permitted water right. (7-1-93)

04. Capacity Measurement. The maximum volume of water impounded in the case of reservoirs or the maximum rate of diversion from the source as determined by actual measurement of the system during normal operation. (7-1-93)

05. Certified Water Right Examiner. ~~An employee of the Department, or a representative of the permit holder who is a~~ professional engineer or professional geologist, qualified and registered in the state of Idaho who has the knowledge and experience necessary to satisfactorily complete water right field examinations as determined by the Director, and who has been appointed by the Director, Idaho Department of Water Resources as a certified water right examiner. A certified water right examiner is commonly termed a field examiner, water right examiner or examiner. A certified water right examiner is an impartial investigator and reporter of the information required by the Director to determine the extent of beneficial use established in compliance with a permit. Department employees are authorized to conduct water right examinations at the discretion of the Director. (7-1-93)()

06. Conveyance Works. The ditches, pipes, conduits or other means by which water is carried or moved from the point of diversion to the place of use. Storage works, if any, such as a dam can be considered part of the conveyance works. (7-1-93)

07. Cubic Foot Per Second (CFS). A rate of flow approximately equal to four hundred forty-eight and eight tenths (448.8) gallons per minute and also equals fifty (50) miner's inches. (7-1-93)

- 08. Department.** The Idaho Department of Water Resources. (7-1-93)
- 09. Director.** The Director of the Idaho Department of Water Resources. (7-1-93)
- 10. Duty of Water.** The quantity of water necessary when economically conducted and applied to land without unnecessary loss as will result in the successful growing of crops. (7-1-93)
- 11. Examination or Field Examination.** An on-site ~~visit~~ inspection or investigation to determine the extent of application of water to beneficial use and to determine compliance with terms and conditions of the water right permit. (~~7-1-93~~)()
- 12. Expansion.** The diversion and/or use of more water than originally allowed by the permit including application of water to a larger tract of land than originally permitted. (7-1-93)
- 13. Field Report.** The form provided by the Department upon which the examiner records the data gathered and describes the extent of diversion of water and application to beneficial use. The report is fully termed beneficial use field report and is also termed a field examination report. (7-1-93)
- 14. Headworks or Diversion Works.** The constructed barriers or devices on the source of water (surface water or ground water) by which water can be diverted from its natural course of flow and/or measured. (7-1-93)
- 15. License.** The certificate issued by the Director in accordance with Section 42-219, Idaho Code confirming the extent of diversion and beneficial use of the water that has been made in conformance with the permit conditions. (7-1-93)
- 16. License Examination Fee.** The fee required in Section 42-221K, Idaho Code, and is also termed an examination fee. (7-1-93)
- 17. Legal Subdivision.** A tract of land described by the government land survey and usually is described by government lot or quarter-quarter, section, township and range. A lot and block of a subdivision plat recorded with the county recorder may be used in addition to the government lot, quarter-quarter, section, township and range description. (7-1-93)
- 18. Measuring Device.** A generally accepted structure or apparatus used to determine a rate of flow or volume of water. Examples are weirs, meters, and flumes. Less typical devices may be accepted by the Director on a case-by-case basis. (7-1-93)
- 19. Nature of Use.** The characteristic use for which water is or is sought to be applied. Examples are domestic, irrigation, mining, industrial, fish propagation, power generation, municipal, etc. (7-1-93)
- 20. Period of Use.** The time period during which water under a given right can be beneficially used. (7-1-93)
- 21. Permit Holder or Owner.** The person, association, or corporation to whom a

permit has been issued or assigned as shown by the records of the Department. (7-1-93)

22. Permit or Water Right Permit. The water right document issued by the Director authorizing the diversion and use of unappropriated public water of the state or water held in trust by the state. (7-1-93)

23. Place of Use (P.U. or POU). The location where the beneficial use is made of the diverted water. ~~(7-1-93)~~()

24. Point of Diversion (P.D. or POD). The location on the public source of water from which water is diverted. Examples are pump intake, headgate, well locations, and dam locations. ~~(7-1-93)~~()

25. Project Works. A general term which includes diversion works, conveyance works, and any devices which may be used to measure the water or to apply the water to the intended use. Improvements which have been made as a result of application of water, such as land preparation for cultivation, are not a part of the project works. (7-1-93)

26. Proof of Beneficial Use. The submittal required in Section 42-217, Idaho Code. This submittal is commonly termed proof. (7-1-93)

27. Source. The name of the natural water body at the point of diversion. Examples are Snake River, Smith Creek, ground water, spring, etc. ~~(7-1-93)~~()

011. ABBREVIATIONS.

01. AF. Acre-Foot or Acre-Feet. ()

02. CFS. Cubic Foot Per Second. ()

03. P.D. or POD. Point of Diversion. ()

04. P.U. or POU. Place of Use. ()

05. USGS. United States Geological Survey. ()

012. -- 024. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

030. QUALIFICATION, EXAMINATION AND APPOINTMENT OF CERTIFIED WATER RIGHT EXAMINER (RULE 30).

01. Consideration. Any professional engineer or geologist qualified and registered in the state of Idaho who has the knowledge and experience necessary to satisfactorily complete

water right field examinations as determined by the Director shall be considered for appointment as a water right examiner upon application to the Director. The application shall be in the form prescribed by the Director and shall be accompanied by a non-refundable fee in the amount provided by statute. (7-1-93)

02. Information. The Director may require an applicant for appointment to the position of water right examiner to provide detailed information of past experience, provide references, and to satisfactorily complete a written or oral examination. (7-1-93)

03. Denial. If the Director determines an applicant is not qualified, the application will be denied and returned to the applicant. If the Director determines an applicant is qualified, a certificate of appointment will be issued. (7-1-93)

04. Expiration. Every water right examiner certificate of appointment shall expire March 31 of each year unless renewed by application in the manner prescribed by the Director. A non-refundable fee in the amount provided by statute shall accompany an application for renewal. (7-1-93)

05. Refusal or Revocation. An appointment or renewal may be refused or revoked by the Director at any time upon a showing of reasonable cause. A party aggrieved by an action of the Director may request an administrative hearing pursuant to Section 42-1701A(3), Idaho Code. (7-1-93)

06. Reconsideration. An application for appointment or renewal which has been refused or revoked by the Director may not be reconsidered for six (6) months. (7-1-93)

07. Liability. The state of Idaho shall not be liable for the compensation of any water right examiner other than department employees. The permit holder shall be responsible for costs associated with proof submittal including examination and field report preparation. (7-1-93)

08. Examinations. ~~The Director may, at his discretion, authorize sufficiently knowledgeable and experienced~~ Department employees ~~who have the knowledge and experience necessary to satisfactorily complete water right field examinations, as determined by the director, may be appointed as water right examiners for the purpose of completing~~ **to conduct** water right examinations during the course and scope of their employment with the department. Upon termination of employment with the department, such examiners, unless reappointed as a non-department certified examiner under provisions of these rules, are not authorized to conduct field examinations. The fee provisions of these rules ~~are waived for appointments of~~ **do not apply to** department employees. (7-1-93)()

09. Ingress or Egress Authority. Appointment as a water right examiner does not grant ingress or egress authority to non-department examiners and does not convey authority unless explicitly prescribed in these rules. (7-1-93)

10. Reports. The Director will not accept a field examination report prepared by a certified water right examiner **or a department employee** who has any past or present interest, direct or indirect, in either the water right permit, the land or any enterprise benefiting, or likely to benefit, from the water right. Among those that the Director will presume to have an actual or

potential conflict of interest and from whom he will not accept a field examination report are the following: (7-1-93)()

a. The person or persons owning the water right permit or the land or enterprise benefiting from the water right permit, members of their families (spouse, parents, grandparents, lineal descendants including those that are adopted, lineal descendants of parents; and spouse of lineal descendants), and their employees. (7-1-93)

b. The person or persons, who sold or installed the diversion works or distribution system. (7-1-93)

11. Money Received. All moneys received by the department under the provisions of these rules shall be deposited in the water administration fund created under Section 42-238a, Idaho Code. (7-1-93)

031. -- 034. (RESERVED)

035. EXAMINATION FOR BENEFICIAL USE (RULE 35).

01. Field Report. (7-1-93)

a. All items of the field report must be completed and must provide sufficient information for the Director to determine the extent of the water right developed in order for the report to be acceptable to the Director. (7-1-93)

b. Permitted uses partially developed by the permit holder shall be described in detail. Permitted uses which were not developed by the permit holder shall be noted. Uses determined to exist which are not authorized by the permit being examined shall also be noted described in detail. (7-1-93)()

c. A concise description of the diversion works and a general description of the distribution works shall be given. This description must trace the water from the point of diversion to and including the place of use and the return to a public water source, if any. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structure shall be included. If water is stored, the timing and method of storage, release, rediversion and conveyance to the place of use shall be described. The make, capacity, serial number and model number of all pumps, boosters or measuring devices associated with the point of diversion at the source of the water supply shall be described on the field examination report. Schematic diagrams, photographs, and maps sufficient to locate and describe the diversion, conveyance and usage systems shall also be provided in the examination report. (7-1-93)()

d. Any interconnection of the water use being examined with other water rights or with other conveyance systems shall be described on the field report. ~~Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structure shall be included. This description shall be in the form of a concise word picture of the storage of water, if stored, its release, rediversion and conveyance to the place of use. A schematic diagram of the project works shall also be provided in the field report.~~ Interconnection includes, but is not limited to, sharing the same point of diversion, distribution system, place of use, or beneficial use. The examination

report shall also include an evaluation of how the water use being examined is distinct from prior existing water rights and provides an alternate source of water or increment of beneficial use not authorized by prior existing water rights. (7-1-93)()

e. If water is returned to a public water source after use, a legal description of the point where the water is returned and source to which discharge is made shall be provided. Examples of uses which generally have an effluent discharge include fish propagation and power facilities. (7-1-93)

f. The method of compliance with each condition of approval of a permit shall be shown on the field report by the examiner. (7-1-93)

g. If the water is used for irrigation, the boundaries of the various irrigated areas and the location of the project works providing water to each shall be platted on the *proof* maps submitted with the report and the full or partial acreage in each legal subdivision of forty (40) acres or government lot shall be shown. (7-1-93)()

h. Irrigated acreage shall be shown on the field report to the nearest whole acre in a legal subdivision except the acreage shall be shown to the nearest one-tenth (0.10) acre for permits covering land of ~~five (5) acres or~~ less than ten (10) acres. (7-1-93)()

i. Where a permit has been developed as separate distribution systems from more than one point of diversion, the separate areas irrigated from each point of diversion shall be shown on the *proof* maps ~~as described herein before~~ submitted with the report and the legal subdivisions embracing the irrigated areas for each such respective point of diversion together with the total irrigated area shall be described. (7-1-93)()

j. ~~The field examiner does not need to show total volume of water for municipal and fire protection uses on the field report unless the project works provide for storage of water. For each use of water the examiner shall report an annual diversion volume based on actual beneficial use during the development period for the permit. The method of determining the annual diversion volume shall be shown. The annual diversion volume shall account for seasonal variations in factors affecting water use, including seasonal variations in water availability. For irrigation, the volume shall be based on the field headgate requirements in the map titled Irrigation Field Headgate Requirement appended to these rules (see Appendix A located at the end of this chapter). Annual diversion volumes for heating and cooling uses may be adjusted to account for documented weather conditions during any single heating or cooling season from among the fifty (50) years immediately prior to submitting proof of beneficial use for the permit. For storage uses that include filling the reservoir and periodically replenishing evaporation and seepage losses throughout the year, the annual diversion volume shall be the sum of the amounts used for filling and for replenishment. Volumes may include reasonable conveyance losses actually incurred by the water user. The following water uses are exempt from the volume reporting requirement:~~ (7-1-93)()

i. Diversion to storage. (Volume should be reported for the storage use, such as irrigation storage.) ()

ii. Domestic uses as defined in Section 42-111, Idaho Code. ()

- iii. In-stream watering of livestock. ()
- iv. Fire protection. (Volume is required for fire protection storage.) ()
- v. On-stream, run-of-the-river, non-consumptive power generation uses. ()
- vi. Minimum stream flows established pursuant to Chapter 15, Title 42, Idaho Code. ()
- vii. Municipal use by an incorporated city or other entity serving users throughout an incorporated city, except the following situations that do require a volume to be reported: ()
 - (1) The permit or amended permit was approved with a volume limitation; or ()
 - (2) The permit was not approved for municipal use but can be amended and licensed for a municipal use established during the authorized development period for the permit. ()
- viii. Irrigation using natural stream flow diverted from a stream or spring. (Volumes must be reported for irrigation uses from ponds, lakes and ground water and for irrigation storage and irrigation from storage.) ()
- k. The total number of holding/rearing ponds and the dimensions and volume of the ponds shall be shown on the field report for fish rearing or fish propagation use. The annual volume shall be calculated based on the changes of water per hour. (7-1-93)
- l. Information shall be submitted concerning the beneficial use that has been made of the water unless the purpose of use is for irrigation. For example, for stockwater use, the number and type of stock watered shall be provided. Similar indications of the extent of beneficial use shall be provided for all other non-irrigation uses. (7-1-93)
- m. Information on the period during each year that the water is used shall be described for each use. (7-1-93)
- n. For permits having more than one use, the diversion rate measured for each use, the annual diversion volume determined for each use (unless specifically exempted by rule or statute), and the place of use for each use shall be described. (~~7-1-93~~)()
- o. The amount (rate and/or volume) of water shall be limited by the smaller of the permitted amount, the amount upon which the license examination fee is paid, the capacity of the diversion works or the amount beneficially used prior to submitting proof of beneficial use, including any statutory limitation of the duty of water. (~~7-1-93~~)()
- p. Suggested amendments shall be noted on the field report when the place of use, point of diversion, period or nature of use is different from the approved permit or from previously approved amendments. Suggested amendments shall be based on actual use, not on potential use. (~~7-1-93~~)()

q. An aerial photo marked to depict the point(s) of diversion and place(s) of use for each use must accompany each field reports ~~involving ten (10) or more irrigated acres~~ unless waived by the Director. If existing photos are not available, the Director will accept a USGS Quadrangle map at the largest scale available. (7-1-93)()

r. Unless required as a condition of permit approval, an on-site examination and direct measurement of the diversion rate are not required for the following water uses if the beneficial use, place of use, season of use, and point of diversion can be confirmed by documentary means such as well driller reports, property tax records, receipts and other records of the permit holder, or photographs, including aerial photographs: ()

i. Irrigation up to five (5) acres. ()

ii. Storage of up to fourteen point six (14.6) acre-feet of water solely for stock watering purposes. ()

iii. Any uses other than irrigation or storage if the total combined diversion rate for all the uses established in connection with the permit does not exceed twenty-four one hundredths (0.24) cubic feet per second. ()

02. Field Report Acceptability. (7-1-93)

a. All field reports shall be prepared by or under the supervision of certified water right examiners or authorized department employees. ~~The #~~ Reports submitted by certified water right examiners must be properly endorsed with an engineer or geologist seal and signature. Field reports received from certified water right examiners will be accepted if the report includes all the information required to complete the report and provides the information required by Rule Subsection 035.01. (7-1-93)()

b. Field reports not completed as required by these rules will be returned to the certified water right examiner for completion. If the date for submitting proof of beneficial use has passed, the penalty provisions of Rule 055 shall apply. (7-1-93)

c. If the Director determines that a field report prepared by a certified water right examiner is acceptable but that additional information is needed to clarify the field report, he will notify the ~~certified water right~~ examiner in writing of the information required. If the additional information is not submitted within thirty (30) days or within the time specified in the written notice, the priority date of the permit will be advanced one (1) day for each day the information submittal is late. Failure to submit the required information within one (1) year of the date of the department's request is cause for the Director to take action to cancel the permit. (7-1-93)()

d. Field reports which indicate that a measuring device or lockable controlling works, required as a condition of approval of the permit, has not been installed, are not acceptable and will be returned to the examiner unless the measuring device requirement or lockable controlling works requirement has been formally waived or modified by the Director. (7-1-93)()

03. General. (7-1-93)

a. For irrigation purposes, the duty of water shall not exceed five (5) acre feet of stored water for each acre of land to be irrigated or more than one (1) cubic foot per second for each fifty (50) acres of land to be irrigated unless it can be shown to the satisfaction of the Director that a greater amount is necessary. (7-1-93)

b. For irrigated acreage of five (5) acres or less, a ~~rate of~~ diversion ~~not in excess of~~ **rate up to** three one-hundredths (0.03) cfs per acre may be allowed on the license to be issued by the Director. ~~(7-1-93)()~~

c. Conveyance losses of water from the point of diversion to the place of use which are determined by actual measurement may be allowed by the Director if the loss is determined by the Director to be reasonable. (7-1-93)

d. The duty of water described in Rule Subsections 035.03.a. or 035.03.b. may be exceeded if the department has authorized a greater diversion rate per acre when the permit was issued and good cause acceptable to the Director has been demonstrated. ~~(7-1-93)()~~

e. For irrigation systems which cover ~~more than~~ twenty-five thousand (25,000) acres; or more, within irrigation districts organized and existing under the laws of the state of Idaho, and for irrigation projects developed under a permit held by an association, company, corporation, or the United States to deliver surface water to more than five (5) water users under an annual charge or rental, the field report does not need to describe the irrigated land by legal subdivision, but may ~~be~~ described generally ~~as~~ the lands under the project works if the total irrigated acres has been accurately determined and is shown on the field report. The amount of water beneficially used under such projects must be shown on the field report. ~~(7-1-93)()~~

~~**04. Requests.** Requests to the department for computerized data, copies, or other information involving research of department records must be accompanied by a fee as required in Section 42-221, Idaho Code. (7-1-93)~~

036. -- 039. (RESERVED)

040. WATER MEASUREMENT (RULE 40).

01. Measurement Terminology. (7-1-93)

a. Rate of flow measurements shall be shown in units of cubic feet per second (cfs) with three (3) significant figures and no more precision than hundredths. (7-1-93)

b. Volume measurements shall be shown in units of acre-feet (AF) with three (3) significant figures, and no more precision than tenths. (7-1-93)

02. Rate of Diversion. The rate of diversion measurement shall be conducted as close as reasonably possible to the source of supply and shall be measured with the project works fully in place operating at normal capacity. For example, if a sprinkler system is used for irrigation purposes, discharge from the pump must be measured with the sprinkler system connected. (7-1-93)

03. Measurements. Water measurements may be made by vessel, weir, meter, rated flume, reservoir capacity table or other ~~accepted~~ standard method of measurement acceptable to the Director. The field report shall describe the method used in making the measurement, the date when made, the name of the person making the measurement, the legal description of the location where the measurement was taken and shall include sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case. (7-1-93)()

04. Unacceptable Measurements. Theoretical diversion rates or theoretical carrying capacities are not acceptable as a measure of the rate of diversion except as indicated in these rules and for some diversion systems where ~~an exception is granted by the director. Systems for which a measuring device, access port, or certified water measurement is not a permit requirement, are considered exempt from this rule~~ the flow rate cannot be measured accurately due to the physical characteristics of the diversion and distribution system. (7-1-93)()

05. Method. Rate of flow measurements shall be determined using equipment and methods capable of obtaining an accuracy of plus or minus ten percent (10%). (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

050. LICENSE EXAMINATION FEE (RULE 50).

01. Examinations Conducted by Department ~~Certified Water Right Examiners~~ Staff. (7-1-93)()

a. The examination fee shall be payable to the Department of Water Resources unless the field examination is conducted by a ~~non-department~~ certified water right examiner. (7-1-93)()

b. The department will not conduct an examination for which the fee has not been paid to the department unless exempted in Rule Subsection 0049.04, except that for any prior examination, whether conducted by a certified water right examiner or by department staff, the department may conduct a supplemental examination on its own initiative at any time. No examination fee shall be charged for a supplemental examination conducted by the department on its own initiative. (7-1-93)()

c. A license shall not be issued for an amount of water in excess of the amount covered by the examination fee. Subsequent to the examination and prior to a license being issued, the Director will notify the permit holder that the licensed amount will be limited because an insufficient examination fee was paid. The permit holder will be allowed thirty (30) days after the notice is mailed to pay the additional examination fee, along with a late payment penalty of twenty-five dollars (\$25) or twenty percent (20%) of the amount of the additional required fee whichever is more. If payment is received within the thirty (30) day period, the rate or volume licensed shall not be reduced by reason of the examination fee. If payment is not received within the thirty (30) day period, the rate or volume licensed shall be limited by the original examination

fee paid. For the purpose of determining advancement of priority for late fee as provided in Section 42-217, Idaho Code, fees shall not be considered as having been paid until paid in full, including any subsequent fee. (7-1-93)

d. Excess examination fees are non-refundable. (7-1-93)

e. An examination fee equal to the initial examination fee paid to the department shall be paid for a re-examination made at the request for the permit holder except upon a showing of error by the department on the initial examination. (7-1-93)

02. Examinations Conducted by Non-Department Certified Water Right Examiners. (7-1-93)

a. The examination fee required by Section 42-217, Idaho Code is not applicable for examination conducted by or under the supervision of *non-department* certified water right examiners. (7-1-93)()

b. A permit holder may change from one (1) *non-department* certified water right examiner to another but may not choose to have the examination conducted by the department after selecting a *non-department certified water right* examiner. (7-1-93)()

c. After submitting proof of beneficial use and paying an examination fee to the department, but before the department's actual examination, a permit holder may submit an examination report completed by a certified water right examiner. Because the examination fee is an essential component of timely proof submittal, the department will not refund the examination fee. ()

Appendix A

