

IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is a monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rulemaking documents in Idaho. All official rulemaking notices, official rule text, executive orders of the Governor, all legislative documents affecting rules, and any other documents required by law are published in the Bulletin.

State agencies are required to provide public notice of all proposed rulemaking actions and must invite public input once proposed rulemaking has been initiated. The public receives notice of proposed rulemaking actions through the Idaho Administrative Bulletin and a Public Notice (legal notice) that publishes in specific newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties can submit written comments to the agency or request public hearings of the agency if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual "Notice of Rulemaking" for each proposed rule that is published in the Bulletin. After the comment period closes, the agency considers fully all information submitted regarding the proposed rule. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin **09-1** refers to the first Bulletin issued in calendar year **2009**; Bulletin **10-1** refers to the first Bulletin issued in calendar year **2010**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **10-1** refers to January 2010; Volume No. **10-2** refers to February 2010; and so forth. Example: The Bulletin published in January 2010 is cited as Volume **10-1**. The December 2009 Bulletin is cited as Volume **09-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are only published in the Bulletin and **not** printed in the Administrative Code.

To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho's administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a “Notice of Intent to Promulgate - Negotiated Rulemaking” in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed or temporary rule, or both.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a “Notice of Rulemaking - Proposed Rule” in the Bulletin. This notice must include:

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;
- c) 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 when the pending rule will become effective; provided, however, that notwithstanding Section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or enforceability of the rule.
- d) the text of the proposed rule prepared in legislative format;
- e) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- f) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;
- g) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- h) the deadline for public (written) comments on the proposed rule.

All proposed rulemakings that are submitted for publication in the Bulletin that would impose a fee or charge must be accompanied by a cost/benefit analysis that is prepared by the agency. This cost/benefit analysis must estimate, as reasonably as possible, the costs to the agency to implement the rule and the estimated costs that would be borne by citizens or the private sector. This analysis is filed with the Director of LSO who then forwards it to the appropriate germane joint subcommittee assigned to review the promulgating agency’s proposed rules.

When incorporating by reference, the notice of proposed rulemaking must include a brief synopsis detailing the need to incorporate by reference any additional materials into the rule. The agency must also provide information regarding access to the incorporated materials. At a minimum, and when available, the agency must provide an electronic link to the documents that can be accessed on a website or post this information on its own website, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s website.

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date, even when published in conjunction with a temporary rule, and therefore, is not enforceable. An agency may vacate (terminate) a rulemaking after the publication of a proposed rule if it decides, for whatever reason, not to proceed further to finalize the rulemaking. The publication of a “Notice of Vacation of Proposed Rulemaking” in the Bulletin officially stops the formal rulemaking process.

TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) conferring a benefit.

If a rulemaking meets one or more of the above legal criteria and the governor finds it is necessary that a rule become effective before it has been submitted to the legislature for review and approval and without allowing for any public input, the agency may proceed and adopt a temporary rule. The law allows that agency to make a temporary rule immediately effective upon adoption. However, a temporary rule that imposes a fee or charge may be adopted only if the governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, will rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Rulemaking Pending Rule." This includes:

- a) a statement giving the reasons for adopting the rule;
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;
- c) the date the pending rule will become final and effective and a statement that the pending rule may be rejected, amended or modified by concurrent resolution of the legislature;
- d) an identification of any portion of the rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;
- (e) the specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and
- (f) 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 when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or

accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

The Idaho Administrative Code - annual subscription on CD-ROM. The Code is an annual compilation of all final administrative rules and all enforceable temporary rules and also includes all executive orders of the Governor that have published in the Bulletin, all legislative documents affecting rules, a table of contents, reference guides, and a subject index.

The Idaho Administrative Bulletin - annual subscription available on individual CD-ROM sent out monthly. The Bulletin is an official monthly publication of the State of Idaho and is available for purchase on CD-ROM only. Yearly subscriptions or individual CD-ROM's are available for purchase.

Internet Access - The Administrative Code and Administrative Bulletin, and many other rules-related documents are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering system. Each state agency has a two-digit identification code number known as the “**IDAPA**” number. (The “IDAPA” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “TITLE” number is assigned. There are “CHAPTER” numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.200.02.c.ii.

“**IDAPA**” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

“**38.**” refers to the Idaho Department of Administration

“**05.**” refers to Title **05**, which is the Department of Administrations’s Division of Purchasing

“**01.**” refers to Chapter **01** of Title 05, “Rules of the Division of Purchasing”

“**200.**” refers to Major Section **200**, “Content of the Invitation to Bid”

“**02.**” refers to Subsection 200.**02**.

“**c.**” refers to Subsection 200.02.c.

“**ii.**” refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a “DOCKET NUMBER.” The “Docket Number” is a series of numbers separated by a hyphen “-”, (**38-0501-1001**). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1001”

“**38-**” denotes the agency’s **IDAPA** number; in this case the Department of Administration.

“**0501-**” refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE **05**), Rules of the Division of Purchasing (Chapter **01**).

“**1001**” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2010**. A subsequent rulemaking on this same rule chapter in calendar year 2010 would be designated as “**1002**”. The docket number in this scenario would be 38-0501-**1002**.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section “200” appears before Section “345” and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

“...as found in Section 201 of these rules.” OR “...in accordance with Subsection 201.06.c. of these rules.”

The citation may also include the IDAPA, Title, or Chapter number, as follows”

“...in accordance with IDAPA 38.05.01.201...”

“38” denotes the IDAPA number of the agency.

“05” denotes the TITLE number of the rule.

“01” denotes the Chapter number of the rule.

“201” denotes the main Section number of the rule to which the citation refers.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

“...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, “Rules Governing Capitol Mall Parking.”

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2010

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
10-1	January 2010	*November 13, 2009	January 6, 2010	January 27, 2010
10-2	February 2010	January 8, 2010	February 3, 2010	February 24, 2010
10-3	March 2010	February 5, 2010	March 3, 2010	March 25, 2010
10-4	April 2010	March 5, 2010	April 7, 2010	April 28, 2010
10-5	May 2010	April 2, 2010	May 5, 2010	May 26, 2010
10-6	June 2010	May 7, 2010	June 2, 2010	June 23, 2010
10-7	July 2010	June 4, 2010	July 7, 2010	July 28, 2010
10-8	August 2010	July 2, 2010	August 4, 2010	August 25, 2010
10-9	September 2010	July 30, 2010	September 1, 2010	September 22, 2010
10-10	October 2010	**August 27, 2010	October 6, 2010	October 27, 2010
10-11	November 2010	October 1, 2010	November 3, 2010	November 24, 2010
10-12	December 2010	November 5, 2010	December 1, 2010	December 22, 2010

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2011

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
11-1	January 2011	*November 19, 2010	January 5, 2011	January 26, 2011
11-2	February 2011	January 14, 2011	February 2, 2011	February 23, 2011
11-3	March 2011	February 11, 2011	March 2, 2011	March 23, 2011
11-4	April 2011	March 4, 2011	April 6, 2011	April 27, 2011
11-5	May 2011	April 8, 2011	May 4, 2011	May 25, 2011
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11-8	August 2011	July 8, 2011	August 3, 2011	August 24, 2011
11-9	September 2011	August 5, 2011	September 7, 2011	September 28, 2011
11-10	October 2011	**August 31, 2011	October 5, 2011	October 26, 2011
11-11	November 2011	October 7, 2011	November 2, 2011	November 23, 2011
11-12	December 2011	November 4, 2011	December 7, 2011	December 28, 2011

****Last day to submit a proposed rulemaking before moratorium begins and last day to submit a pending rule to be reviewed by the legislature.***

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

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DOCKET NO. 02-0413-1001

NOTICE OF RULEMAKING - 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 37-332f, 37-405, 37-516, 37-708, 37-803, and 37-1101, 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 September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule will amend the existing IDAPA 02.04.13, "Rules Governing Raw Milk," to conform to a new law, Chapter 11, Title 37, Idaho Code, passed by the 2010 Legislature. The proposed rule establishes quality standards for raw milk and raw milk products produced under a herd share, as well as quality standards for cultured raw milk products for permitted raw milk facilities.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however, ISDA held rulemaking meetings with stakeholders and emailed a draft proposed rule to stakeholders to obtain their input. ISDA received a few comments, some of which were included into the proposed rule.

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 Marv Patten, Bureau Chief, Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2010.

DATED this 23rd day of July 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 322-8500
Facsimile: (208) 332-4062

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0413-1001

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, 7, and ~~8~~11, Idaho Code. ~~(3-29-10)~~(____)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Raw Milk.” (3-29-10)

02. Scope. These rules will govern the production, processing, distribution, and sale of raw milk for human consumption, but not intended for pasteurization. The official citation of this chapter is IDAPA 02.04.13.000 et seq. For example, this section’s citation is IDAPA 02.04.13.001. ~~(3-29-10)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference, and copies of the document may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712: The Grade A Pasteurized Milk Ordinance 2009 Revision, U.S. Department of Health and Human Services Public Health Service Food and Drug Administration (“2009 Pasteurized Milk Ordinance”), except those provisions establishing raw milk standards for raw milk for pasteurization. This document is available at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM209789.pdf>. ~~(3-29-10)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

007. DEFINITIONS.

The following definitions shall apply in the interpretation and the enforcement of this chapter: (3-29-10)

01. Adulterated. The meaning of adulterated includes the following: (____)

a. The addition or inclusion of unclean, unwholesome, inferior, impure or foreign material into a food product; or (____)

b. ~~The~~ production, ~~and~~ distribution, or sale of raw milk or raw milk products from a facility that does not possess a valid permit from the Department or is not registered with the Department as a Herd Share program; or ~~(3-29-10)~~(____)

c. Any raw milk product or facility that fails to meet any of the requirements of these rules. (____)

~~**02. Cow Share.** The investment of monetary value into the ownership or care of cows, goats, or sheep in exchange for raw milk or raw milk products.~~ (3-29-10)

~~**032. Dairy Farm.** Any place or premises where one (1) or more cows, goats or sheep are milked and from which where a part or all of the raw milk or raw milk products are produced ~~and that~~ are not intended for pasteurization, or are intended for human consumption without pasteurization, ~~but and~~ are distributed, sold or offered for sale ~~for human consumption without pasteurization~~ to persons other than members of the dairy farm’s immediate household.~~ (3-29-10)(____)

- 043.** **Denatured.** To change the usual or normal nature of a material or substance by either chemical or physical means. (3-29-10)
- 054.** **Department.** The Idaho State Department of Agriculture. (3-29-10)
- 065.** **Director.** The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)
- 06.** **Herd Share.** The undivided ownership interest in no more than seven (7) cows, fifteen (15) goats, or fifteen (15) sheep resulting from an investment of monetary value through a written contractual agreement between an owner and a farmer in exchange for raw milk or raw milk products. ()
- 087.** **Official Laboratory.** A biological, chemical, or physical laboratory that is ~~under the direct supervision of the State or~~ approved by the Department. (3-29-10)()
- 08.** **Owner.** A person who has made an investment of monetary value in the ownership or care of cows, goats, or sheep and participates in a Herd Share program pursuant to a written contractual agreement. ()
- 09.** **Person.** An individual, plant operator, partnership, corporation, company, firm, trustee, association or institution. (3-29-10)
- 10.** **Raw Milk.** The lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy cows, goats, or sheep, and that has not been pasteurized and is ~~sold or offered for sale~~ intended for human consumption. (3-29-10)()
- 11.** **Raw Milk Permit.** Authorization from the Department allowing raw milk and raw milk products to be sold for human consumption by a dairy farm or raw milk plant that complies with the requirements of these rules. ()
- 0712.** **Raw Milk Plant.** Any place, premises, or establishment where raw milk is collected, handled, stored, bottled, or processed into raw milk or raw milk products for sale or offered for sale for human consumption. (3-29-10)()
- 143.** **Raw Milk Products.** Raw milk products include any milk product processed from raw milk that has not been pasteurized and is intended for human consumption by persons other than members of the dairy farm's immediate household. Cheese made from raw milk that has been processed and aged for a minimum of sixty (60) days at a temperature greater than thirty-five degrees Fahrenheit (35°F) in a licensed dairy processing plant is exempt from these rules. (3-29-10)()
- 14.** **Registration.** A requirement by the Department for the authorization of a Herd Share to provide raw milk and raw milk products for human consumption to owners of that Herd Share as provided in Section 040 of these rules. ()
- 125.** **Sanitization.** The application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the raw milk or raw milk products or the health of consumers, and shall be acceptable to the Department. (3-29-10)
- 136.** **Small Herd.** The production of raw milk or raw milk products for human consumption, for use by people other than members of their immediate household or non-paying guests, in a facility with no more than three (3) lactating cows, ~~or seven (7) lactating goats, or seven (7) lactating sheep.~~ The dairy farm herd may include other cows, goats, or sheep that are dry or are producing milk for purposes other than human consumption. (3-29-10)()
- 17.** **Small Herd Raw Milk Permit.** Written authorization from the Department to a small herd dairy farm allowing raw milk and raw milk products to be sold for human consumption as provided in Section 030 of these rules. ()

148. Sterilized. The condition achieved by application of heat, chemical sterilant or other appropriate treatment that renders the piping, equipment and containers used for raw milk and raw milk products free of viable microorganisms. (3-29-10)

~~008. 010. (RESERVED).~~

008. REGULATORY FRAMEWORK.

These rules set forth procedural requirements for the following types of raw milk dairy farm operations: dairy farm with a Raw Milk Permit; dairy farm with a Small Herd Raw Milk Permit; and dairy farm participating in a Herd Share. ()

0109. ADULTERATED OR MISBRANDED RAW MILK OR RAW MILK PRODUCTS.

01. Prohibited Acts. No person shall produce, provide, sell, offer, or expose for sale, or possess with intent to sell, within the State or its jurisdiction, any adulterated or misbranded raw milk or raw milk products for human consumption. ~~Any adulterated or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department.~~ (3-29-10)()

02. Restriction on Sale. Raw milk or raw milk products may not be sold or offered for sale through restaurants or other food service establishments. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed there, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department-authorized facilities. ()

03. Disposition of Adulterated or Misbranded Product. Any adulterated or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department. The Department may issue a hold order when it is deemed necessary to protect human health. ()

[Codified Section 060 is being moved and renumbered to proposed Section 010]

0610. STANDARDS FOR RAW MILK AND RAW MILK PRODUCTS.

01. Requirements. All raw milk and raw milk products shall be produced and processed to conform with the standards listed in ~~Table 1 below~~ Subsection 010.02 of this rule. ~~Raw milk and raw milk products shall~~ Permitted dairy farms and raw milk plants must meet the sanitation requirements of the 2009 Pasteurized Milk Ordinance, unless the ~~facility~~ dairy farm has a ~~Small Herd exemption~~ Raw Milk Permit or has registered a herd share arrangement with the Department. (3-29-10)()

02. Chemical, Bacteriological, and Temperature Standards.

RAW MILK	
Temperature	Cooled to forty degrees Fahrenheit (40F or 5C) or less within two (2) hour after milking provided that the blend temperature after the first and subsequent milking does not exceed forty-five degrees Fahrenheit (45F or 7C).
Bacterial Limits	Raw milk and raw milk products except cultured raw milk products shall not exceed fifteen thousand (15,000) per ml.
Coliform Limits	Raw milk and raw milk products shall may not exceed twenty-five (25) per ml.
Drugs	Raw Milk must test negative by a test method approved by the Department.
Somatic Cell Counts	Raw milk shall must not exceed five hundred thousand (500,000) per ml. Goat; or Sheep Raw Milk shall must not exceed seven hundred and fifty thousand (750,000) per ml.

RAW MILK	
Brucellosis Test	Raw milk obtained from sheep or goats must be from animals that have tested negative on an annual brucellosis test performed by an official laboratory. Raw milk obtained from bovines must be from animals that have tested negative on the Brucellosis Ring Test performed by an official laboratory.
Tuberculosis Test	All Raw Milk <u>shall</u> must be from animals that have been accredited as tuberculosis free or shall <u>must</u> have passed an annual tuberculosis test.

(3-29-10)()

03. Commingled Milk. Milk from commingled species must meet the somatic cell count of the most restrictive species. ()

[Codified Section 030 is being moved and renumbered to proposed Section 011]

03011. LABELING.

01. Applicability. Section 011 applies to holders of Raw Milk Permits and holders of Small Herd Raw Milk Permits. ()

042. Requirements. All raw milk and raw milk products must have Department-approved labeling. All bottles, containers, and packages enclosing raw milk or raw milk products ~~shall~~ must be conspicuously marked with the following: ()

a. The words “raw,” “not pasteurized,” or “unpasteurized” preceding the name of the product; ()

b. ~~The~~ quantity of contents; ~~and~~ ()

c. ~~The~~ identity name and address or permit number of the ~~packaging facility~~; permit holder; and ()

d. When applicable, ~~the~~ word “goat” or “sheep;” ~~if applicable, shall~~ must precede the name of the raw milk or raw milk products. (3-29-10)()

03. Commingled Milk Label. The label of raw milk or raw milk products containing milk from commingled species must identify the species from which the raw milk was obtained. ()

04. Small Herds. Department-approved labels are not required for the holders of Small Herd Raw Milk Permits if the raw milk or raw milk products are sold at the point of production. ()

025. Misleading Labels. It is a violation of these rules to use any misleading marks, words, or endorsements on the label. Registered trade designs or similar terms on the bottle cap or label may be used if the Department determines that the designs or terms are not misleading and do not obscure the labeling required by these rules. Any misleading labeling on the final container will cause the product to be considered misbranded. (3-29-10)

012. -- 019. (RESERVED).

020. RAW MILK PERMITS.

01. Requirements. It ~~shall be~~ is unlawful for any person who does not possess a Raw Milk ~~Permit~~ from the Department to produce, process, sell or offer for sale raw milk or raw milk products for human consumption to persons other than members of the dairy farm’s immediate household. ~~Raw milk shall not be sold or offered for sale through restaurant type establishments or establishments where the consumer may not know that raw milk or raw~~

~~milk products are from a raw milk source. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department approved facilities. (3-29-10)()~~

02. Obtaining a Raw Milk Permit. Only a person who complies with these rules may receive and retain a Raw Milk Permit. Raw Milk Permits shall be transferable with respect to persons or locations. Prior to the issuance of a permit each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho must comply with the following requirements: (3-29-10)()

- a. Submit to and pass a qualifying inspection conducted by the Department; ()
- b. Meet the applicable sanitation, construction, and procedural requirements of the 2009 Pasteurized Milk Ordinance; ()
- c. Meet the raw milk and raw milk products quality standards in Section 010 of these rules; ()
- d. Meet the tuberculosis and brucellosis standards in Section 010 of these rules; and ()
- e. Produce and process all raw milk and raw milk products on the same premises. ()

~~**03. Permit Suspension.** The Department may suspend a permit whenever it has reason to believe that a public health hazard exists, whenever the permit holder has violated any of the requirements of these rules; or whenever the permit holder has interfered with the Department in the performance of its duties. (3-29-10)~~

~~a. Prior to suspending a permit the Department will serve a written notice of intent to suspend permit on the permit holder. The notice will specify the alleged violation(s) and afford the permit holder a reasonable opportunity to correct such violation(s) in a manner agreed to by the parties. In the absence of such agreement, the corrective actions may be designated by the Department. The reasonable opportunity to correct will be given before the permit suspension order becomes effective. A permit suspension will remain in effect until the violation has been corrected to the satisfaction of the Department. (3-29-10)~~

~~b. In cases in which the raw milk or raw milk products create or appear to create an imminent hazard to the public health, or in case of a willful refusal to permit an authorized inspection, the Department may immediately suspend the permit without the prior notice procedure set forth in these rules. The Department will provide notice and opportunity for hearing after the suspension, in accordance with Title 67, Chapter 52, Idaho Code. (3-29-10)~~

~~c. Upon written request by any person whose permit has been suspended, or any person who has been served with a notice of intent to suspend, the Department will proceed to a hearing, and upon evidence presented at such hearing may affirm, modify, or rescind the suspension or intention to suspend. (3-29-10)~~

~~d. The Department may forego permit suspension, provided the raw milk or raw milk products in violation are not sold or offered for sale or distributed for human consumption. (3-29-10)~~

03. Inspection Frequency. Following the issuance of a permit, the Department will inspect each Raw Milk Permit holder operation at least once every three (3) months. ()

~~**04. Permit Revocation.** Upon repeated violations, the Department may revoke a permit following reasonable notice to the permit holder and an opportunity for a hearing. This Section is not intended to preclude the institution of court action. (3-29-10)~~

04. Sanitation Requirements. All raw milk dairy farms and raw milk plants that process raw milk or raw milk products into final containers for human consumption must meet the requirements of the 2009 Pasteurized Milk Ordinance and Section 010 of these rules if the raw milk or raw milk products are for use by persons other than the dairy farm's immediate household. ()

05. Permit Reinstatement. Any raw milk producer whose permit has been suspended or revoked may

~~make written application for the reinstatement of his permit. (3-29-10)~~

~~**a.** When the permit has been suspended due to a violation of any of the bacterial, coliform, or cooling-temperature standards, the Department may issue a temporary permit after raw milk samples show that the conditions responsible for the violation have been corrected. (3-29-10)~~

~~**b.** When the permit has been suspended due to a violation of the somatic cell count standard, the Department may issue a temporary permit if resampling of the herd milk supply indicates that the milk supply is within the somatic cell count standard. (3-29-10)~~

~~**e.** Whenever the permit has been suspended due to a violation of a requirement other than bacteriological, coliform, somatic cell count or cooling-temperature standards, the application for reinstatement must show that the violation has been corrected. Within one (1) week of the receipt of such application, the Department will make an inspection of the applicant's establishment, and may make additional subsequent inspections as deemed necessary. If the inspection shows that the raw milk or raw milk products meet the applicable standards and are in compliance with these rules, the permit will be reinstated. (3-29-10)~~

021. -- 029. (RESERVED).

[Codified Section 030 has been moved and renumbered to proposed Section 011]

030. SMALL HERD RAW MILK PERMITS.

It is unlawful for any person with a small herd to sell raw milk and raw milk products for human consumption without a Small Herd Raw Milk Permit issued by the Department. The Small Herd Raw Milk Permit applies to raw milk and raw milk products intended for human consumption for persons other than members of the dairy farm's immediate household. ()

01. Obtaining a Small Herd Raw Milk Permit. Only a person who complies with these rules may receive and retain a Small Herd Raw Milk Permit. The Small Herd Raw Milk Permit will indicate the physical location of the small herd and the mailing address of the owner or operator in charge of the herd's care and milk quality. Small Herd Raw Milk Permits are not transferable to another person or location. Applications for a Small Herd Raw Milk Permit may be up on a form provided by the Department. All holders of Small Herd Raw Milk Permits issued by the Department must meet the following conditions: ()

a. Meet the raw milk and raw milk products quality standards as set forth in Section 010 of these rules: ()

b. Meet the tuberculosis and brucellosis standards as set forth in Section 010 of these rules: ()

c. Meet the applicable drug testing requirements as determined by the Department based on dairy farm drug therapy and milk quality history; and ()

d. All raw milk and raw milk products must be produced and processed on the same premises. ()

02. Testing Frequency. Raw milk or raw milk products must be tested at a frequency of at least four (4) times in separate months during any consecutive six-month period. ()

03. Product Quality. Whenever three (3) out of five (5) consecutive bacteria, coliform, or somatic cell counts exceed milk quality standards, the milk may not be offered for human consumption until subsequent product testing shows that the raw milk or raw milk products comply with Section 010 of these rules. ()

04. Test Results Made Available. A Small Herd Raw Milk Permit holder must provide raw milk and raw milk product quality tests results if requested by individuals who purchase raw milk and raw milk products. ()

05. Exemption from Pasteurized Milk Ordinance. A small herd operation that is in compliance with

a Small Herd Raw Milk Permit requirements is exempt from the sanitary, construction, inspection, and operation requirements of the 2009 Pasteurized Milk Ordinance. ()

031. -- 039. (RESERVED).

040. INSPECTION OF RAW MILK PRODUCERS.

Each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho shall be inspected and approved by the Department prior to the issuance of a permit. (3-29-10)

~~01. Inspection Frequency. Following the issuance of a permit, the Department will inspect each raw milk producer and raw milk processor at least once every three (3) months. (3-29-10)~~

~~02. Sanitation Requirements. All raw milk dairy farms and milk plants that process raw milk or raw milk products for human consumption into final containers, for use other than for members or their immediate household or non-paying guests, shall meet the requirements of the 2009 Pasteurized Milk Ordinance, in addition to Section 060 of these rules. (3-29-10)~~

~~03. Processing Location. All raw milk and raw milk products must be produced and processed on the same premises. (3-29-10)~~

~~04. Cow Share Programs. Cow Share programs are allowed, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department. (3-29-10)~~

~~05. Applicability. Persons or a person with more than three (3) lactating cows or seven (7) lactating goats or sheep may sell raw milk and raw milk products for human consumption, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department. (3-29-10)~~

040. HERD SHARE PROGRAMS.

01. Registration. The dairy farm or farmer responsible for a herd participating in a herd share program must register the farm or dairy with the Department. Registration may be upon a form provided by the Department or may be a written statement containing, at a minimum, the following information: ()

- a. The name of the farmer, farm, or dairy: ()
- b. A valid, current address for the farmer, farm, or dairy; and ()
- c. A statement that raw milk or raw milk products are being produced at the farm or dairy. ()

02. Proof of Ownership Interest. The farmer and each owner of the herd share must enter into a written contract evidencing the herd share arrangement. The contractual documents must include, at a minimum, the following: ()

- a. A bill of sale, stock certificate, or other written evidence satisfactory to the Department: ()
- b. A boarding and care plan for the livestock; ()
- c. A conspicuous notice that the milk or milk products received under the contract will be raw; and ()
- d. Proof that written information regarding the herd health and production standards used by the dairy or farm have been provided to each herd share owner. ()

03. Testing and Results. The farm or dairy must comply with the testing frequency and standards set forth in Section 37-1101, Idaho Code. A copy of all test results, the name of the tests performed, and an explanation

of the tests and test results must be provided to each owner. Proof that the information has been provided to the owners must be sent to the Department. ()

04. Product Quality. Whenever three (3) out of five (5) consecutive bacteria, coliform, or somatic cell counts exceed milk quality standards, the milk may not be offered for human consumption until subsequent product testing shows that the raw milk or raw milk products comply with Section 010 of these rules. ()

05. Restriction on Sale. No person who obtains raw milk or raw milk products under a herd share arrangement may sell, offer for sale, advertise for sale, or distribute such raw milk or raw milk products to any person, restaurant, food establishment, grocery store, or farmers' market. ()

06. Procurement of Raw Milk or Raw Milk Products. Raw milk or raw milk products may only be received directly from the dairy farm by the owners of a herd share or by an owner on behalf of another herd share owner participating in the same herd share program. ()

041. -- 049. (RESERVED).

050. SMALL HERD EXEMPTION.

~~The production of raw milk and raw milk products for human consumption by a person or by individuals participating in a Cow Share program is exempt from the sanitary construction and operation standards of the 2009 Pasteurized Milk Ordinance, provided the following conditions are met: (3-29-10)~~

~~**01. Testing Frequency.** The raw milk and raw milk products comply with the testing frequency set forth in the 2009 Pasteurized Milk Ordinance and quality standards set forth in Section 060 of these rules. (3-29-10)~~

~~**02. Applicability.** The number of animals in lactation does not exceed three (3) cows or seven (7) goats or sheep. (3-29-10)~~

~~**03. Permit.** The person or the Cow Share owners obtain a small herd exemption permit from the Department. The permit will indicate the physical location of the facility; the mailing address of the owner or operator in charge of the herd's care and milk quality. (3-29-10)~~

~~**04. Test Results Made Available.** Milk quality test results shall be available from the permit holder to all individuals who purchase raw milk or raw milk products. (3-29-10)~~

~~**05. Restriction for Sale.** The raw milk or raw milk products may not be sold or offered for sale through restaurant-type establishments or other establishments where the consumer may not know that raw milk or raw milk products are from a raw milk source. (3-29-10)~~

~~**06. Labeling.** All raw milk and raw milk products must have approved labeling by the Department if sales take place at locations other than the point of production. (3-29-10)~~

050. PERMIT ENFORCEMENT.

Section 050 applies to the enforcement of Raw Milk Permits and Small Herd Raw Milk Permits. ()

01. Permit Suspension. The Department may suspend a permit whenever it has reason to believe that a public health hazard exists, when ever the permit holder has violated any of the requirements of these rules, or whenever the permit holder has interfered with the Department in the performance of its duties. ()

a. Prior to suspending a permit, the Department will serve a written notice of intent to suspend permit on the permit holder. The notice will specify the alleged violation(s) and afford the permit holder a reasonable opportunity to correct such violation(s) in a manner agreed to by the parties. In the absence of such agreement, the corrective actions may be designated by the Department. The reasonable opportunity to comply will be given before the permit suspension order becomes effective. A permit suspension will remain in effect until the violation has been corrected to the satisfaction of the Department. ()

b. Whenever the raw milk or raw milk products create or appear to create an imminent hazard to the

public health, or in the event of a willful refusal to permit an authorized inspection, the Department may immediately suspend the permit without the prior notice procedure set forth in these rules. The Department will provide notice and opportunity for hearing after the suspension, in accordance with Title 67, Chapter 52, Idaho Code. ()

c. Upon written request by any person whose permit has been suspended, or by any person who has been served with a notice of intent to suspend, the Department will proceed to a hearing and, upon evidence presented at such hearing, may affirm, modify, or rescind the suspension or intention to suspend. ()

d. The Department may forego permit suspension provided the raw milk or raw milk products in violation are not sold, offered for sale, or distributed for human consumption. ()

02. Permit Revocation. If repeated violations occur, the Department may revoke a permit after reasonable notice and an opportunity for a hearing have been given to the permit holder. This section is not intended to preclude the institution of court action. ()

03. Permit Reinstatement. Any raw milk producer whose permit has been suspended or revoked may make written application for the reinstatement of the permit. ()

a. When the permit has been suspended due to a violation of any of the bacterial, somatic cell, coliform, drug, or cooling-temperature standards, the Department may issue a temporary permit after raw milk samples show that the conditions responsible for the violation have been corrected. ()

b. Whenever the permit has been suspended due to a violation of a requirement other than a bacteriological, coliform, somatic cell count, or cooling-temperature standards, the application for reinstatement must show that the violation has been corrected. Within one (1) week of the receipt of such application, the Department will make an inspection of the applicant's establishment and may make additional subsequent inspections as deemed necessary. If the inspection shows that the raw milk or raw milk products meet the applicable standards and are in compliance with these rules, the permit will be reinstated. ()

051. -- 059. (RESERVED).

[Codified Section 060 has been moved and renumbered to proposed Section 010]

070. PENALTY.
Any person who violates any of the provisions of these rules ~~shall be~~ is subject to the penalties provided in Sections 37-408 and 37-1101(3), Idaho Code, or may have their permit to sell raw milk or raw milk products for human consumption ~~revoked or suspended.~~ (3-29-10)()

~~061. -- 069. (RESERVED).~~

[Codified Section 070 has been moved and renumbered to proposed Section 060]

~~071. -- 999. (RESERVED).~~

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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 36-411, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Implement Senate Bill 1283 which allows hunter education certification from other countries.

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

The temporary rule confers a benefit to certain hunters, and complies with amendment to Section 36-411, Idaho Code.

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.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0102-1001

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. ~~(4-6-05)~~(7-12-10)T

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)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1001

NOTICE OF RULEMAKING - 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), 36-301, 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 September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Implement rule changes to the Landowner Appreciation Program (LAP) recommended by the Fish and Game Advisory Committee and the Idaho Sportsmen Caucus Advisory Council. Redefine eligibility requirements for the LAP, and restrict commercialization of LAP tags.

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 input and recommendation of the Fish and Game Advisory Committee and the Idaho Sportsmen Caucus Advisory Council.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0104-1001

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 ~~six hundred forty (640)~~ 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 ~~antelope~~ pronghorn, whether owned by one (1) or more persons, a partnership, or corporation. It shall not include any government lands. (4-5-09(____))

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. ~~(10-26-94)(____)~~

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. Resident. The term "resident" is defined in Section 36-202(s), Idaho Code. (5-8-09)

10. 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)

(BREAK IN CONTINUITY OF SECTIONS)

400. LANDOWNER APPRECIATION ~~PERMITS~~ 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. ~~(4-5-00)(____)~~

02. Hunt Units. Landowner Appreciation ~~Permits~~ Program controlled hunt tags shall be issued only for those controlled hunt units designated by the Director as eligible for such permits. ~~(3-30-01)(____)~~

~~**03. Reasonable Access.** In 2001, landowners, authorized corporate, or partnership representatives are not required to provide access or retain written records as a condition to qualifying for Landowner Appreciation Permits. (3-15-02)~~

~~**043. Qualifying Property.** Only property that is used by and provides significant habitat values for deer, elk or ~~antelope~~ pronghorn qualifies for the Landowner Appreciation ~~Permit~~ controlled hunt tag program. Landowners will may receive Landowner Appreciation ~~Permits~~ controlled hunt tags only for the species and sex that use the property. (4-5-00)(____)~~

~~**054. Applications for Landowner Appreciation ~~Permits~~ Controlled Hunt Tags.** Applications for landowner appreciation ~~permits~~ 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. (4-5-00)(____)~~

~~**a.** The application shall include the applicant's hunting or combination license number. (5-15-95)~~

~~**ba.** 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 ~~permits~~ 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. Applications for left-over permits will be accepted on or after August 15 of each year on a first-come first-served basis. Only written applications will be accepted and must be accompanied by a six dollar and fifty cent (\$6.50) application fee. (5-3-03)(____)~~

~~**eb.** Only one (1) application may be submitted ~~for~~ by a landowner with eligible property consisting of six hundred forty (640) acres to four thousand nine hundred ninety-nine (4,999) acres. Up to two (2) As second applications may be submitted for eligible property consisting of five thousand (5,000) acres or more. (5-3-03)(____)~~

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. ()

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

a. Prior to any eligible applicant applying for a Landowner Appreciation Permit 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. (4-5-00)()

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 ~~Permits~~ Controlled Hunt Tag(s). (7-1-93)()

a. ~~Effective in 1999, o~~Once the Department has determined the number of controlled hunt permits tags to be issued in any controlled hunt unit, an additional ten percent (10%) of the number of controlled hunt permits tags MAY be issued as Landowner Appreciation Permits Program tags. In subsequent years up to twenty-five percent (25%) of the number of controlled hunt permits tags MAY be issued only if the hunt is over subscribed by eligible Landowner Appreciation Permit Program applicants. (4-5-00)()

b. Where the number of landowner appreciation applicants exceeds the number of landowner appreciation permits 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. (4-5-00)()

c. No more than two (2) Landowner Appreciation Permits Program controlled hunt tags may be issued to any eligible landowner. (4-5-00)()

d. 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 permit 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 Permits Program controlled hunt tags. ~~However, o~~One (1) additional permit 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 Permits Program controlled hunt tags. No landowner or designated agent(s) is eligible to receive more than one (1) permit controlled hunt tag for one (1) species in a calendar year. (3-15-02)()

e. A successful landowner, corporate or partnership representative drawing a landowner appreciation permit program controlled hunt tag may, ~~without additional fees,~~ designate to whom the permit controlled hunt tag will be issued pursuant to Subsection 400.08 of this rule. (4-5-00)()

08. Prohibitions. Landowner Appreciation Program controlled hunt tags shall not be sold or marketed. ()

089. 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 ~~preference permit~~ appreciation program controlled hunt tag. (7-1-93)(____)

b. Landowner appreciation ~~permits~~ program controlled hunt tags issued to non-residents shall not be considered as part of the non-resident quota. (4-5-00)(____)

c. Landowner ~~preference permits~~ appreciation program controlled hunt tags are exempt from the one (1) year waiting periods applicable for certain deer, elk and ~~antelope~~ pronghorn permits. (3-30-01)(____)

0910. Special Restrictions. Any person hunting with a Landowner appreciation ~~permit 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 ~~antelope~~ pronghorn tags may be used in conjunction with a landowner appreciation ~~permit~~ program. No person shall kill more than one (1) deer, elk or ~~antelope~~ pronghorn during a calendar year EXCEPT: (3-30-01)(____)

a. ~~In designated controlled depredation hunts, one (1) additional deer, elk or antelope may be taken by persons holding permit/tags for those hunts; or 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 hunt 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.~~ (7-1-93)(____)

b. ~~In extra tag hunts, one (1) additional deer, elk or antelope may be taken by persons holding tags for those hunts.~~ Extra Tag Hunts. In extra tag hunts, one (1) additional deer, elk or pronghorn may be taken by persons holding tags for those hunts. (7-1-98)(____)

c. ~~In no event shall any person take more than two (2) deer, elk or antelope during a calendar year or more than one (1) deer, elk or antelope per day.~~ 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. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

403. ANTELOPE PRONGHORN LANDOWNER APPRECIATION SEASONS.

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (3-30-01)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1002

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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 36-301, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Update rules to reflect previous legislative action (SB 1141a – 2009) and Commission actions, including the elimination of controlled hunt permits, adjustments in elk zone tag quotas, and allowance for rain checks.

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

The temporary rule confers a benefit to certain hunters, and complies with amendments to Sections 36-104, 36-409, 36-416, 36-1104, and 36-1104A, Idaho Code.

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.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0104-1002

200. LICENSES, STAMPS, PERMITS AND TAGS.

01. Licenses. A authorized lifetime license certificate holders will be issued appropriate license(s) annually. Certificate holders must have such license(s) in possession while hunting or fishing. However, no hunting or combination license shall be issued to the holder of a lifetime license certificate ~~under the age of fifteen (15) born after January 1, 1975~~ unless a certificate of competency in hunter education is presented in accordance with Section 36-411, Idaho Code. ~~(7-1-93)~~(7-12-10)T

02. Stamps, Permits, and Tags. The certificate holder has the responsibility to obtain stamp(s), permit(s), and/or tag(s) as required for hunting or fishing. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

250. TAGS AND PERMITS ISSUED BY POINT-OF-SALE VALIDATION.

~~**01. Tags or Permits Properly Sealed.** No big game tag, salmon permit, steelhead permit, WMA pheasant permit or three-day salmon/steelhead fishing license is valid unless it has been properly sealed in the appropriate portion of the tag/permit pouch. (3-20-97)~~

~~**02.** Defaced, altered or tampered permits. Any license (as defined in Section 36-202(z), Idaho Code) which is defaced, altered, or tampered with shall be invalid from the date and time of issuance. It shall be a violation to use or attempt to use any license that has been defaced, tampered with, or altered. Evidence of defacing, tampering, or altering shall include but is not limited to: tears ~~in the paper that would indicate that a person had attempted to lift up the clear acetate covering over a tag or permit which has been sealed in a tag/permit pouch~~ or erasures or typeovers to the license stock. ~~(3-20-97)~~(7-12-10)T~~

(BREAK IN CONTINUITY OF SECTIONS)

261. AUTHORIZATION NUMBER.

01. Authorization Request. Upon request, the applicant may receive an authorization number assigned by the supplier as directed by the Department. (3-20-97)

02. Authorization Number Used in Lieu of License. The authorization number may be used in lieu of the actual license only by the individual for whom the license was purchased. When used in lieu of a license, the person must carry his driver's license, commercial permit, identification card, driver training permit, or instruction permit and, upon request of an authorized officer, present such identification for inspection. Failure to carry such identification or to present it for inspection is a violation. The authorization number may be used for not more than fourteen (14) calendar days from the date of issue, except authorization numbers for short-term licenses shall be valid only for the stated term from the beginning effective date of the license. This allows the authorization-number holder to hunt or fish during the time period it takes to mail the license to the individual. Thereafter, the individual must have in possession the appropriate signed license to hunt or fish. (3-20-97)

03. Violation. It is a violation to hunt and fish with an invalid authorization number or an authorization number issued to another person. (3-20-97)

04. Authorization Number Used Only for Activities That Do Not Require License, Tag, Permit or

Stamp. The authorization number may be used only for those hunting or fishing activities that do not require a license, tag, or permit, ~~or stamp to be sealed in a tag/permit pouch in accordance with Subsection 250.01 to be notched or attached to a carcass.~~ (3-20-07)(7-12-10)T

(BREAK IN CONTINUITY OF SECTIONS)

505. DEER AND ELK TAG ALLOCATION.

01. Allocation of Tags. Pursuant to Idaho Code, Section 36-408, the Fish and Game Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in zones with limited numbers of tags. The allocation will be calculated on a zone basis with reductions or increases in hunting opportunities to be proportionate among resident hunters, nonoutfitted nonresident hunters, and outfitted hunters. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone which exceeds twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year. When an area becomes controlled, hunt application and eligibility rules will apply to allocated tags in controlled hunts. Only those units or zones with licensed outfitted areas with historic use will be considered for tag allocation. (3-8-07)

02. Controlled Hunt Areas. Only those controlled hunt areas with historic licensed deer and/or elk outfitted area(s) may be considered for a tag/~~permit~~ allocation. The allocation will be calculated on a controlled hunt area basis with reductions or increases in hunting opportunities to be proportionate among resident hunters, non-outfitted nonresident hunters, and outfitted hunters. (3-8-07)(7-12-10)T

a. The number of allocated tags will be in addition to ~~from~~ the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. (3-8-07)(7-12-10)T

b. Prior to submitting an application for an outfitter allocated controlled hunt, the applicant must have a written agreement with an outfitter licensed in the hunt area. Successful applicants of an outfitter allocated controlled hunt must hunt with an outfitter licensed for the hunt area. The outfitter must purchase the successful applicant's ~~permit and controlled hunt tag~~ by August 20. ~~Successful applicants authorize the Department to provide names and addresses to the outfitter(s) licensed for that controlled hunt.~~ (3-8-07)(7-12-10)T

c. Successful applicants who do not want to participate in the outfitted hunt can decline the hunt upon written notification to the Department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be subject to the appropriate waiting period. (5-3-03)

d. Successful applicants that do not secure the services of an Idaho licensed outfitter and have not purchased the controlled hunt ~~permit and~~ tag by August 20 will forfeit the opportunity to purchase a controlled hunt ~~permit tag~~. The forfeited controlled hunt ~~permit tag~~ will then be listed as a leftover ~~permit controlled hunt tag~~. The Department will inform the Idaho Outfitters and Guides Board that a ~~permit leftover controlled hunt tag~~ is available. After securing a client, the outfitter(s) may then purchase the leftover controlled hunt ~~permit tag~~ at a Department regional or headquarters office. (5-3-03)(7-12-10)T

e. The number of allocated tag(s) ~~permits~~ will be determined by using one (1) of the following options: (3-30-01)(7-12-10)T

i. The number of allocated tags available within the controlled hunt area will be no less than one (1) tag and no more than three percent (3%); or (4-2-08)

- ii. The number of tags available within the controlled hunt area will be based on the average historic use during the previous five (5) year period and calculated tag numbers will be rounded up when permits controlled hunt tags equal or exceed zero point six (0.6) and rounded down when permits controlled hunt tags are less than zero point six (0.6); or ~~(3-30-01)~~(7-12-10)T
- iii. No tags will be allocated. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

601. ELK ZONE TAG QUOTAS.

Zone	Units	Total Tags	General Resident Tags	General Nonresident Tags	Outfitter Allocation
<i>Lolo-B Tags</i>	<i>10,12</i>	<i>1600</i>	<i>1008</i>	<i>356</i>	<i>236</i>
<i>Selway A Tags</i>	<i>16A, 17, 19, 20</i>	<i>647</i>	<i>179</i>	<i>254</i>	<i>214</i>
<i>Selway B Tags</i>	<i>16A, 17, 19, 20</i>	<i>1067</i>	<i>480</i>	<i>284</i>	<i>303</i>
<i>Middle Fork A Tags</i>	<i>20A, 26, 27</i>	<i>1551</i>	<i>1168</i>	<i>174</i>	<i>209</i>
<i>Middle Fork B Tags</i>	<i>20A, 26, 27</i>	<i>1636</i>	<i>925</i>	<i>267</i>	<i>444</i>
<i>Elk City B Tags</i>	<i>14, 15, 16</i>	<i>1790</i>	<i>1414</i>	<i>326</i>	<i>50</i>
<i>Dworshak B Tags</i>	<i>10A</i>	<i>2380</i>	<i>2118</i>	<i>215</i>	<i>47</i>

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets elk zone tag quotas by proclamation following the procedures outlined in Subsection 505 of this rule. The proclamation is available at Department offices and license vendors. ~~(3-29-10)~~(7-12-10)T

602. SPECIAL MILITARY DEPLOYMENT REFUND AND RAIN CHECK.

01. Special Refund and Rain Check Rule. This special refund and rain check rule applies to the appropriate calendar year hunting season. Because of military deployment to areas of armed conflict, some hunters will be unable to hunt big game animals for which they purchased tags in the state of Idaho. (4-11-06)

02. Special Refund and Rain Check Eligibility. Hunters who have purchased tags and who can show in good faith they could not participate in hunting activities due to military deployment to areas of armed conflict will be eligible for a refund or rain check for license and tags for the next calendar year hunting season as outlined in this rule. (4-11-06)

03. General Season Tag. Holders of a general season tag for deer or elk may request: (3-20-04)

a. A refund of the hunting license and tag fee; (3-20-04)

b. A rain check for a hunting license and same tag for the next calendar year hunting season; or (4-11-06)

c. An exchange in the calendar year for a tag in another zone or area so long as tags are available in that area or zone. (4-11-06)

04. Controlled Hunt ~~Permit and~~ Tag. Holders of a controlled hunt ~~permit and~~ tag for deer, elk, or antelope pronghorn may request: ~~(3-20-04)~~(7-12-10)T

- a. A refund of the hunting license; and controlled hunt ~~permit, and~~ tag fee; (~~3-20-04~~)(7-12-10)T
- b. A rain check for a hunting license; and controlled hunt ~~permit, and~~ tag for the same controlled hunt in the next calendar year hunting season; or (~~4-11-06~~)(7-12-10)T
- c. An exchange in the calendar year for a hunting license and a general season tag in another zone or area so long as tags are available in that area or zone. (4-11-06)

05. Nonresident Bear or Mountain Lion Tags. Holders of nonresident bear or mountain lion tags may request: (3-20-04)

- a. A refund of the hunting license and tag fee; or (3-20-04)
- b. A rain check for a hunting license and tag for the next calendar year hunting season. (4-11-06)

06. Moose, Bighorn Sheep, or Mountain Goat Controlled Hunt ~~Permits~~ Tags. Holders of moose, bighorn sheep, or mountain goat controlled hunt ~~permits~~ tags may request: (~~3-20-04~~)(7-12-10)T

- a. A refund of the hunting license; and controlled hunt ~~permit, and controlled hunting~~ tag fee; or (~~3-20-04~~)(7-12-10)T
- b. A rain check for a hunting license; ~~controlled hunt permit,~~ and controlled hunt tag for the next calendar year hunting season. (~~4-11-06~~)(7-12-10)T

07. Ineligible to Request Tag ~~or Permit~~ Refund or Rain Check. If the person hunts a species of wildlife before requesting a refund or rain check, then the tag ~~or permit~~ fee for that species will not be refunded or eligible for a rain check for the next calendar year season. (~~4-11-06~~)(7-12-10)T

08. Ineligible to Request License Fee Refund or Rain Check. If the person hunts for any species during the applicable year hunting season before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the next calendar year season. (4-11-06)

09. Rain Check Requests Must be for Same Species. All rain check requests must be made for the same species. For example, a deer tag will not be eligible for a rain check of an elk tag in the next calendar year season. (4-11-06)

10. Refunds Will Be for the Amount Paid. All refunds will be for the amount the person paid for the hunting license or tag. (3-20-04)

11. Use of Department-Approved Form for Rain Check or Refund Request. Resident and nonresident military personnel who have purchased general season tags or controlled hunt tags and are unable to participate in any hunting activities due to military deployment must submit a request for a refund or rain check on the department-approved form (found on Idaho Fish and Game website <http://fishandgame.idaho.gov/>) by January 1, next calendar year, along with a copy of their deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty in areas of armed conflict. Those requests received after this date will not be eligible for the special refund or rain check. (4-11-06)

603. -- 699. (RESERVED).

700. SPECIAL BIGHORN SHEEP ~~PERMIT~~/TAG.

01. Eligibility. In order to be eligible to bid on the special bighorn sheep 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 ~~Permit~~/Tag shall be valid in Unit 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery ~~Permit~~/Tag holder chooses not to

hunt in Unit 11.

~~(3-20-04)~~(7-12-10)T

03. License and ~~Permit~~ Controlled Hunt Tag. A hunting license and ~~permit~~ controlled hunt tag will be provided to the successful bidder from the net proceeds of the auction. ~~(7-1-93)~~(7-12-10)T

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 ~~permit~~ tag the same year the bidder is issued a Special Bighorn Sheep ~~Permit~~/Tag. ~~(3-30-01)~~(7-12-10)T

b. A person receiving a Special Bighorn Sheep ~~Permit~~/Tag, but who is unsuccessful in taking a bighorn sheep, shall be eligible to bid the following year for another Special Bighorn Sheep ~~Permit~~/Tag. ~~(3-15-02)~~(7-12-10)T

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 ~~PERMIT~~/TAG.

01. Eligibility. (7-1-93)

a. In order to win and be issued the Bighorn Sheep Lottery ~~Permit~~/Tag, a person must be eligible to purchase an Idaho hunting or combination license ~~EXCEPT that the Lottery Permit/Tag shall be valid in Unit 11 only during even-numbered years and during odd-numbered years when the Special Bighorn Sheep Permit/Tag holder chooses not to hunt in Unit 11.~~ ~~(3-15-02)~~(7-12-10)T

b. If any person wins the Bighorn Sheep Lottery ~~Permit~~/Tag and has already been drawn for a bighorn sheep controlled hunt ~~permit~~ tag for the same year, the controlled hunt ~~permit~~ tag shall be returned to the Department and voided and the ~~permit~~ tag fees refunded. The lottery tag will be valid to hunt bighorn sheep that year. ~~(7-1-93)~~(7-12-10)T

02. Validity of Tag. The Bighorn Sheep Lottery ~~Permit~~/Tag shall be valid in Unit 11 only during even-numbered years and during odd-numbered years when the Special Bighorn Sheep ~~Permit~~/Tag holder chooses not to hunt in Unit 11. ~~(3-20-04)~~(7-12-10)T

03. Permit. A ~~permit and~~ controlled hunt tag will be provided to the lottery tag winner from the net proceeds of the lottery. ~~(7-1-93)~~(7-12-10)T

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 ~~Permit~~/Tag, and who is otherwise eligible to apply for a deer, elk or ~~antelope pronghorn~~ controlled hunt ~~permit~~ tag, shall be allowed to apply for a ~~permit~~ controlled hunt for those species during the same year the Bighorn Sheep Lottery ~~Permit~~/Tag is valid. ~~(3-30-01)~~(7-12-10)T

801. -- 899. (RESERVED).

900. CHILDREN WITH SPECIAL NEEDS BIG GAME ~~PERMIT~~/TAG.

01. Availability. The Department shall make up to five (5) big game tags available for children with life threatening medical conditions each year. (3-29-10)

a. Any of the five (5) big game tags described in Section 901 that have not been issued by July 15 each year may also be available for children with life threatening conditions. (3-29-10)

02. Issuance. The Commission delegates discretionary authority to issue a special needs tag to the Director. (3-29-10)

03. Eligibility. In order to receive a special needs big game tag, a resident or nonresident minor (seventeen (17) years of age or younger) must have a life threatening medical condition as certified by a qualified and licensed physician. (3-29-10)

a. A qualified applicant must be sponsored by a nonprofit organization that is qualified under section 501(c) (3) of the Internal Revenue code. (3-8-07)

b. The primary mission of the sponsoring organization must be to offer opportunities and experiences to minor children with life threatening medical conditions. (3-8-07)

c. Minimum age requirements and hunter education requirements are waived for individuals applying for or receiving a special needs big game tag. (3-29-10)

04. Validity of ~~Permit~~ Tag. The special needs tag shall be valid for one (1) deer, one (1) elk, one (1) pronghorn, one (1) moose, one (1) black bear, or one (1) mountain lion as allowed by Commission proclamation. ~~(3-29-10)~~(7-12-10)T

a. A license is not required to apply for or receive a special needs big game tag. (3-29-10)

b. The special needs tag is valid in any open hunt, controlled or general, as provided by Commission proclamation. (3-29-10)

c. Applicants may only receive one (1) special needs tag in a lifetime. (3-29-10)

d. In exercising hunting privileges, the holder of a special needs tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. (3-29-10)

05. Application. Applications shall be on a form as prescribed by the Director. (3-8-07)

a. Applications shall be submitted on behalf of applicants by an eligible nonprofit organization. (3-8-07)

b. A copy of the nonprofit organization's IRS determination letter must accompany the application. (3-8-07)

06. Fees. All fees associated with applying for and receiving a special needs tag shall be waived. (3-29-10)

07. Hunters with Disabilities Permit Fees. All fees associated with applying for or receiving a Disabled Persons Motor Vehicle Hunting Permit or a Disabled Archery Permit by the recipient of a special needs tag are waived. (3-29-10)

08. Application of Big Game Rules. All rules governing the taking of Big Game Animals, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply to holders of a special needs big game tag. (3-8-07)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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 36-201, 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 September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Implement Senate Bill 1266 which classifies raccoons as predatory wildlife, and correct a statutory reference.

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

The temporary rule confers a benefit to certain hunters, and complies with amendment to Section 36-201, Idaho Code.

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.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0106-1001

104. CLASSIFICATION OF WILDLIFE - FURBEARING ANIMALS.

- | | | |
|----------------|--|---------------------|
| 01. | Furbearing Animals. | (7-1-93) |
| a. | American badger -- <i>Taxidea taxus</i> . | (4-6-05) |
| b. | American marten -- <i>Martes americana</i> . | (4-6-05) |
| c. | American mink -- <i>Mustela vison</i> . | (4-6-05) |
| d. | Beaver -- <i>Castor canadensis</i> . | (7-1-93) |
| e. | Bobcat -- <i>Lynx rufus</i> . | (4-6-05) |
| f. | Canada lynx -- <i>Lynx canadensis</i> . | (4-6-05) |
| g. | Common muskrat -- <i>Ondatra zibethicus</i> . | (4-6-05) |
| h. | Common raccoon -- <i>Procyon lotor</i>. | (4-6-05) |
| ih. | Fisher -- <i>Martes pennanti</i> . | (7-1-93) |
| ji. | Northern river otter -- <i>Lontra canadensis</i> . | (4-6-05) |
| kj. | Red fox -- <i>Vulpes vulpes</i> -includes all color phases found in Idaho. | (7-1-93) |

(BREAK IN CONTINUITY OF SECTIONS)

201. PREDATORY WILDLIFE.

- | | | |
|----------------|---|------------|
| 01. | <u>Common raccoon.</u> <i>Procyon lotor</i> | (7-12-10)T |
| 02. | Coyote. <i>Canis latrans</i> . | (7-1-93) |
| 03. | Jackrabbit. <i>Lepus townsendii</i> and <i>L. californicus</i> . | (7-1-93) |
| 04. | Long-Tailed and Short-Tailed Weasel, Ermine. <i>Mustela frenata</i> , <i>Mustela erminea</i> . | (4-6-05) |
| 05. | Skunk. <i>Mephitis mephitis</i> and <i>Spilogale gracilis</i> . | (7-1-93) |
| 06. | Starling. <i>Sturnus vulgaris</i> . | (7-1-93) |

(BREAK IN CONTINUITY OF SECTIONS)

300. PROTECTION OF WILDLIFE.

- | | |
|-----|---|
| 01. | Game Species. Those species of wildlife classified as Big Game Animals, Upland Game Animals, |
|-----|---|

Game Birds, Migratory Birds, Game Fish, Crustacea, or Furbearing Animals may be taken only in accordance with Idaho law and rules established by the Idaho Fish and Game Commission. (4-6-05)

02. Protected Nongame and Threatened or Endangered Species. No person shall take or possess those species of wildlife classified as Protected Nongame, or Threatened or Endangered at any time or in any manner, except as provided in Sections 36-106(e), 36-401, and 36-1107, Idaho Code, by Commission rule, or IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife," Subsection 100.06.b. Protected Nongame status is not intended to prevent unintentional take of these species, protection of personal health and/or safety, limit property and building management, or prevent management of animals to address public health concerns or agricultural damage. ~~(4-6-05)~~(7-12-10)T

03. Unprotected and Predatory Wildlife. Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner not prohibited by state or federal law, by holders of the appropriate valid Idaho hunting, trapping, or combination hunting and fishing licenses, provided such taking is not in violation of state, county, or city laws, ordinances, or regulations. (7-1-93)

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. 13-0108-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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), 36-1101, and 36-1202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Implement House Bill 416 which amends the definition of edible meat and expands the species exempt from waste. Implement House Bill 463 which requires amendment of existing Commission rules to allow nonresident deer or elk tags to be used for the take of black bear, mountain lion and wolf. Remove Units 48 and 57 from the Motorized Vehicle Rule. Allow the use of electronic calls for take of black bear, mountain lion and wolves in seasons specified by the Commission. Allow the take of wolves by trap or snare in seasons specified by the Commission. Prohibit the use of telemetry equipment as an aid to take of big game. Address depredation hunts for black bear and wolves. Extend the mandatory check and reporting requirements for harvested wolves. Update rules to reflect previous legislative (S B 141aa-2009) and Commission actions, including the elimination of controlled hunt permits, exchange of bear tags and defines various tag types. Amend controlled hunt application requirements and address Mandatory Hunter Reports.

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

The temporary rule confers a benefit to certain hunters, and complies with amendments to Sections 36-104, 36-409, 36-416, 36-1104, 36-1104A, and 36-1202, Idaho Code.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with statutory amendments.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0108-1001

200. BAG AND POSSESSION LIMITS.

No person may take more than one (1) deer, elk, antelope pronghorn, moose, bighorn sheep, mountain goat, black bear, or gray wolf during a calendar year EXCEPT: ~~(3-29-10)~~(7-12-10)T

01. Depredation Hunts. In depredation hunts, one (1) additional deer, elk or antelope pronghorn, black bear, or gray wolf may be taken by persons holding permit tags for those hunts, EXCEPT those depredation hunt ~~permittees~~ hunters who were selected for depredation hunts prior to the controlled season for the unit(s) in which they hold a controlled hunt permit tag must include any animal they harvest within the restrictions imposed by the controlled hunt permit tag (no person may take more than one (1) animal per year by using depredation and controlled hunt permit tag). ~~(7-1-93)~~(7-12-10)T

02. Extra Tag Hunts. In extra tag hunts, one (1) additional deer, elk or antelope pronghorn may be taken by persons holding tags for those hunts. ~~(7-1-93)~~(7-12-10)T

03. Limits on Take -- Deer, Elk, Antelope Pronghorn. In no event shall any person take more deer, elk or antelope pronghorn in a calendar year than the number of tags the person legally possesses for each species. ~~(3-30-01)~~(7-12-10)T

04. Limits on Take -- Mountain Lion. No person may take more mountain lions during a calendar year than the number of tags the person legally possesses for mountain lions. (3-30-01)

05. Limits on Take -- Black Bear. No person may take more black bears during a calendar year than the number of tags the person legally possesses for black bears. (3-30-01)

06. Limits on Take -- Gray Wolf. No person may take more gray wolves during a calendar year than the number of tags they legally possess for gray wolves. (3-29-10)

201. -- 249. (RESERVED).

250. TAGS AND PERMITS.

No person shall hunt big game animals without having in possession the appropriate hunting license, tags, ~~stamps~~ and permits. ~~(7-1-93)~~(7-12-10)T

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

a. Permit/ Controlled hunt Tags issued for moose, bighorn sheep, mountain goat and antelope pronghorn may be used only in the controlled hunt for which the permittee hunter was drawn. ~~(7-1-93)~~(7-12-10)T

b. Tags issued for antelope archery hunts may be used only in general archery hunts. ~~(7-1-93)~~

eb. Extra tags issued for deer, elk or ~~antelope~~ pronghorn may be used only in the hunt area for which the tags are issued. ~~(7-1-93)~~(7-12-10)T

dc. Any person who purchases a tag to hunt black bear, or ~~archery antelope~~, who is unsuccessful in killing an animal, and who is subsequently drawn for a black bear controlled hunt permit tag, including an antelope landowner preference permit, must may choose to purchase a controlled hunt bear tag or exchange the general season bear tag for the controlled hunt bear tag, the hunter must return the unused tag to a Department office not later than August 10 to exchange the tag for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. ~~(3-20-97)~~(7-12-10)T

ed. General season ~~T~~tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. ~~(4-5-00)~~(7-12-10)T

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

i. Regular Deer:

TYPE OF TAG	SEASONS
Resident (Type 311)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
Resident (Type 330)	Extra Any antlerless deer tag season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Senior Resident/Senior/Disabled American Veteran (DAV) (Type 330)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident	To Hunt Deer in Units 75, 76, 77, and 78 you must have your deer tag validated for use in these units. These tags are limited to one thousand two hundred (1200) nonresident tags and will be issued by lottery. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
Nonresident (Type 411)	Any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn , or may be used to tag a black bear or mountain lion <u>or gray wolf</u> during the Regular deer season when the black bear or mountain lion, <u>or gray wolf</u> season is open.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee hunter was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee hunter was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee hunter was drawn.

~~(4-6-05)~~(7-12-10)T

ii. ~~Elk A Tag: Valid only for A Tag elk seasons in specific elk zones. White-tailed deer.~~

TYPE OF TAG	SEASONS
Resident <u>White-tailed</u>	Any elk archery, muzzleloader or general season in A Tag elk seasons in specific zones. To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season.
Senior Resident Junior/ Senior/Disabled American Veteran (DAV) White-tailed	Any elk archery, muzzleloader, or general season in A Tag seasons in specific zones. To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season.
Nonresident <u>White-tailed</u>	Any elk archery, muzzleloader, or general season in A Tag elk seasons in specific zones, or controlled hunt for which the permittee was drawn. To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season or may be used to tag a black bear, mountain lion or gray wolf during the white-tailed deer season when the black bear, mountain lion or gray wolf season is open.
Combination Controlled Hunt Permit and Tag Nonresident White-tailed Junior Mentored	Only the designated controlled hunt for which the Tag permittee was drawn. Any archery, muzzleloader or general white-tailed deer season.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

(3-29-10)(7-12-10)I

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

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

TYPE OF TAG	SEASONS
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee hunter was drawn.
Combination Controlled Permit and Extra Tag	Only the designated controlled and extra tag hunt for which the permittee hunter was drawn.

(~~4-6-05~~)(7-12-10)T

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

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

(7-12-10)T

iv. Super Tag.

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

(~~3-15-02~~)(7-12-10)T

gf. Nonresident Junior Mentored Deer or Elk tags are not valid for bear, mountain lion, or gray wolf.
 (~~3-29-10~~)(7-12-10)T

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

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

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

02. Return of Tags by Unsuccessful ~~Permittees~~ Hunters. ~~Permittees~~ Hunters who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (~~5-15-95~~)(7-12-10)T

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

(BREAK IN CONTINUITY OF SECTIONS)

260. PERMITS TAGS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt ~~Permits~~ Tags. No person may hunt in any controlled hunt without having a valid controlled hunt ~~permit~~ tag in possession. (~~7-1-93~~)(7-12-10)T

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

b. In the event a ~~permit~~ tag is issued based on erroneous information, the ~~permit~~ tag will be invalidated by the Department and may NOT be used. The Department will notify the ~~permittee~~ hunter of the invalidation of the ~~permit~~ tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (~~7-1-93~~)(7-12-10)T

c. Any person who ~~receives~~ draws a controlled hunt ~~permit and~~ tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT: ~~the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer.~~ (~~3-20-97~~)(7-12-10)T

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first deer drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (7-12-10)T

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (7-12-10)T

iii. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for deer. (7-12-10)T

iv. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-12-10)T

~~**d.** Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt.~~ (~~7-1-93~~)

ed. Any person who ~~receives~~ draws a controlled hunt ~~permit~~ tag for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT: ~~a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk.~~ (~~7-1-93~~)(7-12-10)T

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (7-12-10)T

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (7-12-10)T

iii. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for elk. (7-12-10)T

iv. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt-archery, muzzleloader, general or controlled hunt. (7-12-10)T

fg. Any person who receives draws a combination controlled hunt permit/tag for antelope pronghorn is prohibited from hunting in any archery antelope or her pronghorn hunt; EXCEPT: The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)(7-12-10)T

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (7-12-10)T

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (7-12-10)T

iii. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. (7-12-10)T

iv. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. (7-12-10)T

fg. Any person who receives draws a spring controlled hunt permit tag for black bear, is prohibited from hunting in any other spring bear hunt April 15 to June 30, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (7-1-99)(7-12-10)T

hg. Any person who receives draws a fall controlled hunt permit tag for black bear is prohibited from hunting in any other fall bear hunts September 15 to October 31, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag; EXCEPT: the hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the fall bear drawing. (10-26-94)(7-12-10)T

02. Nonresident Permit Tag Limitations. (3-20-04)(7-12-10)T

a. In controlled hunts with ten (10) or fewer permits tags, not more than one (1) nonresident permit tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits tags, not more than ten percent (10%) of the permits tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-6-05)(7-12-10)T

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

c. For each species, the total number of outfitter allocated controlled hunt permits tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits tags; including outfitter

allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt ~~permits~~ tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. ~~(3-20-04)~~(7-12-10)T

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

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

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn ~~permit~~ tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat ~~permit~~ tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of ~~permits~~ tags nor Landowner ~~Preference Permits~~ Appreciation Program tags. EXCEPT all successful and unsuccessful ~~antelope~~ pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled ~~antelope~~ pronghorn/deer/elk tags to hunt in any open general and/or controlled ~~antelope~~ pronghorn, deer or elk hunt in the following hunting season. ~~(3-15-02)~~(7-12-10)T

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or ~~antelope~~ pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk and antelope pronghorn controlled hunt permit sales. ~~(3-29-10)~~(7-12-10)T

d. Any person who has killed a California bighorn ram, ~~or a Rocky Mountain bighorn ram or a moose~~ on any controlled hunt may not apply for a ~~permit~~ tag for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram ~~permit~~ tag for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram ~~permit~~ tag for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. ~~(4-5-00)~~(7-12-10)T

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

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt ~~permit~~ tag for five (5) years. The harvest of a bighorn ewe does not make the ~~permittee~~ hunter ineligible to apply for a ~~permit~~ tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. ~~(7-1-93)~~(7-12-10)T

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat ~~permit~~ tag. ~~(7-1-93)~~(7-12-10)T

h. Any person who has killed an antlered moose in Idaho may not apply for a moose ~~permit~~ tag for

antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a ~~permit tag~~ for antlerless moose EXCEPT that any person may apply for ~~permits tags~~ remaining unfilled after the controlled hunt draw. ~~(4-11-06)~~(7-12-10)T

i. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)

j. Any person may apply for both a controlled hunt ~~permit~~ tag and a controlled hunt ~~permit~~ extra tag. ~~(7-1-93)~~(7-12-10)T

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

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

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

04. Applications. Individual applications or group applications for controlled hunts ~~shall be made on a form prescribed by the Department and must be received at~~ may be submitted electronically through the automated licensing system at any vendor location, through the Internet, over the telephone, or by mail to the Headquarters Office of the Idaho Department of Fish and Game or any Idaho Fish and Game Regional Office and shall be submitted with a postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; ~~they may not be resubmitted after correction~~ EXCEPT: applicants who would like to change their submitted controlled hunt application may request the original application be canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. ~~(10-26-94)~~(7-12-10)T

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

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

c. Deer, elk, ~~antelope~~ pronghorn, fall black bear, and gray wolves - Application period for first drawing - May 1 - June 5. ~~(3-29-10)~~(7-12-10)T

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

e. Deer, elk, ~~antelope~~ pronghorn, fall black bear, and gray wolves - Application period for second drawing - August 5 - 15. ~~(3-29-10)~~(7-12-10)T

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

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt ~~permit~~ extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. ~~(10-26-94)~~(7-12-10)T

b. Only one (1) controlled hunt ~~permit~~ extra tag will be issued for each person on any application submitted. ~~(10-26-94)~~(7-12-10)T

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt ~~permit~~ tag hunts or controlled hunt ~~permit~~ extra tag hunts. ~~(10-26-94)~~(7-12-10)T

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, ~~antelope~~ pronghorn, moose, bighorn sheep, mountain goat, black bear, ~~lion~~, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, ~~antelope~~ pronghorn, black bear, ~~mountain lion~~, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a ~~permit~~ tag in the mail. ~~(3-29-10)~~(7-12-10)T

e. Any controlled hunt ~~permits~~ tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold ~~forty five (45) days following the close of each respective controlled hunt drawing~~ by any Point-of-Sale vendor, ~~through the Internet, or over the telephone~~ on a first-come, first-served basis ~~on the dates below~~ UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt ~~permit~~ application and tag will be issued to successful ~~applicants~~ controlled hunt purchasers. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. ~~The fee for the exchanged tag is the fee for a duplicate tag.~~ ~~(3-15-02)~~(7-12-10)T

i. Spring Turkey and Spring Bear - April 1. (7-12-10)T

ii. Moose, Bighorn Sheep and Mountain Goat - July 10. (7-12-10)T

iii. Deer, Elk, Pronghorn and Fall Bear - August 25. (7-12-10)T

f. A "group application" for deer, elk, and ~~antelope~~ pronghorn is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. ~~(10-26-94)~~(7-12-10)T

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

h. If a group application exceeds the number of ~~permits~~ tags available in a hunt that group application will not be selected for that hunt. ~~(7-1-98)~~(7-12-10)T

i. Landowner permission hunt ~~permits~~ tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game after July 15. ~~(3-29-10)~~(7-12-10)T

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

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

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

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or

ineligible applicants. (10-26-94)

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

e. Application fees are nonrefundable. (7-12-10)T

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

08. Unclaimed ~~Permits~~ Tags. Successful applicants for the first deer, elk, black bear, gray wolf, or ~~antelope~~ pronghorn controlled hunt drawing must purchase and pick up their controlled hunt ~~permit and~~ tag by August 1. All controlled hunt tags ~~and permits~~ not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags ~~and permits~~ left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (~~3-29-10~~)(7-12-10)T

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

261. SPECIAL CONTROLLED HUNTS.

01. Special Controlled Hunt Program. The Special Controlled Hunt ~~Permit~~ Program is a program to partially fund a sportsman access program adopted by the Fish and Game Commission. This program will offer forty (40) tags valid for the current year hunting seasons; including, twelve (12) tags each for elk, deer, and ~~antelope~~ pronghorn, and four (4) tags for moose. (~~4-11-06~~)(7-12-10)T

a. The rules for controlled hunts set forth in Section 260, of these rules, do not apply to the Special Controlled Hunt Program. (4-11-06)

b. The Special Controlled Hunt application will be marketed by the Department of Fish and Game. The Department will issue these tags to eligible persons selected by an impartial random lottery draw process. The successful applicants will receive the tag ~~and controlled hunt permit~~ necessary to hunt the appropriate species. The Department's various license issuing systems and other methods may be used to market the applications. (~~4-11-06~~)(7-12-10)T

02. Moneys. The Department shall deposit all moneys received from the sale of Special Controlled Hunt Applications in accordance with state law. The Department shall specifically use funds for the sportsman access program. (4-11-06)

03. General Rules. (4-11-06)

a. Any individual, resident or nonresident, may purchase and submit applications without limit. (4-11-06)

b. ~~Blank~~ Special controlled hunt applications may be ~~given or transferred to other individuals, or~~ entered in the name of individuals other than the purchaser. (~~4-11-06~~)(7-12-10)T

c. Each successful applicant must have or be eligible to obtain a valid Idaho hunting license. (4-11-06)

d. Each tag will be issued to the individual named on the drawn application that meets license eligibility requirements and cannot be transferred. (4-11-06)

e. An individual may be drawn for only one (1) special controlled hunt tag for each species. (4-11-06)

f. Each special controlled hunt tag is valid for the designated species and allows the hunter to hunt in any open hunt, general or controlled, for the designated species in the applicable year's season. (4-11-06)

g. The special controlled hunt tag shall be in addition to any other tag the hunter is eligible to obtain. (4-11-06)

h. Any applicant, including those who have harvested an animal on a special controlled hunt tag, shall be eligible to apply for any controlled hunt for the same species in the same year or subsequent years. (4-11-06)

i. ~~Prior to the Department issuing any license, tag or permit to a successful applicant, the individual must complete and sign a statement certifying his eligibility to obtain and possess an Idaho hunting license and the required permits and tags.~~ In the event a license, tag or permit is issued based on erroneous information, all documents issued based on the erroneous information will be invalidated by the Department and may not be used. The Department will notify the individual at his last known place of residence of the invalidation of the license, tag or permit. ~~(4-11-06)~~(7-12-10)T

04. Application Fees. The Commission intent for this special controlled hunt program is to provide some of the funding for a statewide sportsman access program. Applications may be sold for individual species (Super Hunt) or grouped for combined species (Super Hunt Combo). The application fees will be set by Commission Order under Section 36-415, Idaho Code, or will be the same as the controlled hunt fee set in Section 36-416, Idaho Code. (4-11-06)

05. Drawing Dates. There will be two (2) drawings. All drawings shall be held at ~~10 a.m.~~ at the Department of Fish and Game offices in Boise, Idaho. The first drawing winners will be ~~on or about~~ notified by June 15~~0~~, and the second drawing winners will be ~~on or about~~ notified by August 15 each year. The Commission may order a different drawing day in case of business emergency, holiday, or non-business days. ~~(4-11-06)~~(7-12-10)T

06. Department Marketed Applications. (4-11-06)

a. Individual applications for special controlled hunts shall be made on a form prescribed by the Department or submitted electronically at any Fish and Game Headquarters or Regional Offices, any license vendor, through the Internet or over the telephone. ~~(4-11-06)~~(7-12-10)T

b. ~~All Mailed~~ applications must be received at the Licenses Section, Headquarters Office, Idaho Department of Fish and Game, 1075 Park Blvd., PO Box 25, Boise, Idaho 83707-0025, no later than 5 p.m. (MST), May 31 of the current calendar year for the first drawing and no later than 5 p.m. (MST), ~~July 31~~ August 10, of the current calendar year for the second drawing. Electronically submitted applications must be entered no later than 11:59 p.m. (MST), May 31 of the current calendar year for the first drawing and no later than 11:59 p.m. (MST), August 10 of the current calendar year for the second drawing. Applications received or electronically submitted after ~~July 31~~ August 10 shall be ineligible for any the drawing held in June of the following year. ~~If either drawing date is a Saturday, Sunday or other legal holiday, then the applications must be received on the next legal business day.~~ ~~(4-11-06)~~(7-12-10)T

c. All applications entered into the first drawing are not eligible for and will not be entered into the second drawing. (4-11-06)

d. Any individual application that is unreadable, has multiple or no species box checked, has incomplete or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (4-11-06)

e. The Department shall sell applications through its electronic licensing system ~~from July 28~~ through November 30. ~~(4-11-06)~~(7-12-10)T

f. ~~For each tag available, the Department shall draw one (1) winner and two (2) alternates. All alternates will be drawn after all winners have been drawn.~~ Should the winner be ineligible, deceased or incapacitated to hunt, the first alternate drawn will be declared the winner. Should the first alternate be ineligible, deceased or incapacitated to hunt, the second alternate drawn will be declared the winner. Should the second alternate be

ineligible, deceased or incapacitated to hunt, that special controlled hunt ~~permit tag~~ shall be null and void and shall not be issued to any other person. ~~The names and addresses of the alternates shall be confidential until the winner is issued all required licenses, tags or permits.~~ (4-11-06)(7-12-10)T

07. Refunds of Special Controlled Hunt Fees. (4-11-06)

a. The application fee is not refundable. (4-11-06)

b. The special controlled hunt tag, ~~permit~~ and related hunting license are not refundable for any reason. (4-11-06)(7-12-10)T

262. -- 269. (RESERVED).

270. MANDATORY SCHOOL.

~~Mandatory Class for Deer Hunt Area 39-3~~ Anyone drawing a ~~deer~~ controlled archery-only hunt ~~permit for controlled hunt area 39-3 tag~~ that requires a mandatory hunter orientation class as denoted in the season proclamations must attend ~~at~~ the mandatory hunter orientation class. The class is three (3) hours long and will be offered at times specified by the Department. The orientation classes will be offered on ten (10) dates between October 15 and November 15. Since classroom size is limited, each ~~permittee~~ hunter must schedule a time to attend a class prior to October 15. Attendees will be issued a certificate of completion, which must be carried by the ~~permittee~~ hunter during the hunt. Holders of "Certificates of Completion" from previous hunts are not required to attend this orientation class. (4-6-05)(7-12-10)T

271. WOLF TRAPPING.

01. Mandatory Wolf Trapper Education Class. Individuals interested in trapping wolves must successfully complete a wolf trapping education class held by the Idaho Department of Fish and Game prior to purchasing a wolf trapping permit. A certificate of completion will be required to purchase the 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. (7-12-10)T

02. Wolf Trapping Permits. Wolf trapping permits will be available only at Idaho Department of Fish and Game offices. (7-12-10)T

274.2. -- 299. (RESERVED).

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

01. Big Game Animals of Either Sex. Big game animals of either sex may be taken as noted below: (7-1-93)

a. Mountain Goat. Either sex may be taken EXCEPT nannies accompanied by kids. (7-1-93)

b. Black Bear. Either sex may be taken EXCEPT female black bears accompanied by young. (7-1-93)

c. Mountain Lion. Either sex may be taken EXCEPT spotted young or females accompanied by young. (7-1-93)

d. Gray Wolf. Either sex may be taken. (3-29-10)

02. Seasons Restricted to Antlered or Male Animals Only. (7-1-93)

a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season which is open for antlered deer only. (7-1-93)

b. Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any season which is open for two-point

deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

c. Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season which is open for three-point or larger deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (3-15-02)

d. Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including the brow point or tine, may be taken in any season that is open for four-point or larger deer only. (4-6-05)

e. Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. (7-1-99)

f. Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

g. Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. (3-15-02)

h. Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. (7-1-93)

03. Seasons Restricted to Antlerless or Female Animals Only. (7-1-93)

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season which is open for antlerless deer only. (7-1-93)

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season which is open for antlerless elk only. (7-1-93)

c. Antelope Pronghorn. Only antelope pronghorn without a black "cheek patch" or horns less than three (3) inches long may be taken during doe and fawn only antelope pronghorn seasons. ~~(7-1-93)~~(7-12-10)T

d. Bighorn sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. (7-1-93)

e. Moose. Only moose without antlers or with antlers less than six (6) inches long may be taken in any season which is open for antlerless moose only. (7-1-93)

301. -- 319. (RESERVED).

320. TAG VALIDATION AND ATTACHMENT AND PROXY STATEMENT.

01. Tag. Immediately after any deer, elk, antelope pronghorn, moose, bighorn sheep, mountain goat, mountain lion, black bear, or gray wolf is killed, the appropriate big game animal tag must be validated and securely attached to the animal. ~~(3-29-10)~~(7-12-10)T

a. Validation. Cut out and completely remove only the two (2) triangles indicating the date and month of kill. (7-1-93)

b. Attachment of Tag. (7-1-93)

i. Deer, elk, antelope pronghorn, moose, mountain goat, black bear, and bighorn sheep: to the largest portion of the ~~carcass~~ edible meat to be retained by the hunter or any person transporting for the hunter. The tag must remain attached during transit to a place of processing and must remain attached until the meat is processed. The validated tag must accompany the processed meat to the place of final storage or final consumption.

~~(10-26-94)~~(7-12-10)T

- ii. Mountain lion, black bear, and gray wolf: To the hide.

~~(3-29-10)~~(7-12-10)T

02. Proxy Statement. Any person transporting or possessing any portion of a carcass of a big game animal or processed big game animal meat taken by another must have in possession a written statement signed by the taker showing the number and kinds of animals, the date taken, the taker's name and address, the taker's hunting license number, and the taker's tag ~~and/or permit~~ number.

~~(7-1-93)~~(7-12-10)T

321. -- 349. (RESERVED).

350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Evidence of Sex. Evidence of sex must be left naturally attached to the carcass of any big game animal.

(4-6-05)

a. In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption, or a commercial meat processing facility; AND the horns or antlers must accompany the carcass while in transit.

(5-8-09)

b. In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left or a commercial meat processing facility naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit.

(5-8-09)

c. In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, antelope pronghorn, or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption or a commercial meat processing facility.

~~(5-8-09)~~(7-12-10)T

d. The entire head of antlerless male elk, moose, deer, or antelope pronghorn, or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter until the carcass reaches the final place of storage or consumption. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption, or a commercial meat processing facility, AND the lower jaw must accompany the carcass while in transit.

~~(5-8-09)~~(7-12-10)T

e. For black bear, mountain lion, and gray wolf external evidence of sex (either scrotum, penis or testicles for males, or vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with.

(3-29-10)

02. Evidence of Species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass.

(7-1-93)

03. Evidence of Size. Any hunter taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department.

(7-1-93)

04. Other. The Department may designate seasons and areas in which the head or lower jaw must accompany the carcass in transit.

(7-1-93)

351. WASTE OF GAME MEAT.

Hunters are required to remove and care for the edible meat of big game animals, except mountain lions, black bears and gray wolves. This includes the meat of the front quarters including the meat surrounding the ball joint as far down as the knees, hindquarters as far down as the hock, ~~neck meat,~~ and meat along the backbone, ~~and meat covering the ribs.~~ It does not include meat of the head, internal organs and meat on the bones after close trimming which is the loin and tenderloin. (3-29-10)(7-12-10)T

(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 rifle, 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 fifteen-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, or 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: (3-15-02)
- 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, antelope pronghorn, mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ~~(3-29-10)~~(7-12-10)T
- 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: (7-1-93)
- i.** Is at least forty-five (.45) caliber for deer, antelope pronghorn, mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. ~~(3-29-10)~~(7-12-10)T
- 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, ~~antelope or pronghorn~~, mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (3-29-10)
- 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, ~~in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486~~ black bears, and wolves in seasons set by Idaho Fish and Game Commission proclamation. (~~3-15-02~~)(7-12-10)T
- 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." (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." (~~7-1-93~~)(7-12-10)T
- 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. (7-12-10)T

(BREAK IN CONTINUITY OF SECTIONS)

412. MOTORIZED VEHICLE USE RESTRICTION UNITS.

The motorized vehicle use restriction applies to areas and hunts in units 29, 30, 30A, 32, 32A, 36A, 37, 37A, 39, 45, 47, ~~48~~, 49, 50, 51, 52, 53, 56, ~~57~~, 58, 59, 59A, 66, 66A, 69, 70, 72 (late season), 73, 75, 76, 77, and 78. The specific hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Seasons Proclamation, which is published in a brochure available at department offices and license vendors. (~~3-29-10~~)(7-12-10)T

413. -- 419. (RESERVED).

420. MANDATORY CHECK AND REPORT REQUIREMENTS.

Any hunter killing black bear, moose, bighorn sheep or mountain goat, or mountain lion in a unit with no female lion quota must, WITHIN TEN (10) DAYS OF THE DATE OF KILL, or any hunter killing mountain lion in a unit with a female quota must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, or any hunter killing a gray wolf must, WITHIN ~~FIVE TEN~~ (~~510~~) DAYS OF THE DATE OF KILL, comply with the mandatory check and report requirements by: ~~(3-29-10)~~(7-12-10)T

01. Harvest Report. Completing the relevant harvest report (big game mortality report or other report form as required) for the species taken. (4-6-05)

02. Presentation of Animal Parts. Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: (7-1-93)

a. Bear: Skull and hide to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. No person, who does not possess a fur buyer or taxidermist license and/or appropriate import documentation, shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear pelt which does not have an official state export tag attached (either Idaho's or another state's official export documentation). (3-29-10)

b. Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. No person, who does not possess a fur buyer or taxidermist license and/or appropriate import documentation, shall have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion pelt which does not have an official state export tag attached (either Idaho's or another state's official export documentation). (3-29-10)

c. Gray Wolf: Skull and hide to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. No person who does not possess a fur buyer or taxidermist license and/or appropriate import documentation shall have in possession, except during the open season and for ~~five ten~~ (~~510~~) days after the close of the season, any raw gray wolf pelt that does not have an official state export tag attached (either Idaho's or another state's official export documentation). ~~(3-29-10)~~(7-12-10)T

d. Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. (7-1-93)

e. Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. (7-1-93)

f. Mountain Goat: Horns to be presented to a conservation officer or regional office. (7-1-93)

03. Authorized Representative. A hunter may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. (7-1-93)

421. MANDATORY DEER AND ELK REPORT REQUIREMENTS.

01. Mandatory Report Form. After ~~an antelope pronghorn~~, deer and/or elk is killed, the hunter must accurately complete a Mandatory Report as provided by the Director. ~~(3-15-02)~~(7-12-10)T

02. Mandatory Report. Any hunter that obtains ~~an antelope pronghorn~~, deer and/or elk tag and kills ~~an antelope pronghorn~~, deer and/or elk, must submit a completed Mandatory Report to the Department or authorized agent, WITHIN TEN (10) DAYS OF KILL. ~~Any~~ hunter that obtains ~~an antelope pronghorn~~, deer and/or elk tag and does not successfully kill ~~an antelope pronghorn~~, deer and/or elk must submit a completed Mandatory Report Form to the Department or authorized agent WITHIN TEN (10) DAYS OF THE CLOSING DATE OF THE APPROPRIATE SEASON. ~~(3-15-02)~~(7-12-10)T

03. Failure to Report. Failure to submit the required ~~antelope pronghorn~~, deer and/or elk Mandatory Report by January 31 of the following year as required in Subsection 421.02 will render the hunter ineligible to obtain any subsequent year's license until a late Mandatory Report permit is filed with the Department or authorized agent.

~~To be effective December 31, 2003.~~

~~(3-20-04)(7-12-10)T~~

04. Drawing for “Super” Tag. All successful and unsuccessful ~~antelope pronghorn~~, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) “Super” controlled ~~antelope pronghorn~~/deer/elk tags. Each hunter drawn for a “Super” controlled ~~antelope pronghorn~~/deer/elk hunt must notify the Department by May 1 of which species they have selected to hunt. The “Super” controlled hunt tag is valid for the selected species and allows the hunter to hunt in any open general and/or controlled hunt for the selected species in the following season. ~~(3-15-02)(7-12-10)T~~

422. MANDATORY WOLF TELEPHONE REPORT.

In addition to other check and reporting requirements, any hunter killing a gray wolf must report the harvest within ~~twenty-four~~ seventy-two (2472) hours by calling the Wolf Reporting Number, a toll-free telephone number published in the gray wolf season brochure available at Department offices and license vendors. ~~(3-29-10)(7-12-10)T~~

(BREAK IN CONTINUITY OF SECTIONS)

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. (7-1-99)
- 09. Salmon Zone.** All of Units 21, 21A, 27, and 28. (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, ~~53, 63, 63A,~~ and 68, ~~and 68A.~~ (~~7-1-99~~)(7-12-10)T
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)

(BREAK IN CONTINUITY OF SECTIONS)

703. CONTROLLED HUNT AREA DESCRIPTIONS -- ANTELOPE PRONGHORN.

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (~~4-2-08~~)(7-12-10)T

(BREAK IN CONTINUITY OF SECTIONS)

800. EMERGENCY DEPREDATION HUNTS.

01. **Eligibility.** (7-1-93)
 - a. Only Idaho residents with a valid Idaho hunting or combination license are eligible to apply to participate in emergency depredation hunts. (7-1-93)
 - b. Persons submitting applications for emergency depredation hunts are eligible to apply for controlled hunts or may hunt in the general season. (7-1-93)
02. **Applications.** (7-1-93)
 - a. Applicants must submit a depredation hunt application and mail it to the regional office of the Idaho Department of Fish and Game in the area(s) they are willing to hunt. Applicants may apply to different areas for deer, elk, ~~and antelope~~ pronghorn, black bear, or gray wolf. (~~7-1-93~~)(7-12-10)T
 - b. Applicants may submit only one (1) application per year for each species. An individual or a group may apply on an application. A group is defined as two (2) hunters applying for the same depredation hunt on the same application. On a group application both hunters must comply with all regulations, complete the application properly, and abide by the same depredation hunt choice. If an individual submits application for more than one (1) species, he does not have to be in the same group for each application. Separate applications may be submitted for deer, elk, ~~and antelope~~ pronghorn, black bear, or gray wolf. (~~7-1-93~~)(7-12-10)T

- c. Application can be made in only one (1) region for deer, one (1) for elk, ~~and~~ one (1) for ~~antelope~~ pronghorn, one (1) for black bear, and one (1) for gray wolf. ~~(7-1-93)~~(7-12-10)T
- d. Any form not properly completed will be ineligible for selection. (7-1-93)
- e. Any holder of an antlerless or doe/fawn, or black bear controlled hunt ~~permit~~ tag will be considered an applicant for any depredation hunt for that species which is: ~~(7-1-93)~~(7-12-10)T
- i. Held prior to the antlerless or doe/fawn, or black bear controlled hunt; and ~~(7-1-93)~~(7-12-10)T
- ii. Is in the same area as the depredation. (7-1-93)
- f. Any holder of an antlerless or doe/fawn, or black bear controlled hunt ~~permit~~ tag may also apply for a depredation hunt in any region. ~~(7-1-93)~~(7-12-10)T
- g. A list of depredation hunt applications received will be maintained for the time period July 1 to June 30. Applications are valid only for the time period for which they are submitted. (7-1-93)
- h. Military personnel returning from active duty after June 30 may apply at any time and will be given priority in the selection process. (4-11-06)

03. Selection of Participants. The Department shall place all applications (individual or group) for each depredation hunt received by June 30 in random order. All applications received after June 30 shall be placed at the end of the list in the order received, except that military personnel returning from active duty will be given priority. The Department shall select participants for a hunt in the order in which applicants appear on the list EXCEPT for those hunts which precede, or at the discretion of the Regional Supervisor, follow a controlled hunt for doe/fawn or antlerless animals or black bear. If a depredation hunt is scheduled before or at the discretion of the Regional Supervisor after a doe/fawn or antlerless hunt or black bear hunt in the same unit, the holders of the doe/fawn or antlerless ~~permit~~ tags or black bear tag will be given the option to hunt in the depredation hunt. If no doe/fawn or antlerless or black bear hunts are scheduled in that unit, or if some depredation hunt ~~permits~~ tags are not taken by controlled hunt ~~permittees~~ hunters, participants will be selected from applicants for that depredation hunt. If a group application is selected, both hunters will be offered depredation hunt ~~permits~~ tags. ~~(4-11-06)~~(7-12-10)T

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0109-1001

NOTICE OF RULEMAKING - 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 36-1101, 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 September 15, 2010.

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 non technical explanation of the substance and purpose of the proposed rulemaking:

Some hunters have questioned whether shooting upland game birds from watercraft is an ethical method of take, and have requested Commission action to prohibit the take of upland game birds from any watercraft.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general 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: NA

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0109-1001

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. ~~Pheasants~~ Upland game birds shall not be taken before 10 a.m. ~~after the opening day~~ during the pheasant season on the Fort Boise, Montour, Payette River and C.J. Strike Wildlife Management Areas. (4-6-05)()

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 ~~boats or other craft having a motor attached UNLESS the motor is completely shut off and forward progress has ceased, or if the boat is drifting naturally, or if it is propelled only by paddle, oars, or pole, or if it is beached, moored, or resting at anchor~~ any watercraft. (7-1-93)()

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)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0109-1002

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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, 36-406, 36-407 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 September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Implement Senate Bill 1285 which allows nine-year old hunters to apply for controlled hunt turkey permits.

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

The temporary rule confers a benefit to certain hunters, and complies with amendment to Sections 36-404, 36-406, and 36-407, Idaho Code.

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.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0109-1002

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 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; general and 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. (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 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)~~ nine (9) to seventeen (17) 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. (~~3-29-10~~)(7-12-10)T

04. Early September Canada Goose Hunts. (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)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0110-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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 36-103, 36-104(b), 36-501, 36-502, 36-504, and 36-603, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Implement Senate Bill 1328 which allows the release of certain captured predatory and unprotected wildlife with written landowner permission. Senate Bill 1342 allows the Department to require records from taxidermy/furbuyers and adds a reporting requirement for purchase of raw mountain lion and black bear parts. Clarify legal methods of take and address commercial sale of rattlesnake parts.

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 hunters, and complies with amendment to Idaho Code Section 36-502.

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.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0110-1001

100. PERMITS, REQUIREMENTS FOR IMPORT, EXPORT, TRANSPORT, RELEASE, AND SALE.

No person shall import, export, transport into or cause to be transported within, release or sell within the state of Idaho any living wildlife including wildlife eggs without having first obtained a permit from, and on a form prescribed by, the Director of the Idaho Department of Fish and Game. However, no permit shall be issued by the Director for such importation, transportation or release or sale if the wildlife or eggs thereof would pose a threat to wildlife in the state of Idaho either through the threat of disease, genetic contamination or displacement of, or competition with existing species and provided that: ~~(3-23-94)~~(7-12-10)T

01. Import, Export, Transport, or Sell Restrictions. No permits shall be required from the Department of Fish and Game to import, export, transport or sell the following: (3-23-94)

a. Animals or their eggs normally considered to be of agricultural or domestic types currently common to Idaho which shall not include any wildlife. (3-23-94)

b. Mammals classified as furbearers by the Idaho Fish and Game Commission, and that are to be used for purposes provided for in Chapter 30 of Title 25, Idaho Code. (3-23-94)

c. Ornamental or tropical aquarium fish of varieties commonly accepted for interstate shipment, but not including green sturgeon (*Acipenser medirostris*), white sturgeon (*Acipenser transmontanus*), walking catfish (family *Catostomidae*), bowfin (*Amia calva*), gar (family *Lepisosteidae*), piranhas (*Serrasalmus* sp., *Rosseveltella* sp., *Pygocentrus* sp.), rudd (*Scardinius erythrophthalmus*), Ide (*Leuciscus idus*), grass carp (*Ctenopharyngodon idella*), and snakeheads or china fish (*Channa* sp.). (3-23-94)

d. Animals commonly considered to be conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). (7-1-99)

e. Birds classified as game birds that are produced in captivity and lawfully obtained as shown by proof maintained and presented in accordance with Section 36-709 Idaho Code. (3-23-94)

02. Fish Legally Taken. No permit shall be required to keep game fish legally taken, other than salmon or steelhead, alive and in possession in a live well or net or on a stringer in or on the body of water from which they were taken. (7-1-93)

03. Commercial Fish Facility. No permit shall be required to possess fish from a commercial fish facility when accompanied by sales receipt as provided in Chapter 46, Title 22, Idaho Code. (7-1-93)

04. Transport Between Commercial Fish Facilities. No permit shall be required to transport fish between properly licensed commercial fish facilities. (3-23-94)

05. Fish Eggs. No permit shall be required to possess, sell, purchase or transport nonviable fish eggs used for bait or personal consumption. (3-23-94)

06. Wildlife. No wildlife except wildlife classified as unprotected, ~~or~~ predatory, native amphibian or native reptile as defined in IDAPA 13.01.06, "Classification and Protection of Wildlife," Subsections 200.03, 200.04, and Sections 201 and 250, may be taken from the wild in the state of Idaho and kept alive in captivity unless authorized by the Commission or in writing by the Director or his designee, and may require a permit from the Idaho Department of Agriculture/USDA APHIS. ~~(7-1-99)~~(7-12-10)T

a. No wildlife may be taken alive from state parks, national parks and monuments, wildlife management areas or nature preserves except as designated by the Commission or permitted in writing by the Director and permitted in writing by the responsible land management agency. (3-23-94)

b. No person shall capture alive, ~~or~~ hold in captivity, kill, or possess at any time more than four (4) Idaho native reptiles or amphibians of any one (1) species except as authorized by Commission Rule or permitted in writing by the Director. ~~(3-23-94)~~(7-12-10)T

07. Birds of Prey. No additional permit shall be required to import, possess, transport or export legally possessed birds of prey in accordance with Idaho falconry rules IDAPA 13.01.14, "Rules Governing Falconry in the State of Idaho," by properly licensed falconers. (3-23-94)

08. Unprotected Wildlife. No permit shall be required to sell, export or transport within Idaho, any legally taken species of wildlife classified as unprotected by commission rule. Unprotected native wildlife may be released in accordance with Section 36-502 (c) Idaho Code. The written landowner consent required by Idaho Code shall be in possession while such wildlife are in transit to the release site. ~~(3-23-94)~~(7-12-10)T

09. Possession of Wildlife. The possession of any wildlife, progeny or eggs thereof imported into this state without a valid import permit, if such permit is required, shall be unlawful. (3-23-94)

10. Predatory Wildlife. Predatory native wildlife may be released in accordance with Section 36-502(c) Idaho Code. The written landowner consent required by Idaho Code shall be in possession while such wildlife are in transit to the release site. (7-12-10)T

(BREAK IN CONTINUITY OF SECTIONS)

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, ~~or~~ migratory birds, or rattlesnakes taken from the wild may not be purchased, bartered or sold. ~~(3-23-94)~~(7-12-10)T

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. (7-12-10)T

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.

~~(3-23-94)~~(7-12-10)T

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.

(7-12-10)T

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.

(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, 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.

~~(3-29-10)~~(7-12-10)T

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

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

DOCKET NO. 13-0116-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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), 36-201 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 September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Implement Senate Bill 1286 which classifies raccoons as predatory wildlife, and clarify the definitions of "bait" and "game animal."

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 hunters, and complies with amendment to Section 36-201, Idaho Code.

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: 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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0116-1001

010. DEFINITIONS.

- 01. Furbearing Animals.** Furbearing animals are defined as the following species: (7-1-93)
- a.** Marten -- *Martes americana*. (7-1-93)
 - b.** Fisher -- *Martes pennanti*. (7-1-93)
 - c.** Mink -- *Mustela vison*. (7-1-93)
 - d.** Otter -- *Lontra canadensis*. (3-30-01)
 - e.** Beaver -- *Castor canadensis*. (7-1-93)
 - f.** Muskrat -- *Ondatra zibethicus*. (7-1-93)
 - g.** Bobcat -- *Felis rufus*. (7-1-93)
 - h.** Lynx -- *Felis lynx*. (7-1-93)
 - i.** Red Fox -- *Vulpes vulpes*, and includes all color phases found in Idaho. (7-1-93)
 - ~~**j.** *Raccoon* -- *Procyon lotor*. (7-1-93)~~
 - ~~**k.** Badger -- *Taxidea taxus*. (7-1-93)~~
- 02. Predatory Wildlife.** Predatory wildlife is defined as the following species: (7-1-93)
- a.** Coyote. (7-1-93)
 - b.** Jackrabbit. (7-1-93)
 - c.** Raccoon (7-12-10)T
 - ~~**d.** Skunk. (7-1-93)~~
 - ~~**e.** Weasel. (7-1-93)~~
- 03. Unprotected Wildlife.** Unprotected wildlife is defined as all animals OTHER than those classified by the Fish and Game Commission as big game animals, upland game animals, game birds, game fish, crustacea, migratory birds, furbearing animals, threatened or endangered wildlife, protected non game wildlife or predatory wildlife. (~~7-1-93~~)(7-12-10)T
- 04. Bait.** Bait is defined as any animal parts; except bleached bones or liquid scent. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

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, ~~except raccoon,~~ with or by the aid of artificial light. ~~(7-1-93)~~(7-12-10)T

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:~~ ~~(7-1-93)~~(7-12-10)T

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. ~~(4-6-05)~~(7-12-10)T

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

c. Use a dirt hole 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. (7-1-93)

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

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.17 - RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 2010.

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 September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Clarify the definitions of "bait" and "game animals," and allow incidental take of wolves near bear bait sites.

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.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because 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 September 22, 2010.

DATED this 29th day of July, 2010.

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) 334-2148

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 13-0117-1001

100. USE OF BAIT.

Bait is defined as any substance placed to attract big game animals, except liquid scent for deer and elk. Bait may be used to hunt ONLY black bear and ONLY under the following conditions, EXCEPT wolves may be taken incidentally to bear baiting. ~~(7-9-93)~~(7-12-10)T

01. Time. (7-1-93)

a. No bait or bait container may be placed for the purpose of attracting or taking black bear prior to the opening of black bear take season EXCEPT in that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486, and bait may be placed one (1) week prior to the opening of bear season in Units 17, 19, 20, 20A, 26 and 27. (5-8-09)

b. All bait, bait containers and materials must be removed and all excavations refilled no later than seven (7) days after the close of each season; spring, fall, or black bear dog training. (5-8-09)

02. Location. (7-1-93)

a. No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year round free flowing spring and year round free flowing stream), or within two hundred (200) yards from any maintained trail or any road. (3-30-01)

b. No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. (7-1-93)

03. Types. (7-1-93)

a. No person shall use any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife for bait or scent. ~~(4-2-08)~~(7-12-10)T

b. The skin must be removed from any mammal parts or carcasses used as bait. (7-1-93)

c. No person shall use salt in any form (liquid or solid) for bait. (3-29-10)

04. Containers. (7-1-93)

a. No bait may be contained within paper, plastic, glass, metal, wood or other nonbiodegradable materials, except that a single, metal container with a maximum size of fifty-five (55) gallons may be used if securely attached at the bait site. (7-1-93)

b. No bait may be contained in any excavated hole greater than four (4) feet in diameter. (7-1-93)

05. Establishment of Bait Sites. (7-1-93)

a. Any structures constructed at bait sites using nails, spikes, ropes, screws, or other materials must be removed by the permit holder within seven (7) days after the close of each season; spring, fall, or black bear dog training. (3-29-10)

b. All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. (7-1-93)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - 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 56-1023, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking: This chapter of rules is being repealed under this docket. It is being completely revised, updated, and rewritten under Docket Nos. 16-0203-1002 and 16-0203-1003 publishing in this same Bulletin.

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 fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, informal negotiated rulemaking was conducted with stakeholders throughout the state starting in May 2009. The stakeholder groups included: Association of Idaho Cities, Idaho Air Medical Services, Idaho Association of Counties, Idaho Commission on Aging, Idaho EMS Chiefs Association, Idaho Fire Chiefs Association, Idaho Hospital Association, Idaho Sheriffs Association, National Ski Patrol, Private EMS Services, Professional Firefighters of Idaho, Regional EMS Associations, Seasonal/Industrial EMS Services, Tribal EMS, and Volunteer EMS. The rules were also presented for review by the EMS Physician Commission and the EMS Advisory Committee. The most recent statewide round of twelve "town hall meetings" was conducted from May 17 through June 17, 2010.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules under this docket.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Wayne Denny at (208) 334-4000, ext. 2085.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2010.

DATED this 29th day of July, 2010.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

IDAPA 16.02.03 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-1002 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - 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 56-1023, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2010.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

This chapter of rules is being completely revised, updated, and rewritten under this docket, with the exception of Section 302 which is a fee rule publishing under Docket No. 16-0203-1003 in this same Bulletin. The repeal of this chapter is publishing in this Bulletin under Docket 16-0203-1001.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking has no fiscal impact to the state general fund. The Emergency Medical Services (EMS) program is funded through dedicated funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, informal negotiated rulemaking was conducted with stakeholders throughout the state starting in May 2009. The stakeholder groups included: Association of Idaho Cities, Idaho Air Medical Services, Idaho Association of Counties, Idaho Commission on Aging, Idaho EMS Chiefs Association, Idaho Fire Chiefs Association, Idaho Hospital Association, Idaho Sheriffs Association, National Ski Patrol, Private EMS Services, Professional Fire Fighters of Idaho, Regional EMS Associations, Seasonal/Industrial EMS Services, Tribal EMS, and Volunteer EMS. The rules were also presented for review by the EMS Physician Commission and the EMS Advisory Committee. The most recent statewide round of twelve "town hall meetings" was conducted from May 17 through June 17, 2010.

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 documents being incorporated by reference into these rules are used by the state to establish and enforce standards for EMS licensure, data standards, and scope of practice for EMS personnel. These are being incorporated by reference into these rules to give them the force and effect of law. Further, the documents are not being reprinted in this chapter of rules due to their length and format and because of the cost for republication.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Wayne Denny at (208) 334-4000, ext. 2085.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2010.

DATED this 29th day of July, 2010.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor

P.O. Box 83720, Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET 16-0203-1002

IDAPA 16
TITLE 02
CHAPTER 03

16.02.03 - EMERGENCY MEDICAL SERVICES (EMS)

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules concerning the administration of the Idaho Emergency Medical Services Act. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. ()

001. TITLE AND SCOPE.

01. Scope. These rules include criteria for training programs, certification and licensure of personnel, licensure of ambulance agencies and nontransport agencies, licensure of ambulances and nontransport vehicles, establishment of fees for training, inspections, certifications, licensure, and appropriate requirements for licensure renewal of personnel, ambulance services and nontransport services, and ambulances and nontransport vehicles. ()

02. Title. The title of these rules is IDAPA 16.02.03, "Emergency Medical Services." ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this Bureau has an EMS Education and Examination Standards Manual that contains policy and interpretation of these rules and the documentation of compliance with these rules. Copies of the Education and Examination Standards Manual may be obtained from the EMS Bureau, 650 W. State Street, Suite B-17, Boise, Idaho 83702, P.O. Box 83720, Boise, Idaho 83720-0036. ()

003. ADMINISTRATIVE APPEALS.

All contested cases are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ()

004. INCORPORATION BY REFERENCE.

01. Idaho Emergency Medical Services Licensure Standards Manual. The Board of Health and Welfare has adopted the Idaho Emergency Medical Services Licensure Standards Manual, edition 2011-1, and hereby incorporates this Standards Manual by reference. Copies of this Standards Manual may be obtained from the EMS Bureau (see Section 005 of these rules), or online at: <http://www.idahoems.org>. ()

02. Idaho Emergency Medical Services Data Standards Manual. The Board of Health and Welfare has adopted the Idaho Emergency Medical Services Data Standards Manual, edition 2011-1, and hereby incorporates this Standards Manual by reference. Copies of this Standards Manual may be obtained from the EMS Bureau (see Section 005 of these rules), or online at: <http://www.idahoems.org>. ()

03. Idaho Emergency Medical Services Physician Commission Standards Manual. The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2011-1, and hereby incorporates this Standards Manual by reference. Copies of this Standards Manual may be obtained from the EMS Bureau (see Section 005 of these rules), or online at: www.emspsc.dhw.idaho.gov. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

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 business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. ()

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

b. The EMS Bureau is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. ()

04. Telephone. ()

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

b. The telephone number for the EMS Bureau is (208) 334-4000. The toll-free, phone number is 1-877-554-3367. ()

05. Internet Websites. ()

a. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. ()

b. The Emergency Medical Services Bureau's internet website is found at <http://www.idahoems.org>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality of Records. Any disclosure of confidential information used or disclosed in the course of the Department's business is subject to the restrictions in state or federal law, federal regulation, and Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

02. Public Records Act. Individuals have a right to review and copy records maintained by the Department, subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code, these rules, and state and federal laws that make records confidential. The Department's Administrative Procedures Section (APS) and designated custodians in Department offices receive and respond to public records requests. The APS can be reached at the mailing address for the Department's business office. Non-identifying or non-confidential information provided to the public by the Department in the ordinary course of business is not required to be reviewed by a public records custodian. Original records must not be removed from the Department by individuals who make public records requests. ()

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

The following individuals must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." ()

01. Initial Licensure. Candidates for initial licensure described in Section 305 of these rules. ()

02. Reinstatement of Licensure. Individuals requesting reinstatement of licensure described in Section 316 of these rules. ()

03. Recognition of Licensure from Other Jurisdictions. Individuals requesting licensure in Idaho described in Section 340 of these rules. ()

04. Certificate of Eligibility. Individuals requesting a certificate of eligibility described in Section 350 of these rules. ()

10. DEFINITIONS AND ABBREVIATIONS A THROUGH E.
For the purposes of this chapter of rules the following terms apply: ()

01. Advanced Emergency Medical Technician (AEMT). A person who has met the qualifications for licensure as set forth in Sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under Sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the Commission and practices under the supervision of an Idaho licensed physician. ()

02. Advanced Life Support (ALS). The provision of medical care, medication administration, and treatment with medical devices which correspond to the knowledge and skill objectives in the Paramedic curriculum currently approved by the State Health Officer in accordance with Section 201 of these rules and within the scope of practice defined by the Commission, by persons licensed as Paramedics in accordance with these rules. ()

03. Advertise. Communication of information to the public, institutions, or to any person concerned, by any oral, written, or graphic means including handbills, newspapers, television, radio, telephone directories, and billboards. ()

04. Affiliated. The formal association that exists between an agency and those licensed personnel who appear on the agency's roster which includes active participation, collaboration, and involvement. Affiliation can be demonstrated by the credentialing of licensed personnel by the agency medical director. ()

05. Agency. Any organization licensed by the EMS bureau that operates an air medical service, ambulance service, or nontransport service. ()

06. Air Ambulance. Any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with Sections 56-1011 through 56-1023, Idaho Code, and specifications established by Board rule. ()

07. Air Medical Agency. An agency licensed by the EMS bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft. ()

08. Air Medical Response. The deployment of an aircraft licensed as an air ambulance to an emergency scene intended for the purpose of patient treatment and transportation. ()

09. Ambulance. Any privately or publicly owned motor vehicle, or nautical vessel, used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with Sections 56-1011 through 56-1023, Idaho Code, and specifications established by Board rules. ()

10. Ambulance-Based Clinicians. Licensed Professional Nurses and Advanced Practice Professional Nurses who are currently licensed in accordance with Sections 54-1401 through 54-1418, Idaho Code, and Physician Assistants who are currently licensed in accordance with Sections 54-1801 through 54-1841, Idaho Code. ()

11. Ambulance Agency. An agency licensed by the EMS bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. ()

- 12. Applicant.** Any organization that is requesting an agency license under Sections 56-1011 through 56-1023, Idaho Code, and includes the following: ()
- a.** An organization seeking a new license; ()
 - b.** An existing agency that intends to: ()
 - i.** Change the level of licensed personnel it utilizes; ()
 - ii.** Change its geographic coverage area (except by agency annexation); ()
 - iii.** Begin or discontinue providing patient transport services or; ()
 - iv.** Add prehospital, prehospital quick response, transfer, or critical care operational declarations. ()
- 13. Assessment.** The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. ()
- 14. Basic Life Support (BLS).** The provision of medical care, medication administration, and treatment with medical devices which correspond to the knowledge and skill objectives in the EMR or EMT curriculum currently approved by the State Health Officer in accordance with Section 201 of these rules and within the scope of practice defined by the Commission, by persons licensed as EMRs or EMTs in accordance with these rules. ()
- 15. Board.** The Idaho Board of Health and Welfare. ()
- 16. Call Volume.** The number of requests for service that an agency either expects to (anticipated) or has responded to (actual) during a designated period of time. ()
- 17. Commission.** The Idaho Emergency Medical Services Physician Commission. ()
- 18. Compensated Volunteer.** An individual who performs a service without promise, expectation, or receipt of compensation other than payment of expenses, reasonable benefits or a nominal fee to perform such services. This individual cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. ()
- 19. Department.** The Idaho Department of Health and Welfare. ()
- 20. Emergency.** A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. ()
- 21. Emergency Medical Responder (EMR).** A person who has met the qualifications for licensure as set forth in Sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under Sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the Commission and practices under the supervision of an Idaho licensed physician. ()
- 22. Emergency Medical Services (EMS).** The system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. ()
- 23. EMS Bureau.** The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. ()

24. Emergency Medical Technician (EMT). A person who has met the qualifications for licensure under Sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under Sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the Commission, and practices under the supervision of an Idaho licensed physician. ()

25. Emergency Scene. Any setting outside of a hospital, with the exception of the in-facility transfer, in which the provision of EMS may take place. ()

011. DEFINITIONS AND ABBREVIATIONS F THROUGH Z.

For the purposes of this chapter of rules the following terms apply: ()

01. Full-Time Paid Personnel. Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Full-time personnel differ from part-time personnel in that full-time personnel work a more regular schedule and typically work more than thirty-five (35) hours per week. ()

02. Glasgow Coma Score (GCS). A scale used to determine a patient's level of consciousness. It is a rating from three (3) to fifteen (15) of the patient's ability to open his eyes, respond verbally, and move normally. The GCS is used primarily during the examination of patients with trauma or stroke. ()

03. Intermediate Life Support (ILS). The provision of medical care, medication administration, and treatment with medical devices which correspond to the knowledge and skill objectives in the AEMT curriculum currently approved by the State Health Officer in accordance with Section 201 of these rules and within the scope of practice defined by the Commission, by persons licensed as AEMTs in accordance with these rules. ()

04. Licensed Personnel. Those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics. ()

05. National Registry of Emergency Medical Technicians (NREMT). An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for licensure. ()

06. Nontransport Service. An agency licensed by the EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons. ()

07. Nontransport Vehicle. Any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons. ()

08. Paramedic. A person who has met the qualifications for licensure under Sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under Sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the Commission, and practices under the supervision of an Idaho licensed physician. ()

09. Part-Time Paid Personnel. Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Part-time personnel differ from the full-time personnel in that the part-time personnel typically work an irregular schedule and work fewer than thirty-five (35) hours per week. ()

10. Patient. A sick, injured, incapacitated, or helpless person who is under medical care or treatment. ()

11. Patient Care. The performance of acts or procedures under emergency conditions in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. ()

12. Patient Movement. The relatively short distance transportation of a patient from an off-highway

emergency scene to a rendezvous with an ambulance or air ambulance. ()

13. Patient Transport. The transportation of a patient by ambulance or air ambulance from a rendezvous or emergency scene to a medical care facility. ()

14. Planned Deployment. The deliberate, planned placement of EMS personnel outside of an affiliating agency's deployment model declared on the application under which the agency is currently licensed. ()

15. Physician. A person licensed by the State Board of Medicine to practice medicine and surgery, or osteopathic medicine and surgery in Idaho. ()

16. Prehospital. An setting outside of a hospital, with the exception of transfers, in which the provision of EMS may take place. ()

17. Response Time. The total time elapsed from when the agency receives a call for service to when the agency arrives and is available at the scene. ()

18. Supervision. The medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical, or nontransport service, including: establishing standing orders and protocols, reviewing performance of licensed personnel, providing instructions for patient care via radio or telephone, and other oversight. ()

19. State Health Officer. The Administrator of the Division of Public Health. ()

20. Third Service. A public EMS agency that is neither law-enforcement nor fire-department based. ()

21. Transfer. The transportation of a patient from one (1) medical care facility to another. ()

22. Uncompensated Volunteer. An individual who performs a service without promise, expectation, or receipt of any compensation for the services rendered. An uncompensated volunteer cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. ()

012. -- 049. (RESERVED).

050. ADVANCE DO NOT RESUSCITATE DIRECTIVES.

01. Protocols. ()

a. The EMS Advisory Committee will establish standard protocols for EMS personnel to respond to advance DNR directives. ()

b. The protocol will be reviewed at least annually by the EMS Advisory Committee to determine if changes in protocol should be made to reflect technological advances. ()

c. The Department will notify Idaho EMS personnel of DNR protocols and any subsequent changes. ()

02. Do Not Resuscitate Order. ()

a. A standard DNR form will be made available to physicians by the Department or its designee. ()

b. One (1) copy will be maintained in the patient's file and one (1) copy will be kept by the patient. ()

- 03. Do Not Resuscitate Identification.** ()
- a.** Only a physician signed DNR order or a Department approved bracelet or necklace will be honored by EMS personnel. ()
- b.** The bracelet or necklace will have an easily identifiable logo that solely represents a DNR code. ()
- c.** The Department will advise EMS personnel of what constitutes an acceptable identification. ()
- d.** No DNR identification may be issued without a valid DNR order in place. ()
- e.** Only vendors authorized by the Department may sell or distribute DNR identifications. ()
- 051. -- 099. (RESERVED).**

100. STATEWIDE EMS ADVISORY COMMITTEE.

The Director will appoint a Statewide EMS Advisory Committee to provide counsel to the Department in administering the EMS Act. The Committee members will have a normal tenure of three (3) years after which time they may be excused or reappointed. However, in order to afford continuity, initial appointments will be made to one-third (1/3) of the membership for two (2) years, one-third (1/3) for three (3) years, and one-third (1/3) of the membership for four (4) years. The Committee chairman will be selected by the State Health Officer. ()

- 01. Committee Membership.** The Statewide EMS Advisory Committee will be constituted as follows: ()
- a.** One (1) representative recommended by the State Board of Medicine; ()
- b.** One (1) representative recommended by the Idaho Chapter of American College of Emergency Physicians; ()
- c.** One (1) representative recommended by the Committee on Trauma of the Idaho Chapter of the American College of Surgeons; ()
- d.** One (1) representative recommended by the State Board of Nursing; ()
- e.** One (1) representative recommended by the Idaho Medical Association; ()
- f.** One (1) representative recommended by the Idaho Hospital Association; ()
- g.** One (1) representative of local government recommended by the Idaho Association of Counties; ()
- h.** One (1) representative of a career third service EMS/Ambulance service; ()
- i.** One (1) representative of a volunteer third service EMS/Ambulance service; ()
- j.** One (1) representative of a third service nontransport EMS service; ()
- k.** One (1) representative of a fire department-based EMS/Ambulance service recommended by the Idaho Fire Chiefs Association; ()
- l.** One (1) representative of a fire department-based nontransport EMS service; ()
- m.** One (1) representative of an air medical service; ()
- n.** One (1) Emergency Medical Technician who represents the interests of Idaho personnel licensed at

- that level; ()
- o.** One (1) Advanced Emergency Medical Technician who represents the interests of Idaho personnel licensed at that level; ()
 - p.** One (1) Paramedic who represents the interests of Idaho personnel licensed at that level; ()
 - q.** One (1) representative who is an administrative county EMS director; ()
 - r.** One (1) EMS instructor who represents the interests of Idaho EMS educators and evaluators;()
 - s.** One (1) consumer; ()
 - t.** One (1) representative of a private EMS transport service; ()
 - u.** One (1) pediatrician who represents the interests of children in the EMS system recommended by the Idaho Chapter of the American Academy of Pediatrics; and ()
 - v.** One (1) board certified or equivalent pediatric emergency medicine physician. ()
- 02. Responsibilities of Committee.** The EMS Advisory Committee will meet at least annually or as needed for the purposes of: ()
- a.** Reviewing policies and procedures for provision of emergency medical services and recommending same to the EMS Bureau; ()
 - b.** Reviewing EMS training curricula, training standards, and examination processes and recommending same to the EMS Bureau; ()
 - c.** Reviewing EMS candidate selection policy and candidate performance requirements and recommending to the EMS Bureau certification and standards for EMS personnel; ()
 - d.** Reviewing and making recommendations on the licensing of ambulance services in Idaho. ()
 - e.** Reviewing and making recommendations on the licensing of nontransport services in Idaho.()

101. -- 199. (RESERVED).

**EMS EDUCATION
(Sections 200 through 299)**

200. EMS TRAINING PROGRAMS.

EMS training programs must meet all requirements under the standards listed in Section 201 of these rules. In order for the EMS Bureau to verify compliance, the course coordinator must submit an application to the EMS Bureau before the course begins. The EMS Training Program may be approved by the EMS Bureau only if all requirements are met. The EMS Training Program must be approved in order for candidates to qualify for access to a certification examination. ()

201. EMS TRAINING STANDARDS.

All initial training programs must be conducted per the following criteria: ()

01. Course Coordinator. Each EMS training program must have a designated course coordinator who has overall responsibility for management of the course and specific duties, including: ()

- a.** Documentation of candidate qualifications, attendance, skill proficiency, and clinical sessions; ()

b. Advance scheduling and prior orientation of all other instructors and guest lecturers to the knowledge and skills objectives of the session being taught; ()

c. Coordination of access for candidates into health care facilities and licensed EMS services using the curriculum of the course; and ()

d. Acquisition of equipment for all skills objectives within the curriculum being taught. ()

02. Instructor Qualifications. The course instructor(s) conducting EMS training courses must meet the appropriate qualifications established in Sections 225 through 230 of these rules. ()

03. Physician Oversight. A EMT and Paramedic training courses must be conducted under the direction of a physician. ()

04. Curriculum and Equipment. Training courses must use course curricula approved by the State Health Officer and have access to equipment related to all skills objectives within the curricula. ()

202. CERTIFICATION EXAMINATIONS.

Certification examinations will be approved by the State Health Officer and conducted by individuals who are certified or licensed at or above the skill level being examined, by registered nurses, or by licensed physicians. ()

203. MONITORING OF INSTRUCTOR PERFORMANCE.

The EMS Bureau will monitor instructor performance for all EMS training programs, including candidates' performance on National Registry and other standardized examinations, surveys of candidate satisfaction, and results of other evaluation instruments. Summary findings will be made available to licensed EMS services and other organizations sponsoring EMS training programs. ()

204. INSPECTION.

Representatives of the EMS Bureau are authorized to enter the training facility at reasonable times, for the purpose of ensuring that the training program meets or exceeds the provisions of these rules and the EMS Standards Manual. ()

205. CONSISTENCY WITH SCOPE OF PRACTICE.

All curricula approved for use in Idaho or used as the basis for licensure by a candidate trained elsewhere must be consistent with the scope of practice established by the Commission for the level of licensure requested by the candidate. ()

206. CONSISTENCY WITH NATIONAL STANDARDS.

The EMS Bureau considers the National Standard Curriculum and the National EMS Scope of Practice Model as models for design or adaptation of EMS training program content and EMS licensure levels. ()

207. -- 224. (RESERVED).

225. QUALIFICATIONS OF EMERGENCY MEDICAL RESPONDER COURSE INSTRUCTORS.

Emergency Medical Responder Course Instructors must be approved by the EMS Bureau, based on being licensed for at least three (3) years at or above the level of the session of the curriculum being taught. ()

226. QUALIFICATIONS OF EMT COURSE INSTRUCTORS.

EMT course instructors must be approved by the EMS Bureau, based on the following requirements: ()

01. Application. Submission of an application to the EMS Bureau; ()

02. Adult Instructional Methodology. Completion of one (1) or more courses approved by the EMS Bureau based on content that includes the following instructional methodologies: ()

a. The adult learner; ()

- b. Learning objectives; ()
- c. Learning process; ()
- d. Lesson plans; ()
- e. Course materials; ()
- f. Preparation; ()
- g. Teaching aids; ()
- h. Teaching methods; and ()
- i. Evaluations. ()

03. EMS Instructor Orientation. Completion of the EMS Bureau orientation program for EMS instructors or equivalent; and ()

04. Licensure. Licensure at or above the level of curriculum being taught, for at least three (3) years. Licensed individuals and other health care providers must also be licensed at the EMT level. ()

227. PRIMARY OR LEAD EMT INSTRUCTORS.

Primary or lead instructors must be approved as EMT Course Instructors, personally instruct at least seventy-five percent (75%) of the didactic training of the course, and instruct or oversee the skills training in the curriculum. ()

228. EMT SKILLS INSTRUCTORS.

EMT skills instructors must be approved as EMT Course Instructors and must personally instruct the psychomotor portions of the curriculum. ()

229. ADVANCED EMT AND PARAMEDIC INSTRUCTORS.

AEMT and Paramedic Instructors must be approved by the EMS Bureau based on having credentials, education, or experience that correspond to the knowledge and skills objectives being taught. ()

230. -- 299. (RESERVED).

**PERSONNEL REQUIREMENTS FOR LICENSURE
(Sections 300 through 399)**

300. STANDARDS OF PROFESSIONAL CONDUCT.

01. Method of Treatment. Licensed EMS personnel must practice medically acceptable methods of treatment and must not endeavor to extend their practice beyond their competence and the authority vested in them by the medical director. ()

02. Commitment to Self-Improvement. Licensed EMS personnel must continually strive to increase and improve their knowledge and skills and render to each patient the full measure of their abilities. ()

03. Respect for the Patient. Licensed EMS personnel must provide all services with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems. ()

04. Confidentiality. Licensed EMS personnel must hold in strict confidence all privileged information concerning the patient except as disclosure or use of this information is permitted or required by law or Department

rule. ()

05. Conflict of Interest. Licensed EMS personnel must not accept gratuities for preferential consideration of the patient and must guard against conflicts of interest. ()

06. Professionalism. Licensed EMS personnel must uphold the dignity and honor of the profession and abide by its ethical principles and should be familiar with existing laws governing the practice of emergency medical services and comply with those laws. ()

07. Cooperation and Participation. Licensed EMS personnel must cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the health needs of the public. ()

08. Ethical Responsibility. Licensed EMS personnel must refuse to participate in unethical procedures, and assume the responsibility to expose incompetence or unethical conduct of others to the appropriate authority in a proper and professional manner. ()

301. GENERAL PERSONNEL LICENSURE REQUIREMENTS.

Any person who advertises or provides emergency medical services must obtain and maintain a current EMS personnel license or recognition issued by the EMS Bureau. ()

302. -- 304. (RESERVED).

305. INITIAL LICENSURE.

01. What Are the Requirements for Obtaining an Initial EMS Personnel License in Idaho? Upon successful completion of an approved course, a candidate may apply for licensure to the EMS Bureau. Candidates must provide documentation that they meet the following requirements: ()

a. EMR and EMT candidates must be sixteen (16) years old with parental or legal guardian consent or eighteen (18) years old without parental or legal guardian consent. AEMT and Paramedic candidates must be eighteen (18) years old. ()

b. Candidates must declare each state or jurisdiction in which they have ever applied for, been denied for, or held EMS certification or licensure. ()

c. Candidates must authorize the EMS authority in the other state(s) or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. ()

d. Candidates must have current affiliation with a licensed EMS agency which functions at, or higher than, the level of licensure being sought by the candidate. Candidates must declare all organizations in which they are allowed to practice as licensed personnel. ()

e. Candidates must have a valid state driver's license, an Idaho identification card issued by a county driver's license examining station, or an identification card issued by the Armed Forces of the United States. ()

f. Candidates must successfully complete a criminal background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial or revocation of licensure. ()

g. Candidates must successfully complete the standardized examination designated by the EMS Bureau. The examination type must correspond to the level of licensure being sought in accordance with the EMS Education and Examination Standards Manual in effect at the time of application. Successful completion of the standardized certification examination at or above the level of licensure being sought within the preceding thirty-six (36) months for EMR and EMT or twenty-four (24) months for AEMT and Paramedic will satisfy this requirement. ()

h. See Section 302 of these rules for applicable fees. ()

02. How Long After Successfully Completing an EMS Training Course Is an Individual Eligible to Attempt the Certification Examination? ()

a. Candidates wishing to obtain an Idaho EMS license must successfully complete all components of the standardized certification examination within twenty-four (24) months of course completion. ()

b. If all components of the standardized certification examination are not completed within twenty-four (24) months of course completion, the candidate must repeat the initial training course and all components of the certification examination in order to be eligible for EMS personnel licensure. ()

03. Where Can Instructions for EMS Personnel Licensure Application Be Found? Application instructions may be obtained from the EMS Bureau (see Section 005 of these rules), or online at: <http://www.idahoems.org>. ()

306. -- 309. (RESERVED).

310. LICENSE DURATION.

01. How Are Initial EMS Personnel License Expiration Dates Determined? All personnel licensure is for the following specified intervals of time. ()

a. EMR and EMT personnel licenses expire on March 31 or September 30. Expiration dates for EMR and EMT initial licenses are set for not less than thirty-six (36) months and not more than forty-two (42) months from the date of successful certification examination completion in order to establish an expiration date of March 31 or September 30. ()

b. AEMT and Paramedic personnel licenses expire on March 31 or September 30. Expiration dates for AEMT and Paramedic initial licenses are set for not less than twenty-four (24) months and not more than thirty (30) months from the date of successful certification examination completion in order to establish an expiration date of March 31 or September 30. ()

02. What Is the Duration of EMS Personnel Licenses Following Renewal? ()

a. EMR and EMT personnel licenses are issued for three (3) years. ()

b. AEMT and paramedic personnel licenses are issued for two (2) years. ()

311. -- 314. (RESERVED).

315. LICENSE RENEWAL.

01. What Is Required to Renew an EMS Personnel License? Licensed personnel must provide documentation that they meet the following requirements: ()

a. Affiliation with a licensed EMS agency which functions at, or higher than, the level of licensure being sought. Documentation that the license holder is currently credentialed or undergoing credentialing by the affiliating EMS agency medical director will be submitted as assurance of affiliation for license renewal. ()

b. Continuing education consistent with the license holder's level of licensure. All continuing education and skill proficiency requirements must be completed as described in Sections 317 through 335 of these rules. ()

i. Renewal of an initial license that was based on successful certification examination. All continuing education and skill proficiency requirements must be completed between the date of successful completion of the examination(s) and expiration date of the initial license. ()

ii. Renewal of an initial license that was issued based on recognition of certification or licensure from other jurisdictions. All continuing education and skill proficiency requirements must be completed between the effective and expiration dates of the license being renewed. ()

iii. Renewal of successive licenses. All continuing education and skill proficiency requirements must be completed between the effective and expiration dates of the license being renewed. ()

c. Declaration of any misdemeanor or felony adjudications during the licensure period. ()

d. Documentation of license renewal requirements is due to the EMS Bureau prior to the license expiration date. Failure to submit a complete renewal application by the license expiration date renders the license invalid and the individual must not practice or represent himself as licensed personnel. ()

e. See Section 302 of these rules for applicable fees. ()

02. Who Is Responsible for Submission of the Required EMS Personnel Application Documentation? The EMS personnel license holder is responsible for meeting license renewal requirements and submitting completed license renewal documentation to the EMS Bureau before the expiration date of their current license. ()

03. How Soon Prior to the License Expiration Date May EMS Personnel Submit License Renewal Documents to the EMS Bureau? Licensed EMS personnel may submit renewal documentation to the EMS Bureau up to six (6) months prior to the current license expiration date. ()

04. What Happens When an EMS Personnel License Expiration Date Falls on a Weekend, Holiday or Other Day That the EMS Bureau Is Closed? When a license expiration date falls on a weekend or holiday or other day the EMS Bureau is closed, the EMS Bureau will accept applications until the close of the next regular business day following the weekend or holiday. ()

05. How Are License Renewal Applications Evaluated? The EMS Bureau evaluates each renewal application for completeness and accuracy. Random renewal applications are selected for audit by the EMS Bureau. Renewal applications will also be audited when information declared on the application appears incomplete, inaccurate, or fraudulent. ()

316. LAPSED LICENSE.

01. What Happens if the EMS Bureau Evaluation of the Renewal Application Is Not Completed Prior to the Personnel License Expiration Date? A personnel license does not expire while under evaluation by the EMS Bureau, provided the license renewal candidate submitted the renewal application to the EMS Bureau prior to the application deadline. ()

02. What Happens if a License Renewal Candidate does not Provide Renewal Application Information as Requested? The license of a candidate for license renewal who does not provide information as requested by the EMS Bureau within fourteen (14) days of receipt of the request will be considered lapsed. ()

03. What Happens if an Individual Fails to Submit Renewal Documentation Before the Expiration Date of the Personnel License? Individuals who fail to submit a complete renewal application prior to the expiration date of their license cannot practice or represent themselves as licensed EMS personnel. ()

04. Can EMS Personnel License Expiration Dates Be Extended When an Individual Fails to Submit Renewal Documentation? No grace periods or extensions to an expiration date may be granted. After the expiration date the EMS personnel license will no longer be valid. ()

05. Can a Lapsed EMS Personnel License Be Reinstated? An individual may reinstate a lapsed EMS personnel license provided the required documentation is submitted to the EMS Bureau within twenty-four (24) months of the expiration date of the lapsed license. ()

06. What Is Required to Reinstate a Lapsed EMS Personnel License? Individuals desiring to reinstate a lapsed personnel license must provide documentation that they meet the following requirements: ()

a. Affiliation with a licensed EMS agency which functions at, or higher than, the level of licensure being sought. ()

b. Continuing education consistent with the licensee holder's level of licensure. All continuing education must be completed as described in Subsection 316.07 of this rule. ()

c. Reinstatement candidates must have a valid state driver's license, an Idaho identification card which is issued by a county driver's license examining station, or identification card issued by the Armed Forces of the United States. ()

d. Reinstatement candidates must successfully complete a criminal background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial or revocation of licensure. ()

e. Reinstatement candidates must successfully complete the standardized examination designated by the EMS Bureau. The examination type must correspond to the level of licensure being sought in accordance with the EMS Education and Examination Standards Manual in effect at the time of application. Successful completion of the standardized certification examination at or above the level of licensure being sought within the preceding thirty-six (36) months for EMR and EMT or twenty-four (24) months for AEMT and Paramedic will satisfy this requirement. ()

f. See Section 302 of these rules for applicable fees. ()

07. What Are the Continuing Education Requirements for Reinstatement of a Lapsed EMS Personnel License? The reinstatement candidate must document the following continuing education: ()

a. An adequate number of continuing education hours to meet the renewal requirements for the last valid licensure cycle; and ()

b. Additional continuing education hours, in any combination of categories and venues, proportionate to the amount of time since the expiration date of the lapsed license as follows: ()

i. EMR -- Three-quarters (3/4) of one (1) hour of continuing education per month of lapsed time. ()

ii. EMT -- One and one-half (1 1/2) hours of continuing education per month of lapsed time. ()

iii. AEMT -- Two and one-quarter (2 1/4) hours of continuing education per month of lapsed time. ()

iv. Paramedic -- Three (3) hours of continuing education per month of lapsed time. ()

08. How Is the Expiration Date Determined for a Reinstated License? The expiration date for a lapsed license that is being reinstated is determined as stated in Section 310 of these rules. ()

09. What Are the Requirements for Reinstatement of an EMS Personnel License Lapsed for More Than Twenty-Four Months? An individual whose license has been expired for more than twenty-four (24) months must meet all initial licensure requirements to include attending and successfully completing an initial training program for the level of licensure being sought. ()

317. CONTINUING EDUCATION AND SKILLS PROFICIENCY.

All continuing education and skills proficiency assurance must be consistent with the objectives of the initial course curriculum or be a logical progression of those objectives. Continuing education will be from the following

- categories and venues: ()
- 01. Categories.** ()
 - a. Pediatric assessment and management; ()
 - b. Anatomy and physiology; ()
 - c. Medical terminology; ()
 - d. Pathophysiology; ()
 - e. Life span development; ()
 - f. Public health; ()
 - g. Pharmacology; ()
 - h. Airway management, respirations, and artificial ventilation; ()
 - i. Assessment; ()
 - j. Medicine; ()
 - k. Shock and resuscitation; ()
 - l. Trauma; ()
 - m. Special patient populations; and ()
 - n. EMS systems and operations. ()
 - 02. Venues of Continuing Education.** ()
 - a. Structured classroom sessions; ()
 - b. Refresher programs that revisit the original curriculum and have an evaluation component; ()
 - c. Nationally recognized courses; ()
 - d. Regional and national conferences; ()
 - e. Teaching topical material; ()
 - f. Agency medical director approved self-study or directed study; ()
 - g. Case reviews and grand rounds; ()
 - h. Formal distance learning; ()
 - i. Journal article review with an evaluation instrument; and ()
 - j. Author or coauthor an EMS related article in a nationally recognized publication. ()
 - 03. Are Continuing Education Records Subject to Audit?** The EMS Bureau reserves the right to audit continuing education records to verify that renewal requirements have been met. ()

318. -- 319. (RESERVED).

320. WHAT MUST AN EMR DO TO MEET THE CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS FOR LICENSE RENEWAL?

A candidate for EMR license renewal must provide documentation demonstrating completion of the following: ()

01. Continuing Education. Successful completion of twenty-four (24) hours of continuing education. ()

a. Personnel licensed at the EMR level must complete at least two (2) hours in seven (7) of the categories listed in Subsection 317.01 of these rules during each licensure period. The remaining ten (10) hours of continuing education can be from any single category or combination of categories. ()

b. Personnel licensed at the EMR level must include two (2) of the continuing education venues listed in Subsection 317.02 of these rules in each licensure period. ()

02. Skills Proficiency. Demonstrated proficiency in the skills listed in the EMS Licensure Standards Manual. ()

03. Optional Module Skills Proficiency. Demonstrated proficiency in each optional module skill the EMR is authorized to perform. ()

321. -- 324. (RESERVED).

325. WHAT MUST AN EMT DO TO MEET THE CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS FOR LICENSE RENEWAL?

A candidate for EMT license renewal must provide documentation demonstrating completion of the following: ()

01. Continuing Education. Successful completion of forty-eight (48) hours of continuing education. ()

a. Personnel licensed at the EMT level must complete at least four (4) hours in pediatrics and four (4) hours in any of the eight (8) remaining categories listed in Subsection 317.01 of these rules during each licensure period. The additional twelve (12) hours of continuing education can be from any single category or combination of categories. ()

b. Personnel licensed at the EMT level must include four (4) of the continuing education venues listed in Subsection 317.02 of these rules in each licensure period. ()

02. Skills Proficiency. Demonstrated proficiency in the skills listed in the EMS Licensure Standards Manual. ()

03. Optional Module Skills Proficiency. Demonstrated proficiency in each optional module skill the EMT is authorized to perform. ()

326. -- 329. (RESERVED).

330. WHAT MUST AN AEMT DO TO MEET THE CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS FOR LICENSE RENEWAL?

A candidate for AEMT license renewal must provide documentation demonstrating completion of the following: ()

01. Continuing Education. Successful completion of fifty-four (54) hours of continuing education. ()

a. Personnel licensed at the AEMT level must complete at least four (4) hours in pediatrics and four (4) hours in nine (9) of the remaining categories listed in Subsection 317.01 of these rules during each licensure period. The additional fourteen (14) hours of continuing education can be from any single category or combination of categories. ()

b. Personnel licensed at the AEMT level must include four (4) of the continuing education venues listed in Subsection 317.02 of these rules in each licensure period. ()

02. Skills Proficiency. Demonstrated proficiency in the skills listed in the EMS Licensure Standards Manual. ()

03. Optional Module Skills Proficiency. Demonstrated proficiency in each optional module skill the AEMT is authorized to perform. ()

331. -- 334. (RESERVED).

335. WHAT MUST A PARAMEDIC DO TO MEET THE CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS FOR LICENSE RENEWAL?

A candidate for paramedic license renewal must provide documentation demonstrating completion of the following: ()

01. Continuing Education. Successful completion of seventy-two (72) hours of continuing education. ()

a. Personnel licensed at the Paramedic level must complete at least eight (8) hours in pediatrics and four (4) hours in eleven (11) of the remaining categories listed in Subsection 317.01 of these rules during each licensure period. The additional twenty (20) hours of continuing education can be from any single category or combination of categories. ()

b. Personnel licensed at the Paramedic level must include six (6) of the continuing education venues listed in Subsection 317.02 of these rules in each licensure period. ()

02. Skills Proficiency. Demonstrated proficiency in the skills listed in the EMS Licensure Standards Manual. ()

03. Optional Module Skills Proficiency. Demonstrated proficiency in each optional module skill the paramedic is authorized to perform. ()

336. -- 339. (RESERVED).

340. RECOGNITION OF REGISTRATION, CERTIFICATION OR LICENSURE FROM OTHER JURISDICTIONS.

01. Can EMS Personnel Licensed in Other States Practice in Idaho? Individuals possessing an EMS personnel license or certification from a state other than Idaho may not practice in Idaho without prior recognition or reciprocity granted by the EMS Bureau. ()

02. Can Personnel Licensure Candidates Trained in Other States Be Licensed in Idaho? Individuals trained outside of Idaho must apply for and obtain an Idaho EMS license prior to advertising or providing EMS services in Idaho. ()

03. Can Individuals Who Have NREMT Registration but Do Not Possess an Idaho EMS Personnel License Practice in Idaho? Individuals possessing only registration with the National Registry of Emergency Medical Technicians (NREMT) may not practice in Idaho without an Idaho EMS personnel license. ()

04. Can Individuals Licensed or Certified in Other States Practice for a Limited Time Under

Certain Circumstances? Individuals who are currently licensed or certified by another State to practice EMS can apply to the EMS Bureau for limited recognition to practice in Idaho. Limited recognition does not grant an individual the ability to practice outside of the specifics approved on the request for limited recognition. ()

05. Can Individuals Certified or Licensed in Other States Having Interstate Compacts with Idaho Practice in Idaho? Individuals certified or licensed in a state that has an interstate compact that allows reciprocal recognition of EMS personnel may practice in Idaho as licensed personnel as defined in the interstate compact. ()

06. How Can an Individual Who Has NREMT Registration or Is Licensed or Certified in Another State Obtain an Idaho EMS Personnel License? Individuals possessing current NREMT registration or a current EMS certification or license from another state at or above the level of licensure they are seeking in Idaho are eligible for EMS personnel licensure in Idaho if they satisfy the following requirements: ()

a. EMR and EMT candidates must be sixteen (16) years old with parental or legal guardian consent or eighteen (18) years old without parental or legal guardian consent. AEMT and Paramedic candidates must be eighteen (18) years old. ()

b. Candidates must declare each state or jurisdiction in which they have ever applied for, been denied for, or held EMS certification or licensure. ()

c. Candidates must authorize the EMS authority in the other state(s) or jurisdiction(s) to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. ()

d. Candidates must have current affiliation with a licensed EMS service which functions at, or higher than, the level of licensure being sought by the candidate. Candidates must declare all organizations in which they are allowed to practice as licensed personnel. ()

e. Candidates must have a valid state driver's license, an Idaho identification card which is issued by a county driver's license examining station, or identification card issued by the Armed Forces of the United States. ()

f. Candidates must successfully complete a criminal background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial or revocation of licensure. ()

g. Candidates must successfully complete the standardized examination designated by the EMS Bureau. The examination type must correspond to the level of licensure being sought in accordance with the EMS Education and Examination Standards Manual in effect at the time of application. Successful completion of the standardized certification examination at or above the level of licensure being sought within the preceding thirty-six (36) months for EMR and EMT or twenty-four (24) months for AEMT and Paramedic will satisfy this requirement. ()

h. See Section 302 of these rules for applicable fees. ()

341. -- 344. (RESERVED).

345. CHANGES TO AN EXISTING LICENSE.

01. How May an Individual Surrender a Current EMS Personnel License? An individual who possesses a current EMS personnel license may relinquish that license at any time by submitting a letter of intent, with his license, to the EMS Bureau. ()

02. Will Surrendering a License Prevent Future Investigative or Disciplinary Actions? Surrender or expiration of a license may not prevent investigative or disciplinary action against the individual, which may take place thereafter. ()

