

**RESOURCES & CONSERVATION COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**2011 Legislative Session**

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# IDAPA 13 - IDAHO FISH AND GAME COMMISSION

## 13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-1001

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-411, Idaho Code.

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

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

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 27 and 28.](#)**

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

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

DATED this 9th day of November, 2010.

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

***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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.

***THE FOLLOWING IS THE TEXT OF 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)( )

**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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-301, and 36-1101, Idaho Code.

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

**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.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 29 through 33.](#)**

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

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

DATED this 9th day of November, 2010.

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

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b), 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 nontechnical 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.

***THE FOLLOWING IS THE TEXT OF 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 o~~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)~~ A 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 hunts prior to the controlled hunt season for the unit(s) in which they hold a controlled hunt tag must include any animal they harvest within the restrictions imposed by the controlled hunt tag.~~ (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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-301, Idaho Code.

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

**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.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 34 through 40.](#)**

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

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

DATED this 9th day of November, 2010.

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

***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-1002**

**200. LICENSES, STAMPS, PERMITS AND TAGS.**

**01. Licenses.** 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)(    )

**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)(    )~~

**(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. (3-20-97)(    )

**(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~~)(    )

**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~~)(    )

**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~~)(    )

**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~~)(    )

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

**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 (    )

**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~~)(    )

iii. No tags will be allocated. (7-1-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**601. ELK ZONE TAG QUOTAS.**

<i>Zone</i>	<i>Units</i>	<i>Total Tags</i>	<i>General Resident Tags</i>	<i>General Nonresident Tags</i>	<i>Outfitter Allocation</i>
<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)( )

**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)~~( )

a. A refund of the hunting license; ~~and~~ controlled hunt ~~permit, and~~ tag fee; ~~(3-20-04)~~( )

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)~~( )

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)~~( )

a. A refund of the hunting license; ~~and~~ controlled hunt ~~permit, and controlled hunting~~ tag fee; or ~~(3-20-04)~~( )

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)~~( )

**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)~~( )

**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)~~( )

**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)~~( )

**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)~~( )

**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)~~( )

**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)( )~~

**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)( )~~

**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)( )~~

**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)( )~~

**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)( )~~

**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~~)(    )

**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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-201, Idaho Code.

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

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

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 41 through 43.](#)**

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

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

DATED this 9th day of November, 2010.

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

***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0106-1001**

**104. CLASSIFICATION OF WILDLIFE - FURBEARING ANIMALS.**

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

**(BREAK IN CONTINUITY OF SECTIONS)**

201. PREDATORY WILDLIFE.

- 01.** Common raccoon. *Procyon lotor* (7-12-10)T
- ~~02.~~ Coyote. *Canis latrans.* (7-1-93)
- ~~023.~~ Jackrabbit. *Lepus townsendii* and *L. californicus.* (7-1-93)
- ~~034.~~ Long-Tailed and Short-Tailed Weasel, Ermine. *Mustela frenata,* *Mustela erminea.* (4-6-05)
- ~~045.~~ Skunk. *Mephitis mephitis* and *Spilogale gracilis.* (7-1-93)
- ~~056.~~ Starling. *Sturnus vulgaris.* (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~~)(      )

**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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-1101, and 36-1202, Idaho Code.

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

**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 (SB 1141aa-2009) and Commission actions, including the elimination of controlled hunt permits. Exchange of bear tags, and definitions of various tag types. Amend controlled hunt application requirements and address Mandatory Hunter Reports.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 44 through 65.](#)**

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

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

DATED this 9th day of November, 2010.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game

600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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 (SB 1141aa-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.

***THE FOLLOWING IS THE TEXT OF 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)( )

**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 permitted 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)( )

**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)( )

**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)( )

**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)( )

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

**a.** ~~Permit/~~ Controlled hunt ~~T~~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)( )

~~**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)( )

~~**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)( )

**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)( )

**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 <del>(Type 311)</del>	Any archery, muzzleloader or general deer season. <del>EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, &amp; 20.</del>
<del>Resident (Type 330)</del>	<del>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.</del>
<del>Senior Resident/Senior/Disabled American Veteran (DAV) (Type 330)</del>	Any archery, muzzleloader or general deer season. <del>EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, &amp; 20.</del>
<del>S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident</del>	<del>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, &amp; 20.</del>
Nonresident (Type 411)	Any archery, muzzleloader or general deer season <del>or controlled hunt for which the permittee was drawn</del> , or may be used to tag a black bear or mountain lion <del>or gray wolf</del> during the Regular deer season when the black bear or mountain lion <del>or gray wolf</del> season is open.
<del>Combination Controlled Hunt Permit and Tag</del>	Only the designated controlled hunt for which the <del>permittee hunter</del> was drawn.
<del>Combination Controlled Depredation Hunt Permit and Tag</del>	Only the designated controlled depredation hunt for which the <del>permittee hunter</del> was drawn.
<del>Combination Controlled Hunt Permit and Extra Tag</del>	Only the designated controlled extra tag hunt for which the <del>permittee hunter</del> was drawn.

(4-6-05)( )

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>	<del>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.</del>
<del>Senior Resident Junior/Senior/Disabled American Veteran (DAV) White-tailed</del>	<del>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.</del>
Nonresident <u>White-tailed</u>	<del>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.</del>

TYPE OF TAG	SEASONS
<del>Combination Controlled Hunt Permit and Tag</del> <u>Nonresident White-tailed Junior Mentored</u>	<del>Only the designated controlled hunt for which the Tag permittee was drawn.</del> <u>Any archery, muzzleloader or general white-tailed deer season.</u>
<del>Combination Controlled Depredation Hunt Permit and Tag</del>	<del>Only the designated controlled depredation hunt for which the permittee was drawn.</del>
<del>Combination Controlled Hunt Permit and Extra Tag</del>	<del>Only the designated controlled extra tag hunt for which the permittee was drawn.</del>

(3-29-10)( )

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 <u>B A</u> Tag elk seasons in specific zones.
<del>Senior Resident Junior/Senior/Disabled American Veteran (DAV)</del>	Any archery, muzzleloader, or general <u>season</u> in <u>B A</u> Tag elk seasons in specific zones.
Nonresident	Any elk <del>controlled hunt for which the permittee was drawn or any archery, muzzleloader, or general in B Tag</del> <u>archery, muzzleloader, or general season in A tag</u> 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>	<u>Any archery, muzzleloader, or general season in A Tag elk season in specific zones.</u>
<del>Combination Controlled Hunt Permit and Tag</del>	Only the designated controlled hunt for which the <del>permittee</del> <u>hunter</u> was drawn.
<del>Combination Controlled Depredation Hunt Permit and Tag</del>	Only the designated controlled depredation hunt for which the <del>permittee</del> <u>hunter</u> was drawn.
<del>Combination Controlled Permit and Extra Tag</del>	Only the designated controlled and extra tag hunt for which the <del>permittee</del> <u>hunter</u> was drawn.

(4-6-05)( )

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

<u>TYPE OF TAG</u>	<u>SEASONS</u>
<u>Resident</u>	<u>Any archery, muzzleloader, or general season in B Tag elk seasons in specific zones.</u>



TYPE OF TAG	SEASONS
<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>

( )

iv. Super Tag.

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

(3-15-02)( )

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

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

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)( )

**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)( )

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)( )

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)( )

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. ( )

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. ( )

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. ( )

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. ( )

~~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)( )~~

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. ( )

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. ( )

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. ( )

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. ( )

~~fe. Any person who receives draws a combination controlled hunt permit/tag for antelope pronghorn is prohibited from hunting in any archery antelope other 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)( )~~

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. ( )

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. ( )

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

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

~~gf. 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)( )~~

~~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)~~( )

**02. Nonresident Permit Tag Limitations.** ~~(3-20-04)~~( )

**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)~~( )

**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)~~( )

**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)~~( )

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)( )

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)( )

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)( )

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

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)( )

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)( )

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 cancelled 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~~)(    )

**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~~)(    )

**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~~)(    )

**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~~)(    )

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

**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)~~( )

**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)~~( )

**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)~~( )

**i.** **Spring Turkey and Spring Bear - April 1.** ( )

**ii.** **Moose, Bighorn Sheep and Mountain Goat - July 10.** ( )

**iii.** **Deer, Elk, Pronghorn and Fall Bear - August 25.** ( )

**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)~~( )

**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)~~( )

**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)~~( )

**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. ( )

**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)~~( )

**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)~~( )



**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)( )

**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 s~~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)( )

**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 harvest 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)~~( )

**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)~~( )

**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)~~( )

**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)~~( )

**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)~~( )

**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 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)( )

**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)( )

**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 ~~a~~ 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)( )

**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. ( )

**02. Wolf Trapping Permits.** Wolf trapping permits will be available only at Idaho Department of Fish and Game offices. ( )

**272. -- 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)( )

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)~~( )

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)~~( )

ii. Mountain lion, ~~black bear~~, and gray wolf: To the hide. ~~(3-29-10)~~( )

**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)~~( )

**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)( )

**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)( )

**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)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**410. UNLAWFUL METHODS OF TAKE.**

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

**01. Firearms.** (7-1-93)

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

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

**c.** With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

**d.** With a fully automatic firearm. (10-26-94)

**e.** With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope; except scopes containing battery powered or tritium lighted reticles are allowed. (4-2-08)

**02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives.** (3-20-97)

**a.** With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. (7-1-93)

**b.** With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

**c.** With any chemicals or explosives attached to the arrow or bolt. (7-1-93)

**d.** With arrows or bolts having expanding broadheads. (7-1-93)

**e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)

**f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow (except nonmagnifying scopes containing battery powered or tritium lighted reticles may be used by disabled archery permit holders). (5-8-09)

**g.** With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)

**h.** With any compound bow with more than eighty-five percent (85%) let-off. (4-2-08)

- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. (4-2-08)
- j.** With an arrow less than twenty-four (24) inches or a crossbow bolt less than twelve (12) inches in length from the broadhead to the nock inclusive. (4-2-08)
- k.** With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
- l.** During an *Archery Only* season, with any firearm, crossbow (except holders of handicapped archery permits), or other implement other than a longbow, compound bow, or recurve bow, or: (3-30-07)

  - i.** With any device attached that holds a bow at partial or full draw (except holders of handicapped archery permits). (3-30-07)
  - ii.** With any bow or crossbow equipped with magnifying sights. (3-20-97)
- m.** During a *Traditional Archery Only* season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (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~~)( )
  - 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~~)( )
    - 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 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)~~( )
- 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)~~( )

**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. ( )

**(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 Season Proclamation, which is published in a brochure available at department offices and license vendors. ~~(3-29-10)~~( )

**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 (~~5~~10) DAYS OF THE DATE OF KILL, comply with the mandatory check and report requirements by: ~~(3-29-10)~~( )

**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~~)( )

**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 ~~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~~)( )

**02. Mandatory Report.** Any hunter that obtains an ~~an~~ antelope pronghorn, deer and/or elk tag and kills an ~~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. ~~a~~ Any hunter that obtains an ~~an~~ antelope pronghorn, deer and/or elk tag and does not successfully kill an ~~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~~)( )

**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)( )

**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)( )

**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)( )

**(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)~~( )
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)( )

(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)( )

**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)( )

**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)( )

**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)( )

**i.** Held prior to the antlerless or doe/fawn, ~~or black bear~~ controlled hunt; and (7-1-93)( )

**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)( )

**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 ~~permitted~~ **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)( )

## 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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

**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.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 66 and 67.](#)**

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

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

DATED this 9th day of November, 2010.

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



**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-1101, 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 nontechnical 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.

**THE FOLLOWING IS THE TEXT OF 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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-404, 36-406, 36-407 and 36-1101, Idaho Code.

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

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

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 68 through 70.](#)**

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

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

DATED this 9th day of November, 2010.

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

***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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.

***THE FOLLOWING IS THE TEXT OF 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 ~~twelve~~ ~~nine~~ (~~12~~~~9~~) to ~~seventeen~~ ~~fifteen~~ (~~17~~~~5~~) 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~~)( )

**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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104(b), 36-501, 36-502, 36-504, and 36-603 Idaho Code.

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

**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.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 71 through 74.](#)**

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

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

DATED this 9th day of November, 2010.

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



***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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.

***THE FOLLOWING IS THE TEXT OF 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 threat of disease, genetic contamination or displacement of, or competition with existing species and provided that: (3-23-94)( )

**01. Import, Export, Transport, or Sell Restrictions.** No permit 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 *Clariidae*), bowfin (*Amia calva*), gar (family *Lepiostidae*), 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~~)(    )

**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~~)(    )

**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)~~( )

**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. ( )

**(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)~~( )

**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. ( )

**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)~~( )

**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. ( )

**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~~)( )

**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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-201 and 36-1101, Idaho Code.

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

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

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 75 through 77.](#)**

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

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

DATED this 9th day of November, 2010.

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

***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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.

**THE FOLLOWING IS THE TEXT OF 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 ( )
- ~~ed.~~ Skunk. (7-1-93)
- ~~de.~~ 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 nongame wildlife or predatory wildlife. ~~(7-1-93)~~( )

**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)~~( )

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)~~( )

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)~~( )

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

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

DOCKET NO. 13-0116-1002

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-201, and 36-1101, Idaho Code.

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

**Public concern over the placement of traps and snares near public travel ways and injury to pets. Establish rules for placement of traps and snares near public travel ways.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 233 through 236.](#)**

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

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

DATED this 9th day of November, 2010.

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

***THIS NOTICE PUBLISHED WITH THE PROPOSED AND TEMPORARY RULE***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 16, 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 October 20, 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 nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Public concern over the placement of traps and snares near public travel ways and injury to pets. Establish rules for placement of traps and snares near public travel ways.**

**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 trappers.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: None.

**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 parties makes it infeasible. The rules were reviewed with the Idaho Trapper's Association.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 27th day of August, 2010.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0116-1002**

**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. 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 nongame wildlife or predatory wildlife. (7-12-10)T

**04. Bait.** Bait is defined as any animal parts; except bleached bones or liquid scent. (4-6-05)

**05. Sets.** ( )

**a. Ground Set.** Ground set is defined as any foothold trap, body-gripping trap, or snare originally set in or on the land (soil, rock, etc.). This includes any traps elevated up to a maximum of thirty-six (36) inches above the natural ground level. ( )

**b. Water Set.** Water set is defined as any trap or snare originally set in or on any body of water. This shall include traps on floats in the water and those that are set with a minimum of one-third (1/3) of the trap submerged. The term water set applies to traps set on beaver dams, in bank holes and in the water at bank slides. ( )

**c. Other Sets.** Other set is defined as any set not defined as a ground or water set, including without limitation, elevated sets originally set thirty-six (36) inches or more above natural ground level. ( )

**06. Public Trail.** Public trail is defined as any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency. ( )

**(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 with or by the aid of artificial light. (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: (7-12-10)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. (7-12-10)T
- b. Use any set within thirty (30) feet of any visible bait. (4-6-05)
- c. Use a dirt hole **ground** set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ~~(7-1-93)~~( )
- d. Use live animals as a bait or attractant. (4-6-05)
- e. Place any ground, water, or other sets on, across, or within five (5) feet of center line of any maintained public trail. ( )
- f. Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ( )
- g. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, or picnic area. ( )
- h. Place or set any snare without a break-away device. ( )

## 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 - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

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

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 78 and 79.](#)**

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

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

DATED this 9th day of November, 2010.

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



***THIS NOTICE PUBLISHED WITH THE 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 nontechnical 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.

***THE FOLLOWING IS THE TEXT OF 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)(    )

**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)~~( )

- 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 20 - DEPARTMENT OF LANDS

### 20.02.11 - TIMBER SUPPLY STABILIZATION ACT OF 1989 ON STATE FORESTS

#### DOCKET NO. 20-0211-1001 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The notice of the temporary and proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, page 351](#).

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

DATED this 19th day of November, 2010.

Bob Helmer  
Bureau Chief, Forest Management  
Idaho Department of Lands  
3284 West Industrial Loop  
Coeur d'Alene, Idaho 83815  
(208) 666-8610  
Fax No. (208) 769-1524

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Department of Lands has proposed rulemaking. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Informal public meetings were held in September pursuant to separate public notice. Additional Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2010.

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The repeal of the “Timber Supply Stabilization Act of 1989,” Title 58, Chapter 10, Idaho Code, during the 2010 legislative session has made IDAPA 20.02.11 obsolete. It is hereby repealed in its entirety.**

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted because the authorizing statute was repealed by the 2010 Legislature.

**GENERAL INFORMATION:** For more information about IDL’s programs and activities, visit IDL’s web site at <http://www.idl.idaho.gov>.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The IDL will consider all written comments received by the undersigned on or before October 27, 2010.

DATED this 31<sup>st</sup> day of August, 2010.

**IDAPA 20.02.11 IS BEING REPEALED IN ITS ENTIRETY**

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0214-1001

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, and IDAPA 20.01.01, Rules of Practice and Procedure before the State Board of Land Commissioners (Board), notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-104(6), Idaho Code.

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

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 352 through 357.](#)**

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact the person below.

DATED this 16<sup>th</sup> day of November.

Bob Helmer  
Bureau Chief, Forest Management  
Idaho Department of Lands  
3284 West Industrial Loop  
Coeur d'Alene, Idaho 83815  
208-666-8610 office  
208-769-1524 fax

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Department of Lands has proposed rulemaking. The action is authorized by Sections 58-104(6), 58-105, 58-403 and 58-412, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Informal public meetings were held in September pursuant to separate public notice. Additional Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2010.

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The proposed changes to IDAPA 20.02.14 will:**

- 1) Authorize the IDL to sell state timber as delivered products;**
- 2) Expand state timber auction to allow additional bidding methods;**
- 3) Authorize the Director to set permit rates and values; and**
- 4) Clarify existing rules for state timber purchasers and the IDL.**

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

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

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted because the proposed rules impose no new fee or charge and because of the diverse interests of potentially affected parties.

**GENERAL INFORMATION:** For more information about IDL's programs and activities, visit IDL's web site at <http://www.idl.idaho.gov>.

**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 AND SUBMISSION OF WRITTEN**

**COMMENTS:** For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The IDL will consider all written comments received by the undersigned on or before October 27, 2010.

DATED this 31<sup>st</sup> day of August, 2010.

***THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0214-1001***

**010. DEFINITIONS.**

- 01. Board.** The Idaho State Board of Land Commissioners. (5-8-09)
- 02. Cable Yarding.** Transportation of forest products from stump to road by means of a suspended, powered cable system. (5-8-09)
- 03. Cedar.** Western Red Cedar (*Thuja plicata*). (5-8-09)
- 04. Cedar Pole.** A segment or portion of a western red cedar tree that can be manufactured into a utility pole meeting current ANSI Specifications. (5-8-09)
- 05. Contract.** Timber sale contract in a form prescribed by the Department. (5-8-09)
- 06. Department.** The Idaho Department of Lands. (5-8-09)
- 07. Development Credits.** A stumpage credit received by the purchaser for the construction or reconstruction of roads, bridges, or other permanent improvements. (5-8-09)
- 08. Director.** The director of the Idaho Department of Lands or his authorized representative. (5-8-09)
- 09. Extreme Circumstances.** Catastrophic circumstances including, but not limited to, fire, downed timber due to a wind event, flood, earthquake, destruction of a purchaser's milling facilities or equipment by fire, or milling operation shut down due to a court order related to compliance with state or federal environmental laws. (5-8-09)
- 10. Forest Products.** Marketable forest materials. (5-8-09)
- 11. Ground-Based Yarding.** Transportation of forest products from stump to road using tractors, forwarders, or rubber-tired skidders. (5-8-09)



- 12. Length.** The length of a pole in five (5) foot increments. (5-8-09)
- 13. Measurement.** Weight, length, board foot volume, cubic volume, or any other means or procedure for determining quantity of forest products. (5-8-09)
- 14. Net Appraised Value.** The minimum estimated sale value of the forest products after deducting the development credit. (5-8-09)
- 15. Net Sale Value.** The final sale bid value of the forest products after deducting the development credit. (5-8-09)
- 16. Public Auction.** Any advertised sale with notice to the general public at which bids are made and accepted. Public auctions include, but are not limited to, oral auctions and the announcement of sealed or electronically submitted bids. ( )
- 167. Pulp.** Any portion of a tree that does not meet the sawlog merchantability specifications of thirty-three and one-third percent (33 1/3%) net scale. (5-8-09)
- 178. Purchaser.** A successful bidder for forest products from a state sale who has executed a timber sale contract. (5-8-09)
- 189. Roads.** Forest access roads used for the transportation of forest products. (5-8-09)
- 1920. Scaling.** Quantitative measurement of logs or other forest products by a log rule. (5-8-09)
- 201. Scribner Decimal “C” Board Foot Measure.** The measurement of forest products in accordance with the log rule described in Title 38, Chapter 12, Idaho Code, and the rules promulgated thereunder. (5-8-09)
- 212. State.** The State of Idaho. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**019. FIREWOOD AND OTHER PERSONAL USE PRODUCT PERMITS.**

~~Permits for the sale of dead and down forest products~~ Permits for personal use will be sold on a charge basis ~~at a rate determined by the Board. Permits will not exceed a maximum value established by the Director.~~ The Director shall determine permit rates and maximum permit values. (5-8-09)( )

**020. DIRECT SALES.**

The direct sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. This type of sale is to be used to harvest isolated or by-passed parcels of timber of insufficient value and volume to justify a salvage sale (refer to Rule Section 021). The direct sale shall not be used when

two (2) or more potential purchasers may be interested in bidding on the forest products offered for sale. The initial duration of a direct sale shall ~~not exceed an initial period of~~ be six (6) months with a provision for one six (6) month extension. The purchaser shall furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars (\$100). Advance payment will be required and all sales will be on a lump sum basis. (5-8-09)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**023. DELIVERED PRODUCT SALES.**

The Director may contract logging services and sell forest products at public auction. Purchasers of delivered forest products will be required to provide a ten percent (10%) initial deposit and a guarantee of payment bond. ( )

**0234. SALE OF CEDAR POLES** ~~SALE SELECTION.~~

**01. Requirements for Cedar Poles** ~~Sale. Pole quality cedar shall be reserved for a cedar pole sale if the proposed sale area contains at least one hundred fifty (150) cedar poles in a density of at least five (5) poles per acre on ground based yarding areas, the and at least ten (10) poles per acre on cable yarding areas. Areas with a lower density of poles may be offered as a pole sale if the Department determines that such sale is economically feasible. If a proposed sale area contains at least one hundred fifty (150) cedar poles in a density of at least five (5) poles per acre on ground based yarding areas and at least ten (10) poles per acre on cable yarding areas, the pole quality cedar shall be reserved and sold separately as a pole sale or as a separate product sort in a delivered products sale. Pole quality cedar in areas with a lower density of poles may be offered as poles.~~ (5-8-09)( )

**02. Maximum Amount of Sawlogs.** Sawlogs and other forest products shall not exceed fifty percent (50%) of the total sale volume, excluding materials generated through the construction of roads and development sites. (5-8-09)

**03. Poles within Sawlog Sale.** If any area within a proposed timber sale contains two hundred fifty (250) cedar poles or more in a density of at least ten (10) poles per acre, the poles shall be reserved for a pole-quality cedar sale or sold as a separate product sort in a delivered products sale. (5-8-09)( )

**024. CEDAR POLE SALE PROCEDURES.**

**014. Length Appraisal.** Cedar poles shall be appraised by length and bid on a lineal foot basis. The conversion table set out below shall be used to establish the corresponding board foot volume. (5-8-09)

**025. Length to Volume Conversion Table for Western Red Cedar Poles:**

Pole Length	Board Feet Each*		Pole Length	Board Feet Each*
30'	50		80'	595
35'	70		85'	736
40'	101		90'	792
45'	161		95'	892
50'	239		100'	929
55'	261		105'	1113
60'	304		110'	1132
65'	418		115'	1420
70'	462		120'	1475
75'	512			

\* Based on Scribner Decimal "C" board foot measure

(5-8-09)

**036. Bidding Limited to Cedar.** When cedar represents eighty percent (80%) or more of the total appraised value, bidding shall be limited to cedar poles and cedar sawlogs only.

(5-8-09)

**047. Purchaser's Option.** The purchaser may opt to remove cedar as poles, sawlogs, and products or as sawlogs and products. Such choice shall be made at the completion of the auction. If the purchaser opts to manufacture the cedar as poles, the poles and sawlog material shall be removed at bid prices (lineal foot basis for poles and MBF basis for sawlogs). Pole-quality cedar trees containing thirty (30) foot cedar poles may be harvested as poles or sawlogs at the purchaser's discretion unless such trees are designated reserve. If the purchaser elects to manufacture cedar poles as sawlogs, the bid values of cedar poles and cedar sawlog material shall be weighted by volume to determine the selling value for all cedar sawlogs.

(5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**031. TIMBER SALE AUCTIONS.**

**01. Requirements.** Timber, Salvage, and Delivered Products sales shall be sold at public auction. ( )

**02. Requirements for Bidding.** (5-8-09)

**a.** Bidders shall present a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. (5-8-09)

- b. Bidders shall not be delinquent on any payments to the State at the time of sale. (5-8-09)
- c. Bidders shall not be a minor as defined in Section 32-101, Idaho Code. (5-8-09)
- d. Foreign corporations, as defined in Section 30-1-106, Idaho Code, shall procure a certificate of authority to do business in Idaho to be eligible to bid on and purchase State timber. (5-8-09)

~~02. **Opening the Auction.** The Director's representative will open the sale, read the advertisement, ask for questions, and then accept bid deposits. Each eligible bidder will select a numbered card to determine who will be allowed the first bid. The person entitled to the first bid may bid the minimum appraised or any higher price. Any bidder is then entitled to bid and bidding progresses with each previous bid being accepted by the last bidder. All bidding is done in the form of an oral auction.~~ (5-8-09)

~~03. **Closing the Auction.** The Director's representative will close the auction and award the sale to the successful bidder. Bid deposits will be returned to the unsuccessful bidders. Sale values and charges will be calculated on the day of sale. Within ten (10) days the successful bidder will be required to pay ten percent (10%) of the final net sale value. Surety bid bonds must be replaced with cash within ten (10) days of the date of sale, either separately or as part of the total ten percent (10%) initial deposit.~~ (5-8-09)

~~032. **TIMBER SALE CONTRACT SIGNATURES.**~~

~~The Department shall prepare and make available to the purchaser a contract and supplemental documents, including bond forms, with appropriate instructions. The purchaser shall return the signed contract and bonds for appropriate State signatures. The State will return a fully executed contract to the purchaser.~~ (5-8-09)

**0332. INITIAL DEPOSIT AND BONDS.**

**01. Initial Deposit.** The initial deposit (ten percent (10%) of net sale value) shall be paid in cash and shall be retained by the state as a cash reserve for the duration of the contract; the purchaser shall not be entitled to any interest earned thereon. All or a portion of the initial deposit may be applied to charges as the contract nears completion. Any remaining initial deposit shall be forfeited in the event the contract is terminated without being completed. (5-8-09)( )

**02. Performance Bond.** A bond of sufficient amount for carrying out in good faith all applicable laws and all the terms and conditions imposed by the Board and the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) shall be executed within thirty (30) days from the date of sale ~~but~~ and prior to execution of the contract. Failure to perform on the contract may result in forfeiture of all or a portion of the performance bond. (5-8-09)( )

**03. Guarantee of Payment.** Prior to cutting of any forest products, the purchaser shall provide a bond acceptable to the Department as assurance of payment for products to be cut and/or removed during the next ninety (90) days. Guarantee of payment on delivered product sales shall be as determined by the Department. This bond is in addition to the required initial deposit.

Failure to make full and timely payment as per contract terms may result in forfeiture of all or a portion of the guarantee of payment. (5-8-09)( )

**0343. -- 040. (RESERVED).**

**041. STUMPAGE AND INTEREST PAYMENT.**

A stumpage summary of forest products measured during the prior month and a statement of account will be prepared by the Department and forwarded to the purchaser monthly. The statement shall include interest computed from the date of sale to the date of the billing at a rate specified in the contract. The purchaser shall make payments within thirty (30) days of the end of the billing period or the payment shall be considered delinquent. Interest will not be charged on delivered product sales. (5-8-09)( )

**042. TIMBER SALE CANCELLATION.**

It is the purchaser's responsibility to initiate cancellation by submitting such request in writing to the respective supervisory area office. ~~A signed and notarized early release form must be completed by the purchaser when cancellation is requested prior to the original contract expiration date.~~ When all contractual requirements have been completed, final payments have been received, all load tickets have been accounted for, and a written request for cancellation has been received by the Department, any credit balances and all cash bonds will be returned and/or transferred to other timber sale accounts within forty-five (45) days, as requested by the purchaser ~~within forty-five (45) days.~~ (5-8-09)( )

**043. PREMATURE TIMBER SALE TERMINATION.**

**01. Request.** A timber sale purchaser may, for reasons of hardship, make written request to terminate a timber sale contract before harvesting is completed. In such cases, the Board will determine if a hardship exists and if the contract should be terminated. (5-8-09)

**02. Premature Termination Policy.** (5-8-09)

**a.** The Board may authorize premature termination of any sale under any terms considered reasonable and appropriate. Any remaining amount of the ten percent (10%) initial deposit will be retained ~~as a penalty, which amount may not be used as payment for forest products cut and/or removed. Additionally, the Board will seek payment of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars (\$5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine remaining on the sale area, the purchaser will have to pay five hundred dollars (\$500) upon termination~~ in full and applied towards assessed damages and may not be used as payment for forest products cut and/or removed. Assessed damages in excess of the initial deposit will be applied against the performance bond. (5-8-09)( )

**b.** The following damages will be assessed by the Board for premature sale terminations. ( )

**i.** The Board will seek payment of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars (\$5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine

remaining on the sale area, the purchaser will be assessed five hundred dollars (\$500) upon termination. ( )

ii. The Board will seek payment of the accrued stumpage interest due the endowed institutions based on the interest rate specified in the contract and calculated on all remaining volume from the date of sale to the date the Board approved termination of the contract. ( )

iii. The Board will seek payment for any credits given for developments that remain incomplete at the time of termination. ( )

iv. The Board will seek payment for estimated Department costs associated with reoffering the timber sale. ( )

v. The Board may also seek payment for other expenses including, but not limited to, legal costs and Department staff time. ( )

bc. If logging has occurred on the sale, the purchaser must complete the units that have been partially logged according to contract standards and complete all development work as specified in the contract to the extent of allowances that have been credited to the purchaser. (5-8-09)

ed. The purchaser who has terminated a timber sale contract will not be eligible to rebid that particular sale unless specifically authorized to do so by the Board. (5-8-09)

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.34 - RULES GOVERNING THE IDAHO PROTECTION AGAINST**  
**INVASIVE SPECIES STICKER RULES**

**DOCKET NO. 26-0134-1001**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-7002 and 67-7008A, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4249, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 423 and 424.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact David M. Ricks, 208.514.2450.

DATED this 10th day of November, 2010

David M. Ricks  
Deputy Director  
Idaho Department of Parks and Recreation  
5657 Warm Springs Avenue  
Boise, Idaho 83716-8700  
PO Box 83720  
Boise, Idaho 83720-0065  
Telephone: 208.514.2450  
FAX: 208.334.3741

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-7002, and 67-7008A Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20<sup>th</sup> 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 nontechnical explanation of the substance and purpose of the proposed rulemaking:

**To provide for an affidavit type process verifying the purchase of Idaho Invasive Species Stickers for enforcement of the program in lieu of the requirement to physically apply the Idaho Invasive Species Sticker to a licensed outfitted or guided non-motorized 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 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(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking affects only licensed outfitters and guides and is being promulgated on the basis of prior negotiations with the Department.

**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 David M. Ricks, 208-514-2450.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27th, 2010.



DATED this 31st day of August, 2010.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0134-1001**

**050. COLLECTION OF FEES AND DISTRIBUTION OF REVENUES INTO FUND.**

In addition to any other moneys or fees collected pursuant to Section 67-7008 or any other provision of Title 67, Chapter 70, Idaho Code, all vessels are required to pay an additional fee as established in Section 67-7008A, Idaho Code. (3-29-10)

**01. Operator Responsibilities.** The operator of any watercraft required to display a Protection Against Invasive Species Sticker pursuant to this chapter will ensure that fees are paid and that a Protection Against Invasive Species Sticker is displayed on the vessel, except as provided in Subsection 075.01 of this chapter, prior to launch into the public waters of Idaho. (3-29-10)

**02. Prorated Group Rates for Commercial Outfitters. ( )**

**a.** Group rates for commercial outfitters with nonmotorized fleets exceeding five (5) vessels will be determined using the number of vessels *being stickered within the fleet* at the time of purchase *of the stickers*, as provided in Section 67-7008A(1)(c). Previous or future sticker purchases will be prorated separately. (3-29-10)( )

**b.** Protection Against Invasive Species Stickers purchased by outfitters or guides who are duly licensed in accordance with Title 36, Chapter 21, Idaho Code, shall be accompanied by an affidavit which shall be signed by the outfitter or guide. The signed affidavit shall verify the number of vessels within the covered fleet and that the appropriate number of Protection Against Invasive Species Stickers has been purchased. The Protection Against Invasive Species Stickers and affidavit shall be kept on file at the outfitter or guide's physical address and shall be made available for inspection upon request of the Department or upon request by law enforcement. Non-motorized commercial outfitters and guides are not required to place a Protection Against Invasive Species Sticker on their vessels. Identification of commercial outfitted and guided boats shall be in compliance with IDAPA 25.01.01, "Rules of the Outfitters and Guides Licensing Board," Subsection 054.03.a. ( )

**03. Transfer of Funds.** Fees collected will be transferred and deposited into the Fund no less than quarterly during any fiscal year. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.**

**01. Location.** (3-29-10)

**a.** Motorized vessel. Except as provided in Subsection 075.01 of this chapter, the Protection Against Invasive Species Sticker should be affixed next to the current year Registration Validation Sticker on the port (left) side of the vessel. (3-29-10)

**b.** Non-motorized. Except as provided in Subsection 050.02.a. of this chapter, the Protection Against Invasive Species Sticker should be affixed in the following manner.  
(~~3-29-10~~)( )

**i.** For canoes, kayaks, and other small rigid vessels, the Protection Against Invasive Species Sticker should be affixed near the bow above the waterline on the port (left) side, or on top of the vessel if there is little or no waterline distinction. (3-29-10)

**ii.** For inflatable (non-rigid) vessels, the Protection Against Invasive Species Sticker can be modified to allow attachment of a zip tie, plastic attachment, or other similar mechanism, or be laminated into a hang tag. (3-29-10)

**02. Removal.** Protection Against Invasive Species Stickers issued in accordance with Section 67-7008A, Idaho Code, which have become invalid, shall be removed from the vessel. (3-29-10)

## **IDAPA 37 - DEPARTMENT OF WATER RESOURCES**

### **37.03.10 - WELL DRILLER LICENSING RULES**

**DOCKET NO. 37-0310-1001**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 42-238(6), Idaho Code.

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

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 431 through 443](#).**

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Chad Hersley @ 287-4930.

DATED this Tuesday, October 26, 2010.

Chad Hersley  
Technical Hydrogeologist  
Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, Idaho 83720  
Telephone 208-287-4930  
FAX 208-287-6700

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 42-238(6), 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 nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Continuing education credits required for license renewal for licensed drillers will be reduced from the current sixteen units to fourteen units to coincide with the number of credits available through the various seminars and workshops.**

**Definitions will be updated to be consistent with those found IDAPA 37.03.09, "Well Construction Standards Rules," updated in 2009.**

**Application requirements relating to experience and compliance history of the applicant renewing or obtaining a license will be updated to be consistent with Idaho Code.**

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted.

**The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 7, 2010 Idaho Administrative Bulletin, Vol. 10-7. A public meeting was held on the negotiated rulemaking on Friday, July 9, 2010 at 9:00 am.**

**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: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Chad Hersley @ 287-4930.

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 July 30, 2010.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0310-1001**

**010. DEFINITIONS (RULE 10).**

Unless the context otherwise requires, the following definitions govern these rules. (4-5-00)

**01. Abandonment.** ~~Filling, plugging or otherwise rendering a well to a condition that it cannot be used to produce or dispose of water or other fluids and it is not a conduit for waste or contamination of ground water~~ See Decommissioned Well. (4-5-00)(\_\_\_\_)

**02. Adequate Supervision.** Inspection and observation of each drilling operation and the associated drilling site by the licensed driller that has responsible charge during the critical phases of drilling to assure compliance with well construction standards and drilling permit conditions. (4-5-00)

**03. Applicant.** An individual that submits to the department a complete application for a license or operator's permit or a company that submits a complete application for a license. (4-5-00)

**04. Area of Drilling Concern.** An area designated by the director in accordance with Section 42-238, Idaho Code, within which special drilling procedures and equipment are needed to prevent waste or contamination of the ground water. (4-5-00)

**05. Auxiliary Equipment.** Powered equipment, other than the drill rig, used for grouting, installing or advancing casing, welding casings and screens, and other tasks necessary for drilling a well. (4-5-00)

**06. Board.** The Idaho Water Resource Board. (4-5-00)

**07. Bond.** A cash or surety bond obtained by a licensed driller or company payable to the director to provide funding for abandonment or repair should the driller fail to comply with well construction standards, and to allow information to be collected concerning the drilling of the well if the driller fails to submit a timely, accurate driller's report. (4-5-00)

**08. Bottom Hole Temperature of an Existing or Proposed Well.** The temperature of the ground water encountered in the bottom of a well or borehole. ( )

**089. Company.** A firm, co-partnership, corporation or association licensed in accordance with these rules to drill or contract to drill wells. (4-5-00)

**0910. Compliance History.** An applicant's record of compliance with the laws and rules of Idaho and other states relating to drilling of wells. The record includes, but is not limited to, the applicant's record of obtaining and complying with drilling permits; filing accurate and complete well driller's reports on time; adhering to well construction standards and other rules relating to drilling; and the number, nature and resolution of violations of laws, rules and conditions on licenses, operator's permits and drilling permits. (4-5-00)

**101. Continuing Education.** Education or training pertinent to the drilling industry and the construction, modification or ~~abandonment~~ decommissioning of wells. (4-5-00)( )

**112. Continuing Education Committee (CEC).** A committee ~~appointed by the director~~ whose purpose is to review and approve activities ~~acceptable for~~ related to continuing education credit. (4-5-00)( )

**113. Credit Unit.** The unit of measurement for continuing education requirements. (4-5-00)

**1314. Critical Phases of Drilling.** Drilling tasks that require the added experience of a licensed driller to assure completion of the well in accordance with the well construction standards and conditions of drilling permits. These tasks include, but are not limited to, placement of required casings and seals, testing of casings and seals, and resolving problems such as casing or joint failures, heaving formations, lost circulation, and encountering high pressure or high temperature water. (4-5-00)

**15. Decommissioned (Abandoned) Well.** Any well which has been permanently removed from service and filled or plugged in accordance with these rules so as to meet the intent of these rules. A properly decommissioned well will not: ( )

**a. Produce or accept fluids;** ( )

**b. Serve as a conduit for the movement of contaminants inside or outside the well casing; or** ( )

**c. Allow the movement of surface or ground water into unsaturated zones, into another aquifer, or between aquifers.** ( )

**1416. Department.** The Idaho Department of Water Resources. (4-5-00)

**1517. Director.** The director of the Idaho Department of Water Resources or his duly authorized representative. (4-5-00)

~~16~~**18. Drilling or Well Drilling.** The act of constructing a new well, or modifying, changing the construction, or ~~abandoning~~ **decommissioning** an existing well. (4-5-00)( )

~~17~~**19. Drilling Permit.** Authorization by the department to drill a well as provided in Section 42-235, Idaho Code. (4-5-00)

~~18~~**20. Drilling Site.** The location of the drill rig and immediate area where the drill rig and auxiliary equipment are set up to drill a well. (4-5-00)

**21. Global Positioning System (GPS). A global navigational receiver unit and satellite system used to triangulate a geographic position.** ( )

~~19~~**22. License.** A certificate issued by the director to an individual or a company upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the drilling of wells permitted in accordance with Section 42-235, Idaho Code. (4-5-00)

~~20~~**23. Licensed Driller.** An individual having a license to drill wells **and is authorized and required to supervise operators** in the state of Idaho. (4-5-00)( )

~~21~~**24. Modify.** To deepen a well, increase or decrease the diameter of the casing or the well bore, install a liner, place a screen, perforate existing casing or liners, alter the seal between the casing and the well bore, or alter the well to not meet well construction standards. (4-5-00)

~~22~~**25. Operator.** An individual holding either a class I or class II operator's permit issued in accordance with these rules. (4-5-00)

~~23~~**26. Operator's Permit.** A certificate issued by the director upon meeting the requirements of Section 42-238, Idaho Code, and these rules allowing the holder to operate a drill rig as provided in these rules. (4-5-00)

~~24~~**27. Principal Driller.** A licensed driller in responsible charge of a company's drilling activities, which has been designated the principal driller by the company with the department. (4-5-00)

~~25~~**28. Responsible Charge.** The responsibility for direction and control of a drilling operation to meet the requirements of these rules including, but not limited to, the following activities: (4-5-00)

- a. Contracting to drill a well; (4-5-00)
- b. Coordinate with property owner to locate a well to comply with applicable well construction standards; (4-5-00)
- c. Setting up drilling equipment at the drilling site; (4-5-00)
- d. Drilling operations; and (4-5-00)
- e. Testing the adequacy of casing and seal; (4-5-00)

f. Properly completing the well. ( )

29. Start Card. An expedited drilling permit process for the construction of cold water Single Family residential wells. ( )

~~2630.~~ **Well.** An artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is considered to be obtained for the purpose of these rules. Well also means any waste disposal and injection well as defined by Section 42-3902, Idaho Code. (4-5-00)

~~2731.~~ **Well Construction Standards.** IDAPA 37.03.09, "Well Construction Standards Rules," adopted by the board. (4-5-00)

~~2832.~~ **Well Driller's Report or Driller's Report.** A report required by Section 42-238, Idaho Code, describing drilling of the well and supplying information required on forms provided by the department. (4-5-00)

~~2933.~~ **Well Log.** A diary maintained at the drilling site ~~on forms acceptable to the department to record the daily progress and nature of drilling operations and that describe, in particular, pertinent geologic conditions, any problems encountered and methods used to resolve them~~ consistent with Section 42-238, Idaho Code. (4-5-00)( )

~~3034.~~ **Well Rig or Drill Rig.** Any power-driven percussion, rotary, boring, digging, jetting, or augering machine used in the drilling of a well. (4-5-00)

011. -- 019. (RESERVED).

## 020. APPLICABILITY OF LICENSING REQUIREMENTS (RULE 20).

**01. Licensing Requirements.** A well shall only be drilled by or under the responsible charge of a licensed driller except that a property owner, who is not licensed, can construct a well on his property for his own use without the aid of power-driven mechanical equipment. (4-5-00)

**02. Driller to Have Responsible Charge of Other Workers.** A licensed driller shall have responsible charge of all others engaged in a well drilling operation. (4-5-00)

**03. Operators to Have Permits.** An individual assisting a licensed driller whose duties include operation of a drill rig or auxiliary equipment shall possess an operator's permit as provided in these rules. If the driller is not present at the well site at all times that drilling operations are being conducted, one or more of those operating the equipment in the driller's absence shall have a class II operator's permit. The driller shall provide adequate supervision of class II operators. An individual having a class I operator permit shall be supervised by a licensed driller or a class II operator at all times when operating the drill rig or auxiliary equipment. (4-5-00)



**04. Laborer Exempted.** An individual whose duties at the drilling site do not include operation of the drill rig or auxiliary equipment at any time is not required to have either a driller's license or an operator's permit. (4-5-00)

**05. Company to be Licensed.** No company shall drill or contract to drill a well or wells unless the company has been issued a license and has employed a principal driller as described in accordance with these rules. (4-5-00)

**06. Drillers to Decommission (Abandon) Wells.** Only licensed drillers may decommission (abandon) wells, except that wells may be decommissioned (abandoned) by the owner after receiving a specific waiver from the Director. (~~4-5-00~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. OBTAINING A LICENSE FOR AN INDIVIDUAL DRILLER (RULE 30).**

**01. Application Requirements.** An individual desiring a license shall file with the department a completed application on a form provided by the department accompanied by the following: (4-5-00)

- a. The application fee required by Section 42-238, Idaho Code. (4-5-00)
- b. Written documentation of drilling experience, compliance history, and the names and addresses of three (3) references to confirm the applicant's drilling experience. (4-5-00)
- c. A list of all drill rigs used by or under the responsible charge of the applicant providing the make, model, and type. (4-5-00)
- d. The names and addresses of all licensed drillers and permitted operators that will work under the responsible charge of the applicant. (4-5-00)

**02. Experience Requirements.** (4-5-00)

a. An applicant shall have a minimum of ~~thirty~~ twenty-four (~~30~~24) months of drilling experience. An applicant will be credited with one (1) month of drilling experience for each one hundred sixty (160) hours of employment as a driller or operator, or the equivalent, as determined by the director. Experience drilling monitoring wells, geothermal wells or other cased wells will be credited as experience by the Director if the equipment and drilling methods are applicable to water well construction. (~~4-5-00~~)(    )

b. An applicant for driller's license shall submit evidence to establish that the applicant, as an operator or driller, has successfully constructed a sufficient number of wells within the preceding ~~thirty~~ twenty-four (~~30~~24) months to demonstrate competency. Evidence of this experience can be demonstrated by the submission of driller's reports bearing the applicant's signature, well reports upon which the driller having responsible charge attests that the applicant

drilled the wells or other documentation acceptable to the director. (4-5-00)( )

c. Twelve (12) of the ~~thirty~~ twenty-four (~~30~~24) months drilling experience must have occurred within the five (5) year period immediately preceding the filing of the application. (4-5-00)( )

d. Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twelve (12) months of drilling experience. The director will determine the number of months of classroom study, up to twelve (12), to be credited as experience. (4-5-00)

**03. Examination.** An applicant determined by the director to have adequate experience and an acceptable compliance history, as confirmed by references acceptable to the director, is eligible to take a written examination. The examination may include separate sections and shall test the applicant's knowledge of the following: (4-5-00)

a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. (4-5-00)

b. Land description by government lot, quarter-quarter, section, township and range, and the use of portable GPS units. (4-5-00)( )

c. Geologic material identification including the use of correct terminology in describing the geologic material. (4-5-00)

d. Well construction principles relating to the proper design, construction, development, and abandonment of wells. (4-5-00)

e. The occurrence, nature, and movement of ground water. (4-5-00)

f. The use of various types of drill rigs and auxiliary equipment. (4-5-00)

### 031. OBTAINING A LICENSE FOR A COMPANY (RULE 31).

**01. Application Requirements.** A company shall file with the department a complete application for a company license upon a form provided by the department to be accompanied by the following: (4-5-00)

~~a. The application fee required by Section 42-238, Idaho Code.~~ (4-5-00)

**ba.** The names and addresses of three (3) disinterested persons not affiliated with the company, whom the department can contact for information regarding the company's past well drilling operations, if any, and related business activities. (4-5-00)( )

**eb.** A complete record of the compliance history of the company and the owners and employees of the company. (4-5-00)

**dc.** Designation of a principal driller who shall be a full time employee of the company and shall drill wells only for the company. A licensed driller who renders only occasional, part-time or consulting drilling services to or for a company may not be designated as the principal driller. (4-5-00)

**ed.** The names and addresses of drillers and operators presently employed. (4-5-00)

**fe.** A list of all drill rigs and other related equipment owned or used by the company providing the make, model, and type. (4-5-00)

**02. Application Processing.** Applications received under this rule will be processed in accordance with Rule 33. (4-5-00)

**032. OBTAINING AN OPERATOR'S PERMIT (RULE 32).**

**01. Application for Class I Operator's Permit.** A licensed driller or company proposing to employ a class I operator shall submit a completed application on a form provided by the director. The application shall: (4-5-00)

**a.** Be accompanied by the fee required by Section 42-238, Idaho Code. (4-5-00)

**b.** Be signed by the individual seeking the operator's permit and the licensed driller or principal driller of the company proposing to employ the operator. (4-5-00)

**02. Application for Class II Operator's Permit.** A licensed driller or company proposing to employ an individual who does not currently hold a class II operator's permit shall submit the following: (4-5-00)

**a.** A completed application on a form provided by the department. (4-5-00)

**b.** The fee required by Section 42-238, Idaho Code. No fee is required if the applicant is presently permitted as a class I operator, but the expiration date of the permit when converted to a class II operator's permit will remain as originally issued. (4-5-00)

**c.** Documentation that the operator has successfully constructed a sufficient number of wells, or has constructed wells for a sufficient length of time, or a combination of both to demonstrate competency. (4-5-00)

**03. Written Examination.** An examination is not required for a class I operator's permit. An otherwise qualified applicant for a class II operator's permit shall obtain a satisfactory score on an examination as provided in Rule 34. The examination may be comprised of separate sections and shall test the applicant's knowledge of the following: (4-5-00)

**a.** Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. (4-5-00)

**b.** Land description by government lot, quarter-quarter, section, township, and range. (4-5-00)

and the use of portable GPS units.

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

c. Geologic material identification including the use of correct terminology in describing geologic material. (4-5-00)

d. Well drilling principles relating to proper design, construction, development, and abandonment of wells. (4-5-00)

e. The occurrence, nature, and movement of ground water. (4-5-00)

**04. Operator Drills Only for Licensed Driller or Company.** An operator shall only drill for the licensed driller or company approved by the director. If an operator changes employment to another licensed driller or company, an application for an operator's permit shall be filed as provided in this rule. ~~The director may waive the examination requirement if the operator has a history of complying with these rules and the well construction standards.~~

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

**05. Processing an Application for Operator's Permit.** The department will process an application for operator's permit in accordance with Rule 33. (4-5-00)

**033. PROCESSING APPLICATION FOR A DRILLER'S LICENSE OR OPERATOR'S PERMIT (RULE 33).**

**01. Incomplete Application.** If an application is incomplete, not properly signed, or does not include the information required by these rules, the department will advise the applicant in writing of the deficiency. If the deficiencies are not satisfied within ~~one hundred twenty~~ ninety (~~120~~90) days of sending the notice of the deficiency, the application ~~and supporting documents will be returned to the applicant~~ will be void. The application fee is not refundable.

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

**02. Issuance of License.** If the director, upon review of the application, determines that an applicant for license is qualified and the driller has subsequently taken and passed an examination, a notice will be sent to the applicant requesting a bond in an amount determined in accordance with Rule 60 be filed with the department. Upon receipt of a satisfactory bond, the director will issue a license to the applicant. (4-5-00)

**03. Issuance of Operator's Permits.** If the director determines that an applicant is qualified and has passed an examination, if required, the department will mail a notice and operator's permit card to the principal driller on behalf of the applicant. (4-5-00)

**04. Driller's License or Operator's Permit Issued With Conditions or Denial of License or Operator's Permit.** The Director may issue a license or operator's permit with specific conditions or limitations based on the applicant's experience and compliance history. ~~If the director, after consulting with the Driller's Advisory Committee, established in Rule 80, determines that the applicant's compliance history includes significant violations of well drilling laws and/or rules, including well construction standards, the director may deny the license or permit, refuse to issue for a specified time, or issue with conditions. The director may only consider the applicant's compliance history for the five (5) year period immediately preceding the~~

~~application being filed.~~ The Director may refuse to issue or renew a driller's license permanently or for a designated period of time if the driller has previously constructed wells improperly or constructed a well without a valid driller's license. If the Director determines that the applicant is not qualified, the Director will deny the application. Notice of a denied application or a conditioned license or operator's permit will be given to the applicant in accordance with IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (4-5-00)( )

#### 034. EXAMINATION PROCEDURES (RULE 34).

**01. Written Examination.** Written examinations will be offered at department offices on the first Monday of each ~~month~~ quarter. If the first Monday is a legal holiday, written examination will be offered on the first Tuesday. Re-examination may be taken at a regularly scheduled examination date during a following ~~month~~ quarter and shall be scheduled with the department office originally testing the applicant. (4-5-00)( )

**02. Oral Examination.** Successful passage of an oral examination may satisfy all or a part of the written testing requirements under the following circumstances: (4-5-00)

**a.** The applicant requests an oral rather than a written examination and shows cause acceptable to the director why the examination should be oral rather than written. Applicants desiring to take the examination orally shall request that an oral examination be scheduled allowing at least fifteen (15) days to set an examination date. (4-5-00)

**b.** The director determines that because of the applicant's compliance history, additional testing is needed to determine the applicant's qualifications. (4-5-00)

**03. Examination Scoring.** The applicant shall pass each section of the examination with a score of seventy percent (70%) or higher. (4-5-00)

**04. Assistance Must Be Authorized.** The use of written materials, equipment or other individuals to assist an applicant during an examination is prohibited unless specifically authorized by the department. An applicant receiving unauthorized assistance during an examination may be disqualified and the application may be rejected. An application filed by a disqualified applicant will not be processed for a period of up to one (1) year from the time of disqualification. (4-5-00)

#### 035. EXPIRATION AND RENEWAL OF LICENSE (RULE 35).

**01. Expiration of Licenses.** ~~All licenses shall expire on March 31 during the second year after issuance.~~ All licenses expire at the end of the licensing period for which they are issued. The licensing period begins April 1 and ends March 31 of the second year following issuance. (4-5-00)( )

**02. Renewal Application.** A license may be renewed by submitting a license renewal application including the following: (4-5-00)

**a.** A completed application on a form provided by the department. An application to renew a license for an individual licensed driller shall be signed by the individual and an

application to renew a license for a company shall be signed by the principal driller. (4-5-00)

- b. The renewal fee required by Section 42-238, Idaho Code. (4-5-00)
- c. A new bond or continuation certificate for an existing bond covering the licensed driller or company. (4-5-00)
- d. If the application is for renewal of a license held by an individual, the application shall include verification that the applicant has obtained the required continuing education credits. (4-5-00)

**03. Continuing Education Requirements.** ~~Eight (8) credit units are required for renewal of a license for an individual for the licensing period beginning April 1, 2001. Sixteen~~ **Fourteen** (164) credit units are required for renewal of a license for an individual for any licensing period beginning on or after April 1, ~~2002~~2011. (4-5-00)( )

**04. Welding Competency.** A driller that has been issued a Notice of Violation for welding that does not comply with the well construction standards may be required to obtain a certificate of welding competency; from the American Welding Society or similar organization, ~~if the driller has been issued a Notice of Violation for welding that does not comply with the well construction standards.~~ (4-5-00)( )

### 036. EXPIRATION AND RENEWAL OF AN OPERATOR'S PERMIT (RULE 36).

**01. Expiration of Operator's Permits.** Class I and class II operator's permits shall expire on March 31 of the same year that the license of the licensed driller and company employing the operator expires. (4-5-00)

**02. Renewal Application.** An operator's permit may be renewed by submitting to the department an application for renewal including the following: (4-5-00)

- a. A completed application on a form provided by the department. The operator seeking renewal and the driller under whose responsible charge the operator works shall sign the form. (4-5-00)
- b. The renewal fee required by Section 42-238, Idaho Code. (4-5-00)
- c. For renewal of a class II operator's permit, verification of the required continuing education credit units. (4-5-00)

**03. Continuing Education Required for Renewals.** ~~Eight credit units are required for renewal of a class II operator's permit for the two (2) year licensing period beginning April 1, 2001. Sixteen~~ **Fourteen** (164) credit units are required for renewal of a class II operator's permit for a licensing period beginning on or after April 1, ~~2002~~2011. (4-5-00)( )

**04. Welding Competency.** An operator's work that has resulted in a Notice of Violation for welding that does not comply with the Well Construction Standards may be required to obtain a certificate of welding competency; from the American Welding Society or similar

organization, ~~if the operator's work has resulted in a Notice of Violation for welding that does not comply with the Well Construction Standards.~~ (4-5-00)( )

**037. PROCESSING APPLICATION TO RENEW LICENSE OR OPERATOR'S PERMIT (RULE 37).**

**01. Processing Applications for Renewal.** Applications for renewal will be processed in the order received by the department. The department shall receive a complete application for renewal no later than March 15 to assure that the license or operator's permit will remain in force without interruption. If the director determines that the application is complete and the applicant is qualified, the license or operator's permit will be renewed for the period ending on March 31 of the second year after approval of the renewal. (4-5-00)

**02. Regulatory Compliance Required for Renewals.** A license or operator's permit will not be renewed if the applicant has not submitted all required driller's reports, applications for drilling permits, fees, agreed civil penalties, has not complied with all orders requiring repair or abandonment of improperly constructed wells or is not otherwise in compliance with Sections 42-235 and 42-238, Idaho Code, and the applicable rules. (4-5-00)

**03. Compliance History.** If the Director determines, ~~after consulting the Driller's Advisory Committee,~~ that the applicant has exhibited an unacceptable compliance history, the Director may deny renewal, refuse renewal for a specified time, or renew with conditions, including but not limited to an increased bond amount. ~~Up to five (5) years of the most recent licensed or permitted history may be considered to determine compliance.~~ (4-5-00)( )

**04. Renewal of Expired Licenses or Operator's Permits.** A license or an operator's permit which has expired or otherwise not been in effect for a period not exceeding three (3) years shall be renewed in accordance with the requirements of Rule 35 or Rule 36 as appropriate. An applicant for renewal shall provide verification of earned credit units required for the entire period since the license or class II operator's permit was last issued. If a license or operator's permit has been expired or otherwise not effective for a period of more than three (3) years, an application for a new license shall be submitted in accordance with Rule 30 for an individual license, Rule 31 for a company or Rule 32 for an operator's permit. The director may waive the examination requirement if the applicant has been previously licensed or permitted in the state of Idaho. (4-5-00)

**05. Reuse of Identification Numbers.** The identification number assigned to a license by the department will not be reused if the license has been expired or otherwise not in effect for three (3) years or more except, at the director's discretion, the number may be reissued to the original owner. (4-5-00)

**06. Condition or Denial of an Application for Renewal.** If the Director determines that the applicant has not or cannot fully comply with these rules, a license or operator's permit may be issued with conditions. If the Director determines that the applicant is not qualified, the Director will deny the application. When there are *significant documented* violations of well drilling laws and/or rules, including well construction standards, the Director *will may* consult with the Driller's Advisory Committee, created in accordance with Rule 80, prior to making a decision to issue a conditional license or operator's permit or to deny an application based on the

applicant's compliance history. Notice of a denied application or a conditioned license will be given as provided in IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (4-5-00)( )

**038. -- 049. (RESERVED).**

**050. DUTIES AND RESPONSIBILITIES OF DRILLERS, COMPANIES AND OPERATORS (RULE 50).**

**01. Licensed Drillers and Principal Drillers.** All licensed drillers and principal drillers shall: (4-5-00)

**a.** Allow drilling only by those authorized by and under the supervision required by these rules and according to any conditions of the license or permit. (4-5-00)

**b.** Complete each well in compliance with IDAPA 37.03.09, "Well Construction Standards Rules," and drilling permit conditions. (4-5-00)( )

**c.** Have a valid cash or surety bond in effect, as defined in Rule 60. (4-5-00)

**d.** Have the license number displayed in a conspicuous place on the drill rig using a metal identification plate provided by the department or other permanent marking approved by the director. The displayed license number shall represent the company or individual driller license under which the well is being drilled. One plate will be issued upon initial licensure with replacement and additional plates available for a fee. (4-5-00)

**e.** Keep current the department's list of operators and drillers employed by the licensed driller or company, including current addresses for the company, drillers, and operators. The licensed driller or principal driller shall be held responsible for all drilling activity of a driller or operator under their supervision until such notification has been submitted in writing to the department that the driller or operator is no longer employed by the licensed driller or company. (4-5-00)

**f.** Have at the drilling site the driller's license and drilling permit or other written authorization from the director to drill the well. (4-5-00)

**g.** Only drill wells in contaminated areas identified by the department or in areas of drilling concern so designated by the department with specific written authorization of the director. Verbal authorizations to drill and pre-approved drilling permits (start cards) do not authorize drilling in these areas. (4-5-00)

**h.** Only drill a public drinking water supply well, as defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," low temperature geothermal resource or geothermal resource well with specific written authorization from the director. Verbal authorizations and pre-approved start card permits (start cards) are not authorized for these uses. (4-5-00)( )

**i. Monitor and record bottom-hole temperature in areas where low temperature**



geothermal resources are known or suspected or when the well is being constructed pursuant to IDAPA 37.03.09, Rule 30, as a low temperature geothermal resource well. Bottom-hole temperature of every well being constructed pursuant to IDAPA 37.03.09, Rule 30, must be measured, recorded, and reported on the well drillers report. ( )

~~ij.~~ Maintain a daily well log at the drilling site ~~on a form~~ acceptable to the department ~~bearing the initials of the driller or operator recording information during the work shift. The well log shall be available for review by department personnel at the well site. The following information shall be recorded:~~ and as required by Section 42-238(11), Idaho Code. Pertinent data required to be recorded on the daily log must include information sufficient to complete a well drillers report acceptable to the Director. (4-5-00)

~~i. Borehole lithology;~~ (4-5-00)

~~ii. Water bearing zones;~~ (4-5-00)

~~iii. Static water levels;~~ (4-5-00)

~~iv. Bottom hole temperature;~~ (4-5-00)

~~v. Casing and sealing placement status;~~ (4-5-00)

~~vi. A description of problems encountered; and~~ (4-5-00)

~~vii.~~ The driller shall retain the well log for at least one (1) year after the driller's report is submitted to the department. (4-5-00)( )

~~jk.~~ Submit driller's reports, acceptable to the Director, on forms approved by the department within thirty (30) days following removal of the drill rig from the drilling site at completion of the well. Driller's reports shall be prepared from information recorded on the daily well log. Driller's reports returned to the driller due to deficiencies must be corrected and returned to the department within thirty (30) days of mailing by the department. (4-5-00)( )

~~kl.~~ Attach a well tag supplied by the department to every well drilled for which a drilling permit is required. The tag shall be affixed permanently to the casing, or other permanent object attached to the well, by a method approved by the Director prior to removing the well rig from the drilling site. (4-5-00)

~~lm.~~ Cause all drilling activity under the supervision of the driller to cease when the driller's license expires, becomes invalid, or is suspended or revoked. (4-5-00)

**02. Companies.** Companies shall: (4-5-00)

**a.** Have a principal driller designated with the department at all times. (4-5-00)

**b.** Notify the department within ten (10) days of the principal driller leaving employment with the company. The company's license shall immediately become void and of no effect when the principal driller leaves employment with the company and shall remain so until

the department has been notified in writing that a new principal driller has been employed and designated by the company. Failure to designate a principal driller within ninety (90) days of the departure of the designated principal driller is cause for the director to take action to cancel the company's license. (4-5-00)

- c. Maintain a bond in force at all time as required in Rule 60. (4-5-00)
- 03. Operators.** Operators shall: (4-5-00)
  - a. Have in their possession a valid operator's permit while drilling wells. (4-5-00)
  - b. Only drill wells as authorized by the operator's permit. (4-5-00)
  - c. Maintain a complete and accurate well log at the drilling site. (4-5-00)
  - d. Co-sign with the driller a driller's report upon completion of the well. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**070. CONTINUING EDUCATION (RULE 70).**

**01. Requirements.** Every licensed driller ~~and or~~ permitted operator ~~shall~~ **must** have earned at the time of ~~license or permit~~ renewal the **applicable number of** credit units required by these rules. The credit units shall have been obtained during the licensing period preceding the application for renewal. (4-5-00)(    )

**02. Earning Credit Units.** ~~A e~~Credit units ~~is~~ **may be** earned for ~~each hour the applicant devotes to~~ **time spent in** attendance at workshops, seminars, short courses, and other educational opportunities devoted to drilling or related subjects acceptable to the Director ~~and approved by the continuing education committee (CEC) and in compliance with the CEC guidelines.~~ These may include completion of college courses, correspondence courses, videotaped courses, ~~active participation in professional organizations,~~ and other endeavors such as authoring appropriate publications. (4-5-00)(    )

**03. ~~Record Keeping~~ Documentation.** Documentation to support credit units claimed is the responsibility of the licensed driller and permitted operator. Records required include but are not limited to: (4-5-00)(    )

- a. A log showing the type of activity claimed, sponsoring organization, duration, instructor's name, and credit units. (4-5-00)
- b. Attendance verification records in the form of completion certificates or other **official** documents providing evidence of attendance **and completion.** (4-5-00)(    )

**04. Submittal and Maintenance of Records.** Copies of continuing education records

for the preceding license period shall be submitted with applications to renew licenses or permits. These records shall be maintained for a period of three (3) years and shall be available for review by the department at the request of the director. (4-5-00)

**05. Insufficient Credit Units.** If at the time of renewal, the applicant is unable to provide verification of the required credit units, the director will deny renewal of the driller's license or operator's permit, except as otherwise provided in the following: (4-5-00)

**a.** The director may withhold action on an application for renewal for a period not to exceed ninety (90) days to allow the applicant to provide verification of the required credit units. The applicant is not authorized to drill until the verification is provided and the renewal is issued. (4-5-00)

**b.** The director may exempt an applicant from all or part of the continuing education requirements if the applicant served on active duty in the armed forces of the United States for one hundred twenty (120) consecutive days or more during the licensing period prior to filing the application for renewal; or the applicant suffered physical disability, serious illness, or other extenuating circumstances that prevented the applicant from earning the required units. (4-5-00)

**c.** A licensed driller or operator who has chosen to allow his license or permit to expire or otherwise become of no effect shall be exempt from continuing education requirements unless an application for renewal is filed less than three (3) years after the license or permit expired or otherwise became of no effect. (4-5-00)

**06. Out-of-State Residents.** The continuing education requirements for a non-resident applicant for a license or operator's permit shall be the same as for resident applicants. (4-5-00)

**07. Responsibility for Education Development and Implementation.** The Idaho Ground Water Association (IGWA) is delegated responsibility to develop and implement a program for continuing education for review and approval by the director. (4-5-00)

**071. CONTINUING EDUCATION COMMITTEE ~~(CEC)~~ CONTINGENCY PLAN (RULE 71).**

Should the ~~IGWA not submit a suitable program for continuing education or that program not be approved by the director the CEC shall be organized and administered as follows:~~ memorandum of understanding (MOU) and/or the contract between the department and the IGWA be breached, revoked, or not renewed, the CEC shall be organized and administered by the department. (4-5-00)( )

~~**01. Purpose and Duties.** The CEC shall provide recommendations to the director concerning the amount and nature of continuing education required to maintain and improve driller and operator competency. The CEC shall provide recommendations to the director concerning the credit value to be assigned to continuing education opportunities. The CEC shall also encourage driller association(s) and the education and professional communities to make additional opportunities available. The director shall determine the value for all activities submitted to fulfill continuing education requirements.~~ (4-5-00)

~~**02. Committee Membership.** The membership of the CEC shall be selected by the~~

~~director from nominations provided by state driller association(s) and others. The CEC membership shall include:~~ (4-5-00)

~~**a.** Three (3) individuals holding or who have held an Idaho well driller's license, at least two (2) of which shall hold a currently valid license.~~ (4-5-00)

~~**b.** One (1) individual from the department.~~ (4-5-00)

~~**c.** One (1) individual from either the higher education community or a consulting firm involved in designing wells.~~ (4-5-00)

~~**03. Terms.** The committee members will be appointed to serve a term of two (2) or three (3) years, but may serve no more than six (6) years in any given ten (10) year period.~~ (4-5-00)

~~**04. Reimbursement.** Travel and per diem expenses for members attending official meetings of the CEC will be paid in accordance with department policy. The department will establish meeting dates and locations for the CEC.~~ (4-5-00)

**072. -- 079. (RESERVED).**

**080. DRILLER'S ADVISORY COMMITTEE (RULE 80).**

**01. Selection and Duties.** The Director may appoint a driller's advisory committee from the list of drillers holding valid licenses. The Director will solicit appointment recommendations from the IGWA and other licensed drillers. The Director will determine the term of appointment for members of the committee. The committee shall provide recommendations and suggestions concerning revision of these rules, the minimum standards for well construction, significant violations and other matters regarding well drilling. The committee members shall serve on a voluntary basis without compensation. The department will hold ~~at least one (1) meeting of the advisory committee per year and will hold additional~~ meetings as needed at the discretion of the Director. (4-5-00)( )

**02. Reimbursement.** Travel costs shall be paid to members of the advisory committee for travel and per diem and for costs associated with attendance of advisory committee meetings held by the department. Reimbursement shall be based on existing department policy covering travel and per diem expenses. (4-5-00)