



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: October 07, 2014

SUBJECT: Department of Fish and Game

IDAPA 13.01.02 - Rules Governing Hunter Education and Mentored Hunting - Temporary and Proposed Rule (Docket No. 13-0102-1401)

IDAPA 13.01.04 - Rules Governing Licensing - Temporary and Proposed Rule (Docket No. 13-0104-1402)

IDAPA 13.01.04 - Rules Governing Licensing - Temporary and Proposed Rule (Docket No. 13-0104-1403)

IDAPA 13.01.04 - Rules Governing Licensing - Temporary and Proposed Rule (Docket No. 13-0104-1404)

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Proposed Rule (Docket No. 13-0108-1402)

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Temporary and Proposed Rule (Docket No. 13-0108-1403)

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Temporary and Proposed Rule (Docket No. 13-0108-1404)

IDAPA 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho - Temporary and Proposed Rule (Docket No. 13-0109-1401)

1. Rules Governing Hunter Education and Mentored Hunting

The Idaho Fish and Game Commission submits notice of temporary and proposed rule at IDAPA 13.01.02 - Rules Governing Hunter Education and Mentored Hunting. According to the commission, the rules are being amended to reflect that youth that are ten years of age can hunt big game as provided in HB 399 enacted during the 2014 Legislative Session. The commission notes that a temporary rule is justified for compliance with governing law. The temporary rule was effective on August 1, 2014.

The commission notes that negotiated rulemaking was not conducted because this is a straightforward amendment to comply with amended state law. The rulemaking appears to be authorized pursuant to Sections 36-104, 36-401, 36-404 and 36-407, Idaho Code.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

2. Rules Governing Licensing

The Idaho Fish and Game Commission submits notice of temporary and proposed rule at IDAPA 13.01.04 - Rules Governing Licensing. According to the commission, the changes revise eligibility rules for nonresident disabled American veterans so they can receive reduced fee hunting licenses and certain tags. The commission notes that a temporary rule is justified for compliance with governing law. The temporary rule was effective on August 1, 2014.

The commission notes that negotiated rulemaking was not conducted because this is a straightforward amendment to comply with amended state law. The rulemaking appears to be authorized pursuant to Sections 36-104 and 36-407, Idaho Code.

3. Rules Governing Licensing

The Idaho Fish and Game Commission submits notice of temporary and proposed rule at IDAPA 13.01.04 - Rules Governing Licensing. According to the commission, rules that reference "qualified organizations" for the disabled veteran big game tag program are being amended to add IRS status 501(c)(4) and 501(c)(19) organizations. The commission notes that a temporary rule is justified for compliance with governing law. The temporary rule was effective on August 1, 2014.

The commission notes that negotiated rulemaking was not conducted because this is a straightforward amendment to comply with amended state law. The rulemaking appears to be authorized pursuant to Sections 36-104, 36-401 and 36-408, Idaho Code.

4. Rules Governing Licensing

The Idaho Fish and Game Commission submits notice of temporary and proposed rule at IDAPA 13.01.04 - Rules Governing Licensing. According to the commission, the rule will implement new discretionary commission authority to add bear tags to the Landowner Appreciation Program. The commission notes that a temporary rule is justified for compliance with governing law. The temporary rule was effective on August 11, 2014. Legislation from the 2014 session also authorized the addition of turkey tags. We contacted department personnel to ask about the fact the rule does not include turkey tags. Department personnel indicated that they are still considering appropriate rules for turkey in that the acreages for turkey LAP tags and the draw process would be completely different than that for bear, deer and elk.

The commission notes that negotiated rulemaking was not conducted because this is a straightforward amendment to comply with amended state law. The rulemaking appears to be authorized pursuant to Section 36-104, Idaho Code.

5. Rules Governing the Taking of Big Game Animals in the State of Idaho

The Idaho Fish and Game Commission submits notice of proposed rule at IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho. According to the commission, some unlimited controlled hunts result in higher than desired hunter numbers because some hunters select the hunts as their second choice as a backup in case they do not draw their first choice when applying for a more desirable hunt. The commission notes that they conducted negotiated rulemaking on the proposed rule change and, after review

of comments, the proposal was modified to apply to only deer and elk unlimited controlled hunts. The commission is therefore proposing to designate specific unlimited controlled hunts for deer and elk as "first-choice only." Rulemaking appears to be authorized pursuant to Section 36-104, Idaho Code.

6. Rules Governing the Taking of Big Game Animals in the State of Idaho

The Idaho Fish and Game Commission submits notice of temporary and proposed rule at IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho. According to the commission, the revision is a change to the hunting age. The commission notes that a temporary rule is justified for compliance with governing law. The temporary rule was effective on August 1, 2014.

The commission notes that negotiated rulemaking was not conducted because this is a straightforward amendment to comply with amended state law. The rulemaking appears to be authorized pursuant to Sections 36-104, 36-401 and 36-404, Idaho Code.

7. Rules Governing the Taking of Big Game Animals in the State of Idaho

The Idaho Fish and Game Commission submits notice of temporary and proposed rule at IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho. According to the commission, the amendment reorganizes some of the elk zones, and the units contained within a zone, with the Smoky Mountains, Bennett Hills, Owyhee/South Hills, Teton, Palisades, Island Park and Bannock elk zones. The commission notes that this amendment is part of the Statewide Elk Management Plan development which has been a three year public process. The commission notes that a temporary rule is justified because the reorganized elk zone descriptions allow the commission to better manage elk populations and benefit the public with more balanced hunting opportunities.

The commission states that negotiated rulemaking was not conducted because this is a simple reorganization of elk zones pursuant to the 2014 Elk Plan. The rulemaking appears to be authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

8. Rules Governing the Taking of Game Birds in the State of Idaho

The Idaho Fish and Game Commission submits notice of temporary and proposed rule at IDAPA 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho. According to the commission, the purpose of the rulemaking is to give the commission the flexibility to modify shooting hours on Wildlife Management Areas where pheasants are stocked. The commission states that the change is needed to: 1) address human safety concerns where employees/volunteers are stocking upland game birds. Vehicles have been sprayed with shotgun pellets; 2) help further distribute stocked upland game birds; and 3) reduce conflict between waterfowl hunters and upland game bird hunters using the same property. The commission notes that a temporary rule is justified because the change confers a benefit. The temporary rule was effective on August 1, 2014.

Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 36-104, Idaho Code.

cc: Department of Fish and Game
Dallas Burkhalter