

PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Resources &
Environment Committee
63rd Idaho Legislature
Second Regular Session



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2016

SENATE RESOURCES & ENVIRONMENT COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2016 Legislative Session

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IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.02 - RULES GOVERNING HUNTER EDUCATION AND MENTORED HUNTING

DOCKET NO. 13-0102-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-401(a)(8), 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 purpose is to clarify the limits of the Hunting Passport for 8 year old children.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 186 and 187](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer, Deputy Director, 208-334-3771.

DATED this 23rd Day of November 23, 2015.

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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 36-401(a)(8), 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 21, 2015.

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: The purpose is to clarify the limits of the Hunting Passport for 8 year old children.

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

Not applicable.

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:

Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change is simple in nature.

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 Sharon Kiefer, Deputy Director, 208-334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 3rd day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0102-1501

101. MENTORED HUNTING PROGRAM.

Nothing in this section shall be construed as altering the requirements of Section 36-411, Idaho Code, to obtain a valid hunting license, or any other statutory or rule requirements for the take of wildlife. (4-4-13)

01. Hunting Passport. A Hunting Passport is a special authorization for any person to take wildlife when they are accompanied by a mentor and participating in the Mentored Hunting Program. (4-4-13)

a. Any person must obtain a Hunting Passport from the Department or a licensed vendor to participate as a mentee in the Mentored Hunting Program. (4-4-13)

b. Hunter education certification is not required for any person to possess a hunting passport. (4-4-13)

c. A Hunting Passport shall expire December 31 of the year for which it is valid. (4-4-13)

d. Any person who has possessed a Hunting Passport may not apply for a Hunting Passport in any

subsequent year except for any person who is eight (8) years of age who has possessed a Hunting Passport, may possess an additional Hunting Passport at nine (9) years of age. ~~(4-4-13)~~ ()

02. Eligibility of Mentee. (4-4-13)

a. Any person who has not previously possessed a hunting license or equivalent license in any other state may possess a Hunting Passport to participate in the Mentored Hunting Program as a mentee. (4-4-13)

b. Any mentee possessing a Hunting Passport is eligible to possess general big game, turkey, and sandhill crane tags if the mentee is qualified to participate in the hunt. (4-4-13)

c. Any mentee possessing a Hunting Passport is not eligible to possess a control hunt tag but may be designated for a Landowner controlled hunt tag if the mentee is qualified to participate in the hunt. (4-4-13)

d. Any mentee with a Hunting Passport shall be ten (10) years of age to hunt big game. (4-11-15)

e. Any mentee with a Hunting Passport must be accompanied by a mentor as provided in Subsection 101.03.a. (4-4-13)

f. Any person shall be eight (8) years or older to possess a Hunting Passport. (4-4-13)

g. Any mentee must possess on his person a hunting passport while hunting and produce the same for inspection upon request of a conservation officer or any other person authorized to enforce fish and game laws. (4-4-13)

03. Eligibility of Mentor. (4-4-13)

a. Any person who possesses a valid Idaho hunting license and who is eighteen (18) years or older may participate in the Mentored Hunting Program as a mentor. (4-4-13)

b. A mentor may not accompany more than two (2) mentees at one (1) time that are participating in the Mentored Hunting Program. (4-4-13)

c. A mentor may hunt while participating in the Mentored Hunting Program if the mentor is qualified to participate in the hunt. (4-4-13)

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0108-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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), 36-409(c), and 36-1101(a), Idaho Code.

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

The purpose is to clarify the disabled hunters who are eligible for designated hunter companion exceptions, and to clarify the eligibility of senior and disabled hunters to purchase leftover youth controlled hunt tags.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 188–195](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer, Deputy Director, 208-334-3771.

DATED this 23rd Day of November, 2015.

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

EFFECTIVE DATE: The effective date of the temporary rule is September 4, 2015.

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), 36-409(c), and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

The purpose is to clarify the disabled hunters who are eligible for designated hunter companion exceptions, and to clarify the eligibility of senior and disabled hunters to purchase leftover youth controlled hunt tags.

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:

Conferring a benefit.

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

Not applicable.

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

Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change is simple in nature.

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 temporary and proposed rule, contact Sharon Kiefer, Deputy Director (208) 334-3771.

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 28, 2015.

DATED this 3rd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-1501

201. TAG EXCEPTION FOR COMPANION TO DISABLED HUNTER.

01. Assistance of Disabled Hunter by Designated Companion. Any disabled hunter possessing a valid disabled combination license or a disabled American Veteran hunting license or a disabled archery permit or a disabled hunt motor vehicle permit and who possesses a valid tag or who is a disabled veteran participating in a hunt as provided in Section 36-408(7), Idaho Code, may be accompanied, close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices, by a designated companion who may assist the disabled hunter with taking big game. (4-4-13)()

02. Valid License and Applicable Special Weapon Permit. A companion to a disabled hunter must have a valid license and applicable special weapon permit when assisting a disabled hunter with taking big game. (4-4-13)

03. Excepted From Tag Possession. A companion assisting a disabled hunter is excepted from tag possession to take a big game animal wounded by a disabled hunter. All other applicable rules governing IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply. (4-4-13)

04. Validation and Attachment of Tag. The companion to a disabled hunter may validate and attach the disabled hunter's tag on a big game animal per Subsection 320.01. (4-4-13)

05. Accompanying the Disabled Hunter. The companion to a disabled hunter shall accompany the disabled hunter while hunting. Once the disabled hunter has wounded a big game animal, the companion does not need to be accompanied by the disabled hunter while taking an animal wounded by the disabled hunter or while tagging or retrieving a downed animal on behalf of the disabled hunter. (4-4-13)

06. Written Statement of Designation. While taking a wounded big game animal to assist a disabled hunter, the companion to a disabled hunter shall possess a written statement of designation from the disabled hunter as their companion, signed by the disabled hunter including the disabled hunter's name, address, hunting license number, big game tag number, and the dates of designation as a companion. If a companion to a disabled hunter transports a big game animal on behalf of a disabled hunter, a proxy statement is required per Subsection 320.02. (4-4-13)

07. Companion's Possession Limit. Big game animals killed, tagged, or retrieved by a designated companion on behalf of a disabled hunter do not count against the companion's possession limit. (4-4-13)

08. Disabled Hunter Considered for Violation. The disabled hunter in possession of the valid tag shall be considered the hunter for violation of Section 351, waste of game meat. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

260. TAGS FOR CONTROLLED HUNTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

f. Any person who draws a spring controlled hunt tag for black bear, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)

g. Any person who draws a fall controlled hunt tag may choose to purchase the controlled hunt bear

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

h. Any resident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates a control hunt tag to his or her resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. (3-20-14)

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

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

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

i. Any nonresident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates his or her control hunt tag to a resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. (3-20-14)

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

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

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

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

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

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

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

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

(4-4-13)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions:

(7-1-93)

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

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. EXCEPT all successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled pronghorn/deer/elk tags to hunt in any open general and/or controlled pronghorn, deer or elk hunt in the following hunting season.

(4-4-13)

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

(4-7-11)

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

(4-4-13)

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

(7-1-93)

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

(4-7-11)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat tag.

(4-7-11)

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

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

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

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

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

m. The Commission establishes youth only controlled hunts by proclamation. Only hunters ten (10) 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 or a nonresident disabled American Veteran hunting license may apply for first-come, first-served leftover youth only controlled hunt permits. ~~(4-11-15)~~ ()

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

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

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

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

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

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

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

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (4-7-11)

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

c. Several applications may be submitted in a single envelope so long as each application is for a

single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. (4-7-11)

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

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

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

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

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

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

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

h. If a group application exceeds the number of tags available in a hunt that group application will not be selected for that hunt. (4-7-11)

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

j. Deer and elk unlimited controlled hunts as identified by the Fish and Game Commission's Big Game Season Proclamation as "first-choice only" may be applied for only as a first choice controlled hunt during the controlled hunt application process. The Proclamation is published in a brochure available at department offices and license vendors. (4-11-15)

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

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

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

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

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

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

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

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

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

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

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0108-1502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The purpose is to clarify the eligibility requirements for controlled hunt tags designated to a child or grandchild, and to make technical corrections.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 196-202](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer, Deputy Director, 208-334-3771.

DATED this 23rd Day of November 23, 2015.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
Tel (208) 334-3715
Fax (208) 334-4128
dallas.burkhalter@idfg.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

The purpose of the rule is to clarify eligibility requirements for controlled hunt tags designated to a child or grandchild, and to make technical corrections.

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

Not applicable.

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:

Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature, and there is a lack of identifiable representatives of affected interests.

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 Sharon Kiefer, Deputy Director (208) 334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 3rd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-1502

260. TAGS FOR CONTROLLED HUNTS.

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

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

b. In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the hunter of the invalidation of the tag. The person

will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (4-7-11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)

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

h. Any resident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates a control hunt tag to his or her resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild, except that 260.03.d., 03.f., 03.g., and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. ~~(3-20-14)~~()

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

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

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

i. Any nonresident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any nonresident adult person who possesses and designates his or her control hunt tag to ~~his or her nonresident~~ minor child or grandchild. Rules for eligibility in Section 260 apply to any nonresident adult person who possesses and designates a control hunt tag and to the designated nonresident minor child or grandchild except that 260.03.d., 03.f., 03.g., and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated nonresident minor child or grandchild. ~~(3-20-14)~~()

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

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

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

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

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

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

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

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

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

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

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. EXCEPT all successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled pronghorn/deer/elk tags to hunt in any open general and/or controlled pronghorn, deer or elk hunt in the following hunting season. (4-4-13)

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

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

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

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

bighorn ram the same year. (4-7-11)

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

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

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

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

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

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

m. The Commission establishes youth only controlled hunts by proclamation. Only hunters ten (10) 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. (4-11-15)

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

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

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

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

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

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

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

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (4-7-11)

- b.** Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. (4-7-11)
- c.** Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. (4-7-11)
- d.** Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail. (4-7-11)
- e.** Any controlled hunt tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any Point-of-Sale vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. (4-7-11)
- i.** Spring Turkey and Spring Bear - April 1. (4-7-11)
- ii.** Moose, Bighorn Sheep and Mountain Goat - July 10. (4-7-11)
- iii.** Deer, Elk, Pronghorn and Fall Bear - August 25. (4-7-11)
- f.** A "group application" for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (4-7-11)
- g.** A "group application" for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (3-29-10)
- h.** If a group application exceeds the number of tags available in a hunt that group application will not be selected for that hunt. (4-7-11)
- i.** Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game after July 15. (4-7-11)
- j.** Deer and elk unlimited controlled hunts as identified by the Fish and Game Commission's Big Game Season Proclamation as "first-choice only" may be applied for only as a first choice controlled hunt during the controlled hunt application process. The Proclamation is published in a brochure available at department offices and license vendors. (4-11-15)

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

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

otherwise. (3-20-97)

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

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

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

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

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

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

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

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

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0109-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

This rulemaking increases goose hunting opportunities in the Hagerman Valley and helps reduce goose conflicts with agricultural producers. This will benefit both hunters and agricultural producers. Decades ago the Department closed several areas around the state to goose hunting to provide migrating goose populations place to stop over where they wouldn't be hunted. The number of geese migrating through the Hagerman Valley has increased substantially over the past decade and a closure is no longer warranted. Additionally, geese are starting to have a negative impact to agricultural operations within the closed area. The rule partially rescinds the goose hunting closure in the Hagerman Valley in Gooding and Twin Falls Counties. The rescission would not affect the Hagerman Wildlife Management Area Waterfowl Closure. The size of the rescission was reached through negotiated rulemaking.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 203–206](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau, Regional Supervisor, 208-324-4359.

DATED this 23rd Day of November 23, 2015.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
Tel (208) 334-3715
Fax (208) 334-4128
dallas.burkhalter@idfg.idaho.gov

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

EFFECTIVE DATE: The effective date of the temporary rule is August 28, 2015.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

The purpose of the temporary and proposed rule is to increase goose hunting opportunities in the Hagerman Valley and to help reduce goose conflicts with agricultural producers. This will benefit both hunters and agricultural producers. Decades ago the Department closed several areas around the state to goose hunting to provide migrating goose populations place to stop over where they wouldn't be hunted. The number of geese migrating through the Hagerman Valley has increased substantially over the past decade and a closure is no longer warranted. Additionally, geese are starting to have a negative impact to agricultural operations within the closed area. The temporary and proposed rule partially rescinds the goose hunting closure in the Hagerman Valley in Gooding and Twin Falls Counties. The rescission would not affect the Hagerman Wildlife Management Area Waterfowl Closure. The size of the rescission was reached through negotiated rulemaking.

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:

Conferring a benefit.

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

Not applicable.

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

Not applicable.

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 February 4, 2015 Idaho Administrative Bulletin, [Vol. 15-2, pages 19 and 20](#).

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 temporary and proposed rule, contact Toby Boudreau (208) 324-4359.

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 28, 2015.

DATED this 28th Day of August, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0109-1501

400. AREAS CLOSED TO HUNTING OF GAME BIRDS.

01. General. Hunting, killing, or molesting of any game bird is prohibited in the following areas: (7-1-93)

a. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion of the Monument by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. (4-6-05)

b. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (3-20-97)

c. Harriman State Park Wildlife Refuge in Fremont County. (7-1-93)

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. (7-1-93)

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits. (5-3-03)

f. Yellowstone National Park in Fremont County. (7-1-93)

g. Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. (3-20-97)

h. Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area south of Highway 18 and west of Pebble Lane (Roswell Marsh segment). (5-3-03)

i. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action EXCEPT as otherwise expressly stated below in Section 410 under Game Preserves Open to Hunting of Game Birds. (7-1-93)

j. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-6-05)

02. Migratory Game Birds. In addition to the areas listed above, hunting, killing, or molesting of any migratory game bird EXCEPT mourning dove is prohibited in the following areas. Areas CLOSED to hunting of migratory game birds: (7-1-93)

a. Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. (7-1-93)

b. Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30 crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning. Exception: Department sponsored waterfowl hunts. (4-4-13)

c. Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of the existing water line. (7-1-93)

d. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property line that encompasses the lake. (3-15-02)

e. Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. (7-1-93)

f. Pend Oreille River in Bonner County within two hundred (200) yards each way of the ordinary high water line two thousand sixty-two and one-half (2,062.5) feet above sea level from the U.S. Highway 95 long bridge at Sandpoint downstream to an imaginary line between Springy Point on the south side of the river and Dover Peninsula on the north side of the river. (7-1-93)

g. Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level. (7-1-98)

h. Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway boundary and in the additional area within one hundred (100) yards of the exterior side of said boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Union Pacific Railroad tracks, then west along the Union Pacific Railroad tracks to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning. (7-1-93)

03. Geese. Areas CLOSED to the hunting of geese. In addition to the areas listed in Section 301 and Subsection 301.01 above, the hunting, killing, or molesting of any species of geese is prohibited in the following areas: (7-1-93)

a. Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure shall extend to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths (3/4) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following

Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. (7-1-93)

b. Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east on U.S. Highway 30 to ~~Miracle Hot Springs, then east on Twin Falls County 4800 North Road (River Road) to Banbury Hot Springs, then upstream approximately three hundred (300) yards to the Banbury Pipeline crossing the Snake River, then east across the Snake River at the Banbury Pipeline, continuing due east to a point two hundred (200) yards east of the east rim of the Snake River Canyon, then north along a line parallel to and two hundred (200) yards east of the Snake River Canyon rim to the Gooding County 3500 South Road (Camp Roach Road), then east on the 3500 South Road to the 1500 East Road, then north on the 1500 East Road to the 3200 South Road, then west on the 3200 South Road to the mile marker 187.5, then on a direct line east to the southern tip of Ritter Island (in the Snake River), then continuing east to the intersection of 3200 South Road and~~ 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. ~~(12-7-94)~~ ()

c. Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half (6 1/2) miles east of the City of Burley. (7-1-93)

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0109-1502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The purpose is to allow one more method of take (crossbow) for forest grouse, which is already an approved method of take for certain other big game species in general hunts so the weapon allowance does not represent new weaponry or new technology.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 207 and 208](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer, Deputy Director, 208-334-3771.

DATED this 23rd Day of November 23, 2015.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
Tel (208) 334-3715
Fax (208) 334-4128
dallas.burkhalter@idfg.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

The purpose of the rule is to allow one new method of take (crossbow) for forest grouse, which is already an approved method of take for certain other big game species in general hunts so the weapon allowance does not represent new weaponry or new technology.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature.

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 Sharon Kiefer, Deputy Director (208) 334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 28th Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0109-1502

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. Wild turkey shall not be taken between sunset and one-half (1/2) hour before sunrise. The Commission may designate by proclamation the shooting hours on Wildlife Management Areas with Upland Game Bird Permit requirements. (4-11-15)

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. Crossbow may be used to take forest grouse by a person

who possesses a Disabled Persons Archery Hunting Permit or a Special Weapon Reasonable Modification Hunting Permit authorizing use of a crossbow or by a person hunting in an area where crossbow is a lawful method of take for big game. ~~(3-30-01)~~()

- c. From any watercraft. (4-7-11)
 - d. By the use or aid of any electronic call. (7-1-93)
 - e. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (7-1-93)
 - f. When hunting on Wildlife Management Areas where pheasants are stocked without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. (5-8-09)
- 02. Wild Turkey.** In addition to the methods listed above, wild turkey may not be taken: (7-1-93)
 - a. With lead shot exceeding BB size. (7-1-93)
 - b. With steel shot exceeding T size. (7-1-93)
 - c. By the use of dogs, except during fall hunts. (3-30-01)

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following a concise explanatory statement of the reasons for adopting the pending rule:

This rule establishes specific conditions to allow the removal of heads and tails of trout, bass, and tiger muskie for transit or while in the field. The effective date coincides with the printing of the next triennial seasons brochure.

There are no changes to the pending rule and it is being adopted as originally proposed. The original text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 209 and 210](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dave Parrish, 208-287-2773.

DATED this 23rd Day of November 23, 2015.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
Tel (208) 334-3715
Fax (208) 334-4128
dallas.burkhalter@idfg.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

This rule establishes specific conditions to allow the removal of the heads and tails of trout, bass, and tiger muskie for transit or while in the field.

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: NA

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 1, 2015 Idaho Administrative Bulletin, [Vol. 15-7, page 38](#).

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 Dave Parrish (208) 287-2773.

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 28, 2015.

DATED this 3rd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0111-1501

104. IDENTIFICATION OF SPECIES AND SIZE IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Length. The length of a fish shall be determined by measuring the distance between the tip of the nose and the tip of the tail fin. (3-20-97)

02. Restrictions. No person shall have in the field or in transit any trout, tiger muskie, or bass from which the head or tail has been removed- ~~unless:~~ (3-20-97)()

a. The angler is ashore and done fishing for the day: ()

b. The fish is processed or packaged with the skin naturally attached to the flesh: ()

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

d. Processed trout, bass, and tiger muskie cannot be transported by boat. ()

03. **Possession Limit.** Any processed trout, bass, or tiger muskie count towards an angler's possession limit while in the field or in transit. ()

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The forecasted return of Coho salmon is sufficient to allow Coho salmon fishing seasons and harvest. This would be only the second such opportunity in more than 30 years. Most returning Coho salmon are not adipose fin-clipped, so the rule needs to be amended to allow take and possession of Coho salmon with an intact adipose fin in the Clearwater drainage. Additionally, the rules are updated and obsolete language removed before the printing of the next triennial seasons brochure.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 211-217](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dave Parrish, 208-287-2773.

DATED this 23rd Day of November 23, 2015.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
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Fax (208) 334-4128
dallas.burkhalter@idfg.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 28, 2015.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

The forecasted return of Coho salmon is sufficient to allow Coho salmon fishing seasons and harvest. This would be only the second such opportunity in more than 30 years. Most returning Coho salmon are not adipose fin-clipped, so the rule needs to be amended to allow take and possession of Coho salmon with an intact adipose fin in the Clearwater drainage. Additionally, the rules are updated and obsolete language removed before the printing of the next triennial seasons brochure.

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:

Conferring a benefit.

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

Not Applicable.

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

Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for a temporary rule to be implemented this year to provide harvest opportunity for Coho salmon, and the need to update and remove obsolete language before printing the next triennial seasons brochure.

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 temporary and proposed rule, contact Dave Parrish (208) 287-2773.

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 28, 2015.

DATED this 3rd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0111-1502

004. DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

11. Electric Motors Only. When fishing waters listed “electric motors only,” gas (internal combustion) motors may be attached to the boat; but use of the gas motor is prohibited. (3-20-97)

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

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

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

15. **Flat Water.** Water where there is no observable direction of flow. (3-29-12)
16. **Float Tube.** A floating device that suspends a single occupant, from the seat down, in the water, and is not propelled by oars, paddles, or motors. (4-6-05)
17. **Fly Fishing.** Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)
18. **Game Fish.** Brook, brown, bull (Dolly Varden), cutthroat, golden, lake (Mackinaw), rainbow (including steelhead), splake and sunapee trout; trout hybrids; Chinook, coho, Atlantic and kokanee (blueback) salmon; grayling; whitefish; cisco; crappie; perch; bass; catfish; bullheads; sunfish; sturgeon; northern pike; tiger muskie; walleye and sauger; and burbot (ling). Bullfrogs and crayfish are also defined as game fish. (4-6-05)
19. **General Rules.** The seasons, gear, and bag limits adopted for the Department Region where you are fishing. (3-29-12)
20. **Harvest.** Reduce a fish to possession. (3-20-97)
21. **Hook.** A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically prohibited. (3-20-97)
22. **Hybrid Fish.** The offspring of two (2) different species or subspecies of fish. (3-29-12)
23. **Ice Fishing.** Fishing through an opening broken or cut through the ice. (3-20-97)
24. **Length.** The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)
25. **Limit is 0 (Zero).** Fishing is allowed but the species listed in the rule or proclamation must be released after landing and may not be reduced to possession. (3-29-12)
26. **Motor.** Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)
27. **Mouth of River or Stream.** The place where a river or stream enters a larger body of water. (3-20-97)
28. **No Motors.** Fishing from a boat with a motor attached is prohibited. (3-20-97)
29. **Possession Limit.** Maximum number of fish that may be lawfully in possession of any person. "Possession limit" shall apply to fish while in the field or being transported to the final place of consumption or storage. (3-20-97)
30. **Reservoir.** The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-20-97)
31. **Season Limit.** The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)
32. **Section.** An area of a river, stream, or reservoir between specific boundary locations. (3-29-12)
33. **Single-Point Hook.** A bent wire device, for catching fish, with one (1) shank and one (1) point. (3-20-14)
34. **Sliding Sinker.** A method of attaching a sinker to a device that slides freely on the main line. The line used to attach the sinker to the sliding device must be of lower breaking strength than the main line. (3-2-10)

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

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

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

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

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

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

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

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

43. Watercraft. Those devices designed as a means of transportation on water. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

202. BAG AND POSSESSION LIMITS.

01. Bag Limit. Maximum number of fish that may be lawfully taken by one (1) person in one (1) day. ~~The bag and possession limits are equal, except where listed in region exceptions and for salmon and steelhead.~~ (3-20-97)()

02. Possession Limit. Maximum number of fish that may be lawfully in possession of any one (1) person. Possession limit shall apply to fish while in the field or being transported. All fish that are hooked, landed and not immediately released shall be counted in the possession limit of the person hooking the fish. (3-20-97)

03. Transport or Gift. No person shall transport for another or accept as a gift any game fish unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. (7-1-99)

04. Table on Bag and Possession Limits for Specified Fish. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons and regional exceptions by proclamation, which includes regional bag and possession limits for specified fish. The proclamation is published in a brochure available at Department offices and through license vendors. (3-2-10)

05. Special Limits. No person shall fish in any waters while having fish in possession in excess of the limits for those waters. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

403. PERMIT VALIDATION.

When a steelhead trout has been hooked, landed, and reduced to possession, the angler hooking the fish must immediately do the following: (3-20-97)

- 01. Permit.** Completely remove one (1) numbered notch from the permit. (3-20-97)
- 02. Number Code.** Look up the number code from the location code list and write it in the space provided.

RIVER LOCATION CODES	
SNAKE RIVER	
Snake River, downstream from Salmon River	01
Snake River, from Salmon River to Hells Canyon Dam	02
Snake River, Hells Canyon Dam to Oxbow Dam	27
CLEARWATER RIVER	
Clearwater River, downstream from Orofino Bridge	03
Clearwater River, upstream from Orofino Bridge	04
North Fork Clearwater River	05
<u>Middle Fork Clearwater River</u>	<u>06</u>
South Fork Clearwater River	07
<u>Lochsa River</u>	<u>08</u>
SALMON RIVER	
Salmon River, downstream from Whitebird Creek	10
Salmon River, Whitebird Creek to Little Salmon	11
Salmon River, Little Salmon to Vinegar Creek	12
Salmon River, Vinegar Creek to South Fork	13
Salmon River, South Fork to Middle Fork	14
Salmon River, Middle Fork to North Fork	15
Salmon River, North Fork to Lemhi River	16
Salmon River, Lemhi River to Pahsimeroi River	17
Salmon River, Pahsimeroi River to East Fork	18
Salmon River, upstream from the East Fork	19
OTHER	
Little Salmon River	20
<u>South Fork Salmon River</u>	<u>21</u>
Panther Creek	24
Boise River	28

~~(3-2-10)~~()

03. **Date Entry.** Enter the month and day the fish was caught. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Provisions for Processing and Transporting Salmon. No person shall have in the field or in transit hatchery-produced adult anadromous salmon that has been processed by removing the head and tail unless the following conditions are met: (3-29-12)

- a. The fish has been recorded on the taker's salmon permit; (3-29-12)
- b. The fish is processed and packaged with the skin naturally attached to the flesh including a portion with a healed, clipped, adipose fin scar or the adipose fin; and ~~(3-29-12)~~()
- c. The fish must be packaged in a manner that the number of fish harvested can be readily determined. (3-29-12)

02. Restrictions on Processing and Transporting Salmon. No person shall process salmon until they are ashore and done fishing for the day. No person shall transport processed salmon via boat. Jack salmon may not be processed while in the field or in transit. Any processed salmon count towards an angler's possession limit while in the field or in transit. (3-29-12)

505. SALMON SPECIAL RESTRICTIONS.

01. Method of Take. It is unlawful to use any hook larger than five-eighths (5/8) inch measured from the point of the hook to the shank. Salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Salmon may be taken with barbed hooks in the Boise River drainages, and the Snake River between Hells Canyon and Oxbow Dams. (3-2-10)

02. Snagging. No person shall kill or retain in possession any salmon which has been hooked other than in the mouth or jaw. Any salmon hooked other than in the mouth or jaw must be immediately released unharmed. (4-6-05)

03. Legal Catch. Any salmon caught in a legal manner must be either released or killed immediately after it is landed. (4-6-05)

04. Cease Fishing. Once an angler has attained his bag, possession, or season limit on those waters with salmon limits, he must cease fishing for salmon. (3-20-97)

05. No Harvest or Closed to Harvest. Effort, by permitted methods, to catch or attempt to catch a salmon is lawful with the restriction that any salmon so caught must be released immediately, unharmed, back to the water. (4-6-05)

06. Keeping Marked Fish. Prior to September 1 each year, only salmon which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages. Beginning September 1 each year, anglers may retain salmon with an intact adipose fin as set by Commission season proclamation. ~~(4-6-05)~~()

07. Fish Counted in Limit. All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish. (4-6-05)

08. Special Limits. No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (4-6-05)

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0116-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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(a) and 36-1103, Idaho Code.

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

The Idaho Fish and Game Commission directed the Department to work with trappers on trapper education as a means to avoid catching pets and other non-target animals rather than pursuing additional trapper equipment restrictions. The Department met with trapper association presidents who expressed support for a trapper education requirement. The rule was negotiated, and the proposed rule would establish a mandatory trapper education class, the class length, and required subject matter to be covered.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 218 and 219](#).

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

No fiscal impact to the General Fund. A program fee of \$8 (Idaho Code Section 36-412(c)) for each individual enrolling in trapper education will recover some costs of the program. IDFG expects that the trapper education program will cost approximately \$50,000 for the first two years in order to start up the program and meet short term demand for classes. Expenses will decrease in subsequent years. These expenses will affect the fish and game dedicated fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brenda Beckley, 208-287-2884.

DATED this 23rd Day of November 23, 2015.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
Tel (208) 334-3715
Fax (208) 334-4128
dallas.burkhalter@idfg.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(B), 36-1101(A), and 36-1103, 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 21, 2015.

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:

The Idaho Fish and Game Commission directed the Department to work with trappers on trapper education as a means to avoid catching pets and other non-target animals rather than pursuing additional trapper equipment restrictions. The Department met with trapper association presidents who expressed support for a trapper education requirement. The rule was negotiated, and the proposed rule would establish a mandatory trapper education class, the class length, and required subject matter to be covered.

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

Section 36-412(c), Idaho Code, authorizes a fee of not more than eight dollars (\$8.00) for reimbursement of furnished materials.

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

No fiscal impact to the General Fund. A program fee of eight dollars (\$8) (Idaho Code Section 36-412(c)) for each individual enrolling in trapper education will recover some costs of the program. IDFG expects that the trapper education program will cost approximately fifty thousand dollars \$50,000 for the first two years in order to start up the program and meet short term demand for classes. Expenses will decrease in subsequent years. These expenses will affect the fish and game dedicated fund.

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 April 1, 2015 Idaho Administrative Bulletin, [Vol. 15-4, page 27](#).

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 Brenda Beckley (208) 287-2884.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 3rd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0116-1501
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101. -- ~~149~~05. (RESERVED)

106. TRAPPER EDUCATION.

01. Mandatory Trapper Education Program. All persons who purchased their first Idaho trapping license after July 1, 2010 must successfully complete a Department of Fish and Game trapper education course, or provide proof that such person holds the equivalent of such a certificate obtained either in Idaho or from an authorized agency or association in another state or country. All persons being certified under this program must have successfully completed at least six (6) hours of instruction in rules, species identification, trapping methods/techniques, wildlife management, ethics, responsibility, and avoiding non-target catches. Those who have taken wolf trapping education from Idaho or from an authorized agency or association in another state or country, are not exempt and must still complete the Idaho trapper education course. ()

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

03. Effective Date. On and after July 1, 2017, no person who purchased their first Idaho trapping license after July 1, 2010 shall be issued a trapping license, unless that person presents a certificate of completion in trapping education issued by the Department or proof that such person holds the equivalent of such a certificate obtained either in Idaho or from an authorized agency or association in another state or country. ()

107. -- 149. (RESERVED)

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0117-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

To align the criteria for the distance of black bear baiting sites from water, trails, and roads.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 220 and 221](#).

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

Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer, Deputy Director, 208-334-3771.

DATED this 23rd Day of November 23, 2015.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
Tel (208) 334-3715
Fax (208) 334-4128
dallas.burkhalter@idfg.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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 align the criteria for the distance of black bear baiting sites from water, trails, and roads.

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: NA

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 1, 2015 Idaho Administrative Bulletin, [Volume 15-7, page 39](#).

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 Sharon Kiefer, Deputy Director (208) 334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 3rd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0117-1501

100. USE OF BAIT FOR HUNTING.

Bait for hunting 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 gray wolf may be taken incidentally to bear baiting. (4-4-13)

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 bait may be placed one (1) week prior to the opening of bear season in Units 10, 12, 16A, 17, 19, 20, 20A, 26 and 27. (4-4-13)

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); EXCEPT bait, bait containers,

and materials may remain in Units 10 and 12 between the dog training season and the fall hunt. (4-4-13)

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~~ established roadway that is open to the general public for motorized traffic and capable of being traveled by full-sized automobiles. (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. (4-7-11)

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 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the 2016 legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

Section 36-2107, Idaho Code, directs the Board to prescribe and establish rules of procedure to carry into effect the provisions of its governing statute. This includes the issuance of outfitter licenses with such restrictions and limitations thereon as the board may find reasonable for safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides and for the conservation of wildlife and range resources. In doing so the Board has the power to cooperate with the federal and state government in matters of mutual concern regarding the business of outfitting and guiding. The Board adopted the pending rule at its November 18th meeting in Boise with one minor change as follows.

The Board licenses Outfitter businesses that provide boating and fishing services to the public on the South Fork of the Snake River (SS1). The rule recognizes one outfitter historically licensed for Waterfowl hunting who will be grandfathered in on a portion of (SS1) for that purpose and initially limited to two boats. Based on input from that outfitter, the Board expanded the limit by added two additional boats for that purpose.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the Oct. 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 460-472](#).

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jake Howard, Executive Director, Outfitters and Guides Licensing Board (208) 327-7380.

DATED this 4th Day of December, 2015.

Jake Howard
Executive Director
Outfitters and Guides Licensing Board
1365 N. Orchard Street, Suite 172
Boise, ID 83706
(208) 327-7380 office / (208) 327-7382 fax

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

Section 36-2107, Idaho Code, directs the Board to prescribe and establish rules of procedure to carry into effect the provisions of its governing statute. This includes the issuance of outfitter licenses with such restrictions and limitations thereon as the board may find reasonable for safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides and for the conservation of wildlife and range resources. In doing so the Board has the power to cooperate with the federal and state government in matters of mutual concern regarding the business of outfitting and guiding.

The Board licenses Outfitter businesses that provide boating and fishing services to the public on the South Fork of the Snake River (SS1), a section of the Henry's Fork of the Snake River (SH3), a section of the Snake River above Idaho Falls (SN-1), and a section of the Teton River (TE-3). This rulemaking clarifies individual use areas and conforms state licensed outfitter boating limits on these four river sections in Eastern Idaho with federal permit requirements that will be established in a decision record for Interagency Management of Special Recreation Permits/ Special Use Permits and Designated Camping within the Snake River Planning Area and Teton River Canyon developed by the Upper Snake Field Office, Bureau of Land Management; the Palisades Ranger District, US Forest Service. It also grandfathered in one outfitter historically licensed for Waterfowl hunting on a portion of the South Fork of the Snake River.

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

No fees or charges are being increased or imposed in this rulemaking.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted for the following reasons:

These rivers are fully or partly managed and various uses permitted by the Bureau of Land Management or the US Forest Service. This rule is the result of those agencies working together to develop a draft environmental assessment that received public comments. The federal agencies will coordinate with the state regarding the proposed rule and will issue a decision record at the same time the state issues a final rule in order to have consistency between all agencies. The Board, in consideration of Section 36-2107 (e), Idaho Code, has cooperated with these agencies during this process and plan to jointly move these rules governing the licensing of outfitters on these rivers forward in order to parallel federal requirements. The Board has concluded that the processes used by these federal agencies has met or has exceeded the public involvement processes required in the Idaho Administrative Procedure Act (APA) and by doing so greatly supplements the Board in its rule promulgation process following APA requirements. The federal rulemaking has significantly considered public need and interest as well as the appropriate uses and conservation of

these river resources and the Board's promulgation of these rules will allow it to further take these matters into consideration.

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:

There are no documents being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jake Howard, Executive Director, Outfitters and Guides Licensing Board (208) 327-7380.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 26th Day of August, 2015.

LSO Rules Analysis Memo

Italicized red text that is *double underscored* is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-1501

059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

01. Licensable Waters -- River Sections (BL1) Blackfoot River through (PR1) Priest River --
Table. The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
(BL1) Blackfoot River - Morgan Bridge to Trail Creek Bridge	none	2
(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman. No overnight camping or walk-and-wade fishing allowed.	none	2
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. Each outfitter may use at any time a maximum of four (4) boats for boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2

River/Section	Maximum No. Power	Maximum No. Float
(CF1) Clark Fork River - Montana stateline to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
(CL1) Clearwater River - Lowell to the Lower Bridge at Kooskia. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. Fishing may not be conducted downstream from the Upper Bridge at Kooskia by CL1 outfitters. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5
(CL2) Clearwater River - The Upper Bridge at Kooskia to the Orofino Bridge. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	6	10
(CL3) Clearwater River - The Orofino Bridge to the mouth of the Clearwater River with the Snake River at Lewiston. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	10	10
* (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
(CDNF) Headwaters of North Fork Coeur d'Alene - Including tributaries (Independence and Tee Pee Creeks) upstream from Devils Elbow Campground. Three (3) walk and wade only licenses. Up to four (4) clients on the river at one time per license.	none	none
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence (boating closing date is June 30). Fishing limit is two (2) float boats per license with a maximum of two (2) clients at a time per boat. Two (2) additional walk and wade licenses can be issued. Walk and wade limited to a maximum of two (2) clients at a time per license.	none	1

River/Section	Maximum No. Power	Maximum No. Float
(CD2) Coeur d'Alene River - South Fork confluence downstream to Cataldo Mission Boat Ramp. The float boat closing date is June 30. Fishing limit is one (1) float boat per license with a maximum of two (2) clients or two walk and wade clients per license at a time. Walk and wade activities do not have to be initiated from a float boat.	none	1
(CD3) Lateral (Coeur d'Alene chain) Lakes - Connected by the Coeur d'Alene river. Cataldo Mission Boat Ramp to Highway 97 Bridge. A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) guide per license and two (2) float tubes at a time or two (2) clients walking and wading. The walk and wade activities must be associated with the power boating.	3	none
* (JB1) Jarbidge/Bruneau Rivers	none	4
(KO1) Kootenai River - Montana stateline to Canada boundary	5	5
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.	none	2
* (LO1) Lochsa River	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
* (OW1) Owyhee River - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River and continuing on to a take-out point.	none	6
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge	none	5

River/Section	Maximum No. Power	Maximum No. Float
(PS1) Payette River, South Fork - Grandjean to Deadwood River	none	5
* (PS2) Payette River, South Fork - Deadwood River to Banks	none	5
(PA1) Payette River - Banks to Black Canyon Dam	none	5
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City	none	5

(4-11-06)

02. Licensable Waters -- River Sections (MF1) Middle Fork Salmon River Through (SE2) Selway River -- Table. The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
*##(MF1) Salmon River, Middle Fork - Boundary Creek to Indian Creek	none	27
*## (MF2) Salmon River, Middle Fork - Indian Creek to Cache Bar on the Salmon River	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	5
(SA3) Salmon River - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6

River/Section	Maximum No. Power	Maximum No. Float
(SA4A) Salmon River - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
(SA4B) Salmon River - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
(SA5) Salmon River - North Fork to Corn Creek	3	9
***SA6) Salmon River - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	14	31
* SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26
* SA7B) Salmon River - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	6	12
* SA7C) Salmon River - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
***SA8) Salmon River - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35

River/Section	Maximum No. Power	Maximum No. Float
* (SE1) Selway River - Paradise Campground to Selway Falls	none	4
(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5

(4-11-06)

03. Licensable Waters -- River Sections (SH1) Henry's Fork Snake River Through (TE3) Teton River -- Table. The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
(SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing. No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	7
(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony. Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing, no more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	8

River/Section	Maximum No. Power	Maximum No. Float
<p>(SH3) Snake River, Henry's Fork - St. Anthony to confluence with South Fork of Snake River. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan</p> <p><u>No more than three (3) boats for fishing may be used by an outfitter at any one (1) time in each of the following river sections:</u></p> <p><u>a) St. Anthony to Red Road Bridge Boat Access (i.e., Parker/Salem or Fort Henry)</u></p> <p><u>b) Red Road Bridge Boat Access to Warm Slough Boat Access</u></p> <p><u>c) Warm Slough Boat Access to Menan Boat Access</u></p> <p><u>No outfitter may have more than six (6) boats on the SH3 in any one (1) day.</u></p> <p><u>When permitted by the BLM and with the notification to and concurrence of the IOGLB Executive Director, each outfitter may be allowed adjustments to the maximum boat limits in order to accommodate non-fishing boating activities (e.g., canoeing, paddle boards, and kayaks) and hazardous excursions that are part of an outfitter's operating plan. These adjustments must be reviewed and approved annually.</u></p> <p><u>IOGLB licenses are for the entire SH3 segment; a section of SH3 cannot be separated from SH3 for the purposes of selling a portion of an outfitter's business.</u></p>	none	4

River/Section	Maximum No. Power	Maximum No. Float
<p>(SS1) Snake River - South Fork - Palisades Dam to confluence with Henry's Fork. No more than four (4) boats per section/per day may be used by an outfitter at any one time on any of the following river reaches: (a) Palisades Dam to Swan Valley Bridge; (b) Swan Valley Bridge to Black Canyon. (Exception: Not more than eight (8) boats will be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m.); (c) Black Canyon to Poplar (Kelly Canyon); and (d) Poplar to the confluence with Henry's Fork. Restrictions: No outfitter may have more than twelve (12) boats on the SS1 in any one (1) day. Further, the lower boundary of Section (a) (Palisades Dam to Swan Valley Bridge) shall overlay Section (b) to the Conant takeout (Swan Valley Bridge to Black Canyon), and Section (b) shall overlay Section (c) to the Cottonwood access. Supply boats which do not carry clients are exempt from these restrictions</p> <p><u>No more than four (4) boats per section/per day may be used by an outfitter at any one (1) time in each of the following river sections:</u></p> <p><u>a) Palisades Dam to the Conant Boat Access;</u> <u>b) Conant Boat Access to Fullmer Boat Access. Exception: Not more than eight (8) boats would be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m. due to overnight use at designated outfitter camps;</u> <u>c) Fullmer Boat Access to Byington Boat Access;</u> <u>d) Byington Boat Access to Lorenzo Boat Access; and</u> <u>e) Lorenzo Boat Access to Menan Boat Access;</u></p> <p><u>Additionally, no outfitter may have more than twelve (12) boats on the SS1 in any one day.</u></p> <p><u>A one-time per year exception after July 15 may be granted from Conant Boat Access to Byington Boat Access that would allow two (2) additional boats per section to accommodate large client groups. During this one-time exception, if the two (2) additional boats do not accommodate the large client group, additional boats must come from slots allocated to other outfitters. The maximum daily boat limit for SS1 may not be exceeded. This would require written concurrence from the BLM/USFS and the IOGLB Executive Director.</u></p> <p><u>Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor.</u></p> <p><u>IOGLB licenses are for the entire SS1 segment; a section of SS1 cannot be separated from SS1 for the purposes of selling a portion of an outfitter's business.</u></p>	<p><u>5</u> <u>None*</u></p>	<p><u>6</u> <u>8**</u></p>

River/Section	Maximum No. Power	Maximum No. Float
<p><u>* Each licensed float boat outfitter may use one (1) supply boat (float or power) that does not carry clients. During periods of preparing overnight camps (i.e., setting up tents and portable toilet facilities, boating in grills and other cooking supplies) for the season, usually May or June of each year; and removing the same items listed above from overnight camps at the end of the season, usually October or November; multiple supply boats may be used.</u></p> <p><u>** One (1) license additional for waterfowl hunting covering both BLM and USFS managed lands and waters for the South Fork (Palisades Dam to Wolf Flats Boat Access may be issued. This license opportunity is in addition to the eight (8) float licenses and is limited to providing waterfowl hunting during waterfowl hunting season as defined by Idaho Fish and Game Rules and where no more than two (2) float or power boat boats per day <i>per section a and b only</i> can be used by the outfitter at any one time for that purpose. Fishing may not be provided or conducted unless the outfitter is also licensed and permitted as one (1) of the eight (8) outfitters addressed in this rule who may not provide hunting activities. This business opportunity may be sold separately.</u></p>		
<p>(SN1) Snake River - Henry's Fork confluence downstream to Gem State Power Plant <u>For each license/permit issued, no more than four (4) boats per section/per day may be used by an outfitter at any one time in each of the following river sections:</u></p> <p><u>a) Menan Boat Access to Mike Walker Boat Access (includes Federally managed lands);</u> <u>b) Mike Walker Boat Access to Gem State Power Plant (includes non-Federal lands).</u></p> <p><u>Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor.</u></p> <p><u>OGLB licenses are for the entire SN1 segment; a section of SN1 cannot be separated from SN1 for the purposes of selling a portion of an outfitter's business.</u></p>	<p><u>3 outfitters either float or power or combination thereof</u></p>	<p><u>3</u></p>
(SN2) Snake River - Gem State Power Plant downstream to headwaters of American Falls Reservoir	3	3
(SN3) Snake River - American Falls Dam to Massacre Rocks State Park	3	3
(SN4) Snake River - Massacre Rocks State Park to Milner Dam	3	3
* (SN5) Snake River - Milner Dam to Star Falls	none	3

River/Section	Maximum No. Power	Maximum No. Float
* (SN6) Snake River - Star Falls to Twin Falls	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing, two (2) one-day float trips only	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters.)	
(SJ1) St. Joe River - St. Joe River Headwaters to Red Ives. No outfitted boating. One (1) walk and wade only fishing outfitter.	none 2	none
(SJ2) St. Joe River - Red Ives to Avery. In addition to one (1) float boat license, three (3) walk and wade only outfitters. No fishing from float boats, boat clients may fish via walk and wade.	none	1
(SJ3) St. Joe River - Avery to St. Joe City Bridge	none	2

River/Section	Maximum No. Power	Maximum No. Float
(SJ4) St. Joe River - St. Joe City Bridge to Lake Coeur d'Alene	2	none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge, motors not to exceed 10 hp	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge, motors not to exceed 10 hp	6 outfitters for either power or float or combination thereof	
<p>(TE3) Teton River - Harrop Bridge to confluence with Snake River, motors not to exceed 10 hp</p> <p><u>No more than two (2) boats per section/per day may be used by an outfitter at any one time in each of the following river sections: a), b), d), e) and f). No more than four (4) boats per section/per day may be used by an outfitter at any one time on river section c) and where two (2) boats from same outfitter must be spaced at three-hour (3) intervals:</u></p> <p>a) Harrop Bridge Boat Access to Felt Dam Boat Access; b) Felt Dam Boat Access to Spring Hollow Boat Access; c) Spring Hollow Boat Access to Teton Dam Site Boat Access; d) Teton Dam Site Boat Access to Hog Hollow Bridge Boat Access e) Hog Hollow Bridge Boat Access to Teton Highway; f) Teton Highway to confluence with the Henrys Fork of the Snake River.</p> <p><u>Note: No boat access exists at the confluence with the Henrys Fork of the Snake River. Outfitters would utilize Hibbard Bridge or Warm Slough Access on SH3. No fishing on SH3</u></p> <p><u>No outfitter may have more than eight (8) boats on the TE3 in any one day.</u></p> <p><u>Float boats may use motors not to exceed 10 hp in section a) (Harrop Bridge to Felt Dam Access) only. Float boats may use motors (5HP or less) for downstream steerage only in sections d), e) and f). Motors are not allowed in other sections. Downstream steerage does not include holding or upstream travel of watercraft with a motor.</u></p> <p><u>IOGLB licenses are for the entire TE3 segment; a section of TE3 cannot be separated from TE3 for the purposes of selling a portion of an outfitter's business.</u></p>	none	5

* Classified rivers

Floatboat and powerboat outfitters on these sections shall be considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but shall not include overnight activities. Conflicts with land-based outfitters shall be handled on a case-by-case basis. ~~(3-30-07)~~ ()

04. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho shall be open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(4-1-92)

05. Other Lakes and Reservoirs. All other Idaho lakes and reservoirs shall be limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. (4-1-92)

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.06 - RULES GOVERNING COOPERATOR RECOGNITION AND SALE OF ADVERTISING

DOCKET NO. 26-0106-1501 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-4210, 67-4223, and 67-4249, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 473-477](#).

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

There is no expected negative fiscal impact. IDPR is requesting the rules as part of our ongoing efforts to provide additional revenue sources through cooperator recognition and the sale of advertising.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anna Canning, 208-514-2252.

DATED this 7th Day of December, 2015.

Anna Canning, Management Services Administrator
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue, Boise, ID 83716-8700
P.O. Box 87320, Boise ID 83720-0065
Telephone: 208-514-2252 / FAX 208-334-5232

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4210, 67-4223, and 67-4249, 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 21, 2015.

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:

During the 2015 Regular Legislative Session, the Legislature passed S1089aaH that authorized the Park and Recreation Board to enter into agreements to secure long-term funding sources and authorized the recognition of cooperators as well as the sale of advertising. The Senate Committee on Resources and Environment requested that IDPR develop associated administrative rules.

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:

There is no expected negative fiscal impact. IDPR is requesting the rules as part of our ongoing efforts to provide additional revenue sources through cooperator recognition and the sale of advertising.

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 August 5, 2015 Idaho Administrative Bulletin, [Vol. 15-8, page 105](#).

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:

No documents or materials are incorporated by reference in this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, contact Anna Canning at 208-514-2252.

All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015. Please send electronic submissions to anna.canning@idpr.idaho.gov.

DATED this September 3rd, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0106-1501

IDAPA 26
TITLE 01
CHAPTER 06

26.01.06 - RULES GOVERNING COOPERATOR RECOGNITION AND SALE OF ADVERTISING

000. LEGAL AUTHORITY.

These rules, promulgated by the Idaho Parks and Recreation Board pursuant to Section 67-5201, et seq., Idaho Code, and Section 67-4223, Idaho Code, are intended to further define and implement Section 67-4223(15), Idaho Code, which deals with sponsorship and the sale of advertising. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter will be cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.06, "Rules Governing Cooperator Recognition and Sale of Advertising." ()

02. Scope. The purpose of this chapter is to establish and document appropriate recognition for cooperators that provide financial assistance to Idaho Department of Parks and Recreation; and set appropriate criteria for the sale of advertising. ()

002. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEAL.

Any person who may be adversely affected by a final decision, ruling, or direction of the director may appeal the decision, ruling, or direction as outlined under IDAPA 26.01.01.250, Rules of Administrative Procedure of the Idaho Park and Recreation Board. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office. The central office of the department and the board is in Boise, Idaho. The telephone number for the board and the department is: (208) 334-4199. ()

02. Office Hours. The central office is open from 8 a.m. until 5 p.m., Mountain Time, Monday through Friday. The central office is closed Saturdays, Sundays, and holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. ()

007. (RESERVED)

008. DEFINITIONS.

01. Advertisement. Any message distributed by any means that promotes or markets a business, service, facility, or product. Something that is shown or presented to the public to help sell a product or service. ()

02. Board. The Idaho Park and Recreation Board. ()

03. Cooperator. An individual, foundation, corporation, government agency, not-for-profit organization, friends groups, concessionaire, or other entity that acts as a benefactor by donating, contributing, granting, subscribing, leasing, or providing other funds, materials, or labor for the purpose of maintenance, improvement, restoration, enhancement, reclamation, addition or enlargement of programs, holdings, properties, resources, or facilities of the department. ()

04. Department. The Idaho Department of Parks and Recreation. ()

05. Director. The Idaho Department of Parks and Recreation director or designee. ()

06. Facilities. Any constructed feature or object within a state park including but not limited to, shelters, visitor centers, storage structures, work centers, entrance kiosks, campground loops, restroom and shower facilities, amphitheaters, lodges, overnight lodging, group use area, concessionaire facilities, boat launches and ramps, playground equipment, fire rings, paddocks, pathways, roads, pay stations, or trail and directional signs.

()

07. Recognition Plan. An agreement describing the arrangement between the department and the cooperator. ()

009. -- 049. (RESERVED)

050. PROVISIONS REGARDING COOPERATOR RECOGNITION.

01. Applicability. These rules apply to recognition given in consideration of financial, in-kind, or material assistance from cooperators. Financial assistance may be in the form of donations, grants, inter-governmental agreements or partnerships, sponsorships, endowments, concessionaire agreements, or other working agreements with the department. These rules focus on appropriate recognition of cooperators, regardless of the form of the working agreement. Recognition of cooperators must be consistent with the department's mission, goals, and policies. ()

02. Appropriate Forms of Recognition. The following forms of recognition among others may be appropriate: "thank you" message; commemorative object; acknowledgement on materials or equipment; acknowledgement on department-published media; temporary display of cooperator logos, branding, products, or signs at events; verbal recognition; temporary construction signs; recognition boards; exhibit labels; semi-permanent signs; permanent signs; and naming rights. ()

03. Recognition Plan. The recognition plan must include, but is not limited to: ()

a. A detailed statement of how the department is improving services through the arrangement and how the arrangement supports the mission of the department. ()

b. A detailed statement of the department's and the cooperator's responsibilities and roles. ()

c. A detailed plan for recognition of cooperators contributions to include display, type, location, size, design, content, and duration. ()

d. Term and termination provisions. ()

04. Cumulative Impacts. The department will minimize the impacts of visual clutter to natural, cultural, historic, and built environments. ()

05. Maintenance and Repair. The department is under no obligation to maintain or replace recognition signs, plaques, or structures if they are vandalized, lost, stolen or otherwise destroyed, or need to be relocated as a result of necessary park operations. ()

06. Special Privileges. Providing financial assistance to the department on a project does not entitle the cooperator to any special privileges other than recognition as set forth in this chapter. ()

07. Right to Refuse. The department will, among other matters, consider the qualifications and experience of any individual or entity seeking to become a cooperator, and the ability of any individual or entity to abide by the recognition plan authorized by these rules. The primary consideration in any arrangement is the benefit to the department and the compatibility of the cooperator's products, services, and mission with the department's mission, goals, and policies. The department may refuse to enter into a recognition plan with any potential cooperator. The department will not enter into a recognition plan with political organizations, adult entertainment establishments, or companies whose primary business is selling tobacco or pornography. ()

08. Prohibited Arrangements. The department will not approve a recognition plan that contains the following prohibited arrangements: ()

a. Qualitative or comparative language; ()

- b.** Endorsements by the department; ()
- c.** Price information or indications of savings or value; or ()
- d.** Non-commercial speech that may be construed as political, religious, or as asserting a position on a public issue. ()

09. Recognition Plan Approval. The board has approval authority for any recognition plan that includes naming rights. The director has approval authority for all other recognition plans. ()

051. NAMING RIGHTS.

01. Geographic Features. The department will not name geographic features, whether natural or man-made, for cooperators. ()

02. State Park or Unit. ()

a. Because state parks are public places owned by the people of Idaho, simply having made a significant monetary contribution to the department is not compelling justification to associate the name of a cooperator with a state park or unit. For this reason, recognizing cooperators by naming state parks or units should be carefully considered so that the perceptions of the public are positive and the recognition does not imply private or exclusive use or ownership. ()

b. State parks and units, in most cases, should bear the name to which they have been historically known due to location, topography, natural resources, or cultural values. ()

c. For new and existing state parks, the board may recommend naming the state park in honor of an individual, living or deceased, or an entity that has contributed specifically to the park and that represents achievement of highest distinction in a professional or public service role which does not conflict with the department mission and goals. The state legislature will have final approval of the state park name. ()

d. For new and existing state park units, the board may name the park unit in honor of an individual, living or deceased, or an entity that has contributed specifically to the park unit and that represents achievement of highest distinction in a professional or public service role which does not conflict with the department mission and goals. ()

03. State Park Facilities. The board may name facilities, structures, or rooms within a structure to recognize a cooperator. The department cannot assure cooperators that the name will be permanently affixed to the facility. Any sign displaying the name may be removed and replaced within an established time frame, when the facility is being renovated, or if there are problems of vandalism or other maintenance concerns. ()

052. PROVISIONS REGARDING THE SALE OF ADVERTISING.

01. Applicability. The sale of advertising must be consistent with the department's mission, goals, and policies. These rules apply to: ()

- a.** The direct sale of advertising by the department; and ()
- b.** Arrangements with a vendor to sell advertising space on specific media. ()

02. Prohibited Content. The department will not display or approve advertising that: ()

- a.** Implies endorsement of products or services by the department; ()
- b.** Advocates an illegal use or activity; ()
- c.** Contains non-commercial speech that advocates a position regarding a political, religious, or public ()

issue; ()

d. Is clearly defamatory, obscene, or sexually suggestive; or ()

e. Denigrates groups or individuals on the bases of gender, race, religion, ethnicity, national origin, disability, or political affiliation, or otherwise debases the dignity or stature on any individual or group of individuals. ()

03. Cumulative Impacts. The department will minimize the impacts of visual clutter to natural, cultural, historic, and built environments. ()

04. Maintenance and Repair. The department is under no obligation to maintain or replace advertising materials if they are vandalized, lost, stolen, or otherwise destroyed, or need to be relocated as a result of necessary park operations. ()

05. Special Privileges. Purchasing advertising does not entitle the purchaser to any special privileges other than advertising as set forth in this chapter. ()

06. Right to Refuse. The department will, among other matters, consider the qualifications and experience of any individual or entity seeking an advertising opportunity. The primary consideration in any arrangement is the benefit to the department and the compatibility of the advertiser's products, services, and mission with the department's mission, goals, and policies. The department may refuse to sell advertising to any potential purchaser. The department will not sell advertising to political organizations, adult entertainment establishments, or companies whose primary business is selling tobacco or pornography. ()

07. Approval for the Sale of Advertising. The director has approval authority for the sale of advertising. ()

053. -- 999. (RESERVED)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment *sine die* of the Second Regular Session of the Sixty-third Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code §§ 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Idaho Code §§ 39-105, 39-107, and 39-3601 et seq.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, October 7, 2015, [Vol. 15-10, pages 653-678](#). After consideration of public comments, the rule has been revised at Section 210. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0102-1201 or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Dated this 6th day of January, 2016.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

ORIGINATING LOCATION – LIVE HEARING

DEQ State Office
Conference Room C
1410 N. Hilton, Boise, Idaho

Tuesday, October 27, 2015
3 p.m. Mountain Time

VIDEO CONFERENCING LOCATIONS

DEQ Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, Idaho

DEQ Pocatello Regional Office
444 Hospital Way #300
Pocatello, Idaho

Department of Environmental Quality
1118 F Street
Lewiston, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: On May 10, 2012, the United States Environmental Protection Agency (EPA) disapproved the July 7, 2006 Idaho DEQ water quality standard rule submittal. The disapproval affects 167 of Idaho's revised human health criteria for 88 toxic pollutants. In addition to incorporating newer toxicity information, DEQ's 2006 rule changed the fish consumption basis for determining the toxic standard from 6.5 g/day to 17.5 g/day, based on EPA's nationally recommended fish consumption rate. EPA disapproved the proposed criteria because EPA believes that the resulting criteria do not protect Idaho's designated uses. As a result, EPA was unable to determine that the 17.5 g/day fish consumption rate was consistent with 40 CFR 131.11(a). EPA identified several sources of information on local and regional fish consumption, which they claim that Idaho did not consider before using the national default fish consumption rate. According to EPA, the information that EPA reviewed suggests that fish consumption among some Idaho population groups is greater than 17.5 g/day.

Over the span from October 2012 to August 2015, DEQ met with interested parties in eighteen negotiated meetings. DEQ planned a statewide Idaho fish consumption survey then executed a yearlong survey and, while the survey was underway, discussed the various policy decisions involved in derivation of criteria protective of human health. At the same time as Idaho's fish consumption survey was being conducted, the Nez Perce Tribe and Shoshone-Bannock Tribes were conducting similar surveys to inform DEQ's knowledge of the potential magnitude of exposure to toxic substances through consumption of fish with the help of EPA and the intent that this information would also inform DEQ's revision of human health criteria. In May 2014 EPA proposed updates to its national 304(a) criteria, recommendations to states and tribes, for protection of human health. These updates were based on a new national fish consumption rate of 22 g/day, as well as new information on body-weight, drinking water intake, chemical toxicity, bioaccumulation of toxins in fish tissue, and the relative magnitude of contribution to exposure to toxins from various sources other than fish and water. EPA's proposal was finalized on June 29, 2015, providing new or updated criteria for 94 chemicals, some not currently present in Idaho's rules.

EPA's national action expanded what DEQ considered in its rulemaking. In addition to recent information on fish consumption in Idaho, these criteria changes also incorporate new information on body-weight, drinking water intake, toxicity, bioaccumulation, and relative source contribution. DEQ is also updating more criteria than just those EPA acted on in 2012.

The current rule proposal is to update Idaho's human health criteria for 104 toxic substances (10 of which are new), plus an additional fish-plus-water criterion for copper based on the drinking water maximum contaminant level (MCL). There are 208 revised or new criteria, consisting of 94 revised and 10 new criteria based on exposure to toxic substances from the consumption of fish and ingestion of water plus an additional fish-plus-water criterion for copper, and 94 revised and 10 new criteria based on exposure to toxic substances from the consumption of fish alone. In addition, although new input values were used, the values for the antimony fish only criterion and the bromoform fish-plus-water criterion did not change; these are counted as revised criteria. With this proposal, Idaho will have updated all of its human health criteria except those for arsenic, methylmercury, and asbestos.

Idahoans that recreate in, drink from, or fish Idaho's surface waters, and any who discharge pollutants to those same waters, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in December 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the September 2012 Idaho Administrative Bulletin, **Vol. 12-9**. Eighteen meetings were held between October 2012 and August 2015. A preliminary draft rule was made available for public review in August 2015. Members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments. A record of the negotiated rule drafts, written comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary is available at www.deq.idaho.gov/58-0102-1201.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions that resulted in drafting the proposed rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final rule draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before November 6, 2015.

DATED this 7th Day of October, 2015.

LSO Rules Analysis Memo

Italicized red text that is double underscored is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-1201

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards," the following definitions apply: (4-11-06)

01. Activity. For purposes of antidegradation review, an activity that causes a discharge to a water subject to the jurisdiction of the Clean Water Act. (3-18-11)

02. Acute. A stimulus severe enough to induce a rapid response. In aquatic toxicity tests, acute refers to a single or short-term (i.e., ninety-six (96) hours or less) exposure to a concentration of a toxic substance or effluent which results in death to fifty percent (50%) of the test organisms. When referring to human health, an acute effect is not always measured in terms of lethality. (3-30-07)

03. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity due to exposure to the toxic substance or effluent. Acute criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Maximum Concentration (CMC). There are no specific acute criteria for human health; however, the human health criteria are based on chronic health effects and are expected to adequately protect against acute effects. (3-30-07)

04. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

05. Assigned Criteria. Criteria associated with beneficial uses from Section 100 of these rules. (3-18-11)

06. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured. (8-24-94)

07. Basin Advisory Group. No less than one (1) advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

08. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

- 09. Best Management Practice.** A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)
- 10. Bioaccumulation.** The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)
- 11. Bioaccumulative Pollutants.** A compound with a bioaccumulation factor of greater than one thousand (1,000) or a bioconcentration factor of greater than one thousand (1,000). (4-11-15)
- 12. Biological Monitoring or Biomonitoring.** The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)
- 13. Board.** The Idaho Board of Environmental Quality. (7-1-93)
- 14. Chronic.** A stimulus that persists or continues for a long period of time relative to the life span of an organism. In aquatic toxicity tests, chronic refers to continuous exposure to a concentration of a toxic substance or effluent which results in mortality, injury, reduced growth, impaired reproduction, or other adverse effect to aquatic organisms. The test duration is long enough that sub-lethal effects can be reliably measured. When referring to human health, a chronic effect is usually measured in terms of estimated changes in rates (# of cases/ 1000 persons) of illness over a lifetime of exposure. (3-30-07)
- 15. Chronic Criteria.** Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity due to exposure to the toxic substance or effluent. Chronic criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Continuous Concentration (CCC). Human health chronic criteria are based on lifetime exposure. (3-30-07)
- 16. Compliance Schedule or Schedule Of Compliance.** A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)
- 17. Cost-Effective and Reasonable Best Management Practices (BMPs) for Nonpoint Sources.** All approved BMPs specified in Subsections 350.03 and 055.07 of these rules. BMPs for activities not specified are, in accordance with Section 350, determined on a case-by-case basis. (3-18-11)
- 18. Daily Maximum (Minimum).** The highest (lowest) value measured during one (1) calendar day or a twenty-four (24) hour period, as appropriate. For ambient monitoring of dissolved oxygen, pH, and temperature, multiple measurements should be obtained at intervals short enough that the difference between consecutive measurements around the daily maximum (minimum) is less than zero point two (0.2) ppm for dissolved oxygen, zero point one (0.1) SU for pH, or zero point five (0.5) degree C for temperature. (3-30-07)
- 19. Daily Mean.** The average of at least two (2) appropriately spaced measurements, acceptable to the Department, calculated over a period of one (1) day: (3-20-97)
- a.** Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)
 - b.** If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)
 - c.** In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

d. For ambient monitoring of temperature, the daily mean should be calculated from equally spaced measurements, at intervals such that the difference between any two (2) consecutive measurements does not exceed one point zero (1.0) degree C. (3-30-07)

20. Degradation or Lower Water Quality. “Degradation” or “lower water quality” means, for purposes of antidegradation review, a change in a pollutant that is adverse to designated or existing uses, as calculated for a new point source, and based upon monitoring or calculated information for an existing point source increasing its discharge. Such degradation shall be calculated or measured after appropriate mixing of the discharge and receiving water body. (3-29-12)

21. Deleterious Material. Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

22. Department. The Idaho Department of Environmental Quality. (7-1-93)

23. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

24. Designated Agency. The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department’s division of environmental quality for all other activities. (3-20-97)

25. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements,” Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

26. Desirable Species. Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

27. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

28. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For purposes of antidegradation review, means “discharge” as used in Section 401 of the Clean Water Act. (3-18-11)

29. Dissolved Oxygen (DO). The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)

30. Dissolved Product. Petroleum product constituents found in solution with water. (8-24-94)

31. Dynamic Model. A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)

32. E. coli (Escherichia coli). A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)

33. Effluent. Any wastewater discharged from a treatment facility. (7-1-93)

34. Effluent Biomonitoring. The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)

35. EPA. The United States Environmental Protection Agency. (7-1-93)

36. Ephemeral Waters. A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-11-06)

37. Existing Activity or Discharge. An activity or discharge that has been previously authorized or did not previously require authorization. (3-18-11)

38. Existing Beneficial Use Or Existing Use. Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards." (4-11-06)

39. Facility. As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)

40. Four Day Average. The average of all measurements within a period of ninety-six (96) consecutive hours. While a minimum of one (1) measurement per each twenty-four (24) hours is preferred, for toxic chemicals in Section 210, any number of data points is acceptable. (3-30-07)

41. Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)

42. Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water. Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)

43. General Permit. An NPDES permit issued by the U.S. Environmental Protection Agency authorizing a category of discharges under the federal Clean Water Act or a nationwide or regional permit issued by the U.S. Army Corps of Engineers under the federal Clean Water Act. (3-29-12)

44. Geometric Mean. The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)

45. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-07)

46. Harmonic Mean ~~Flow~~. The number of daily ~~flow~~ measurements divided by the sum of the reciprocals of the ~~flows~~ measurements (i.e., the reciprocal of the mean of reciprocals). ~~(8-24-94)~~ ()

47. Hazardous Material. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)

48. Highest Statutory and Regulatory Requirements for Point Sources. All applicable effluent limits required by the Clean Water Act and other permit conditions. It also includes any compliance schedules or consent orders requiring measures to achieve applicable effluent limits and other permit conditions required by the Clean Water Act. (3-18-11)

49. Hydrologic Unit Code (HUC). A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

- 50. Hydrologically-Based Design Flow.** A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one (1) or more excursions below the design flow can occur. (8-24-94)
- 51. Hypolimnion.** The bottom layer in a thermally-stratified body of water. It is fairly uniform in temperature and lays beneath a zone of water which exhibits a rapid temperature drop with depth such that mixing with overlying water is inhibited. (3-30-07)
- 52. Integrated Report.** Refers to the consolidated listing and reporting of the state's water quality status pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act. (3-18-11)
- 53. Inter-Departmental Coordination.** Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)
- 54. Intermittent Waters.** A stream, reach, or water body which naturally has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-11-06)
- 55. Load Allocation (LA).** The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)
- 56. Loading Capacity.** The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)
- 57. Lowest Observed Effect Concentration (LOEC).** The lowest concentration of a toxic substance or an effluent that results in observable adverse effects in the aquatic test population. (3-30-07)
- 58. Man-Made Waterways.** Canals, flumes, ditches, wasteways, drains, laterals, and/or associated features, constructed for the purpose of water conveyance. This may include channels modified for such purposes prior to November 28, 1975. These waterways may have uniform and rectangular cross-sections, straight channels, follow rather than cross topographic contours, be lined to reduce water loss, and be operated or maintained to promote water conveyance. (3-30-07)
- 59. Maximum Weekly Maximum Temperature (MWMT).** The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period ending on the day of calculation. When used seasonally, e.g., spawning periods, the first applicable WMT occurs on the seventh day into the time period. The MWMT is the single highest WMT that occurs during a given year or other period of interest, e.g., a spawning period. (3-30-07)
- 60. Milligrams Per Liter (mg/l).** Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)
- 61. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)
- 62. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)
- 63. Natural Background Conditions.** The physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. Natural disturbances including, but not limited to, wildfire, geologic disturbance, diseased vegetation, or flow extremes that affect the physical, chemical, and biological integrity of the water are part of natural background conditions. Natural background conditions should be described and evaluated taking into account this inherent variability with time and place. (3-30-07)

64. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

65. New Activity or Discharge. An activity or discharge that has not been previously authorized. Existing activities or discharges not currently permitted or licensed will be presumed to be new unless the Director determines to the contrary based on review of available evidence. An activity or discharge that has previously taken place without need for a license or permit is not a new activity or discharge when first licensed or permitted. (3-18-11)

66. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a.** Irrigated and nonirrigated lands used for: (7-1-93)
 - i.** Grazing; (7-1-93)
 - ii.** Crop production; (7-1-93)
 - iii.** Silviculture; (7-1-93)
 - b.** Log storage or rafting; (7-1-93)
 - c.** Construction sites; (7-1-93)
 - d.** Recreation sites; (3-20-97)
 - e.** Septic tank disposal fields. (8-24-94)
 - f.** Mining; (3-20-97)
 - g.** Runoff from storms or other weather related events; and (3-20-97)
 - h.** Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

67. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

68. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

69. One Day Minimum. The lowest daily instantaneous value measured. (3-20-97)

70. One Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

71. Operator. For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

72. Outstanding Resource Water (ORW). A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

73. Owner. For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

74. Permit or License. A permit or license for an activity that is subject to certification by the state under Section 401 of the Clean Water Act, including, for example, NPDES permits, dredge and fill permits, and FERC licenses. (3-18-11)

75. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

76. Petroleum Products. Products derived from petroleum through various refining processes. (7-1-93)

77. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

78. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

79. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

80. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

81. Public Swimming Beaches. Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. (4-11-06)

82. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

83. Reference Stream or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

84. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

85. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

86. Responsible Persons in Charge. Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

87. Sediment. Undissolved inorganic matter. (3-30-07)

88. Seven Day Mean. The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

89. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

90. Short-Term or Temporary Activity. An activity which is as short as possible but lasts for no more than one (1) year, is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-30-07)

91. Silviculture. Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

92. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

93. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of

water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

94. State. The state of Idaho. (7-1-93)

95. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

96. Suspended Sediment. The undissolved inorganic fraction of matter suspended in surface water. (3-30-07)

97. Suspended Solids. The undissolved organic and inorganic matter suspended in surface water. (3-30-07)

98. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

99. Thermal Shock. A rapid temperature change that causes aquatic life to become disoriented or more susceptible to predation or disease. (4-11-15)

100. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

101. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

102. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

103. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

104. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. (4-11-06)

105. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

106. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

107. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

108. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

109. Water Body Unit. Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

110. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

111. Water Quality-Based Effluent Limitation. An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

112. Water Quality Limited Water Body. After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

113. Waters and Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

114. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

115. Watershed Advisory Group. An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

116. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

117. Zone of Initial Dilution (ZID). An area within a Department authorized mixing zone where acute criteria may be exceeded. This area shall be no larger than necessary and shall be sized to prevent lethality to swimming or drifting organisms by ensuring that organisms are not exposed to concentrations exceeding acute criteria for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. (4-11-15)

(BREAK IN CONTINUITY OF SECTIONS)

070. APPLICATION OF STANDARDS.

01. Multiple Criteria. In the application of the use designation, the most stringent criterion of a multiple criteria applies. (4-5-00)

02. Application of Standards to Nonpoint Source Activities. The application of water quality standards to nonpoint source activities shall be in accordance with Section 350. (7-1-93)

03. Application of Standards to Point Source Discharges. The application of water quality standards to point source discharges shall be in accordance with Sections 400 and 401. (4-11-06)

04. Applicability of Gas Supersaturation Standard. The application of gas supersaturation standard shall be in accordance with Section 300. (4-5-00)

05. Mixing Zones. The application of water quality standards to mixing zones shall be in accordance with Section 060. (7-1-93)

06. Application of Standards to Intermittent Waters. Numeric water quality standards only apply to intermittent waters during optimum flow periods sufficient to support the uses for which the water body is designated. For recreation, optimum flow is equal to or greater than five (5) cubic feet per second (cfs). For aquatic life uses, optimum flow is equal to or greater than one (1) cfs. (3-30-01)

07. Temperature Criteria. In the application of temperature criteria, the Director may, at his discretion, waive or raise the temperature criteria as they pertain to a specific water body. Any such determination shall be made consistent with 40 CFR 131.11 and shall be based on a finding that the designated aquatic life use is not an existing use in such water body or would be fully supported at a higher temperature criteria. For any determination, the Director shall, prior to making a determination, provide for public notice and comment on the proposed determination. For any such proposed determination, the Director shall prepare and make available to the public a technical support document addressing the proposed modification. (4-5-00)

08. Protection of Downstream Water Quality. All waters shall maintain a level of water quality at their pour point into downstream waters that provides for the attainment and maintenance of the water quality standards of those downstream waters, including waters of another state or tribe. ()

(BREAK IN CONTINUITY OF SECTIONS)

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, and B2, ~~and C2~~ of the following table apply to waters designated for aquatic life use. (5-3-03)()

b. Column C2 of the following table applies to waters designated for primary or secondary contact recreation use. (5-3-03)()

c. Column C1 of the following table applies to waters designated for domestic water supply use.

Note: In 2006, Idaho updated 167 human health criteria for 88 chemicals. On May 10, 2012, EPA disapproved Idaho's 2006 update of 167 human health criteria for toxic substances and the use of 17.5 g/day fish consumption rate for human health criteria (see IDAPA 58.01.02.210.05.b.i). This action was based on EPA's judgment that the fish consumption rate used in criteria derivation was not adequately protective. As a result of this action, the human health criteria published in the 2005 version of IDAPA 58.01.02.210.01 continue to apply and are effective for federal Clean Water Act purposes. These criteria are summarized in "Numeric Criteria for Toxic Substances (2005)" located at http://www.deq.idaho.gov/media/451725-human_health_criteria.pdf.

For more information regarding this EPA disapproval, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

A		B Aquatic life				C Human health for consumption of:	
(Number) Compound	a CAS Number	b CMC (µg/L)		b CCC (µg/L)		Water & organisms fish	Organisms Fish only
		B1		B2		(µg/L) C1	(µg/L) C2
1 Antimony	7440360					5.6 <u>5.2</u> c	640 <u>190</u> c
2 Arsenic	7440382	340 e		150 e	<u>Y</u>	10 d <u>fg</u>	10 d <u>fg</u>
3 Beryllium	7440417					h	h
4 Cadmium	7440439	1.3 i		0.6 i		h	h
5a Chromium III	16065831	570 i		74 i		h	h
5b Chromium VI	18540299	16 e		11 e		h	h
6 Copper	7440508	17 i		11 i		<u>1.300</u> <u>g</u>	
7 Lead	7439921	65 i		2.5 i		h	h
8a Mercury	7439976		g		g		
<p>Note: In 2005, Idaho adopted EPA's recommended methylmercury fish tissue criterion for protection of human health. The decision was made to remove the old tissue-based aquatic life criteria and rely on the fish tissue criterion to provide protection for aquatic life as well as human health. Thus, current Idaho water quality standards do not have mercury water column criteria for the protection of aquatic life. While EPA approved Idaho's adoption of the fish tissue criterion in September 2005, it had withheld judgment on Idaho's removal of aquatic life criteria. On December 12, 2008, EPA disapproved Idaho's removal of the old aquatic life criteria. The water column criteria for total recoverable mercury effective for federal Clean Water Act purposes are located at http://www.deq.idaho.gov/epa-actions-on-proposed-standards.</p>							
8b Methylmercury	22967926						0.3 mg/kg p
9 Nickel	7440020	470 i		52 i		610 <u>58</u> c	4600 <u>100</u> c
10 Selenium	7782492	20 f		5 f		170 <u>29</u> <u>c</u>	4200 <u>250</u> <u>c</u>
11 Silver	7440224	3.4 i					
12 Thallium	7440280					0.24 <u>0.017</u> c	0.47 <u>0.023</u> c

A		B Aquatic life		C Human health for consumption of:	C	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2		Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2
13 Zinc	7440666	120 i	120 i		7400 <u>870</u> c	26000 <u>1,500</u> c
14 Cyanide	57125	22 j	5.2 j		140 <u>3.9</u> c	140 <u>140</u> c
15 Asbestos	1332214				7,000,000 fibers/L kq	
16 2, 3, 7, 8-TCDD Dioxin	1746016			Y	0.000000005 <u>1.8E-08</u> cl	0.000000005 <u>1.9E-08</u> cl
17 Acrolein	107028				190 <u>3.2</u> c	290 <u>120</u> c
18 Acrylonitrile	107131			Y	0.051 <u>0.60</u> cl	0.25 <u>22</u> cl
19 Benzene	71432				2.2 <u>3.0</u> cl	54 <u>28</u> cl
20 Bromoform	75252			Y	4.362 cl	140 <u>380</u> cl
21 Carbon Tetrachloride	56235			Y	0.23 <u>3.6</u> cl	1.6 <u>15</u> cl
22 Chlorobenzene	108907				130 <u>89</u> c	1600 <u>270</u> c
23 Chlorodibromomethane	124481			Y	0.40 <u>7.4</u> cl	13 <u>67</u> cl
24 Chloroethane	75003				<u>h</u>	<u>h</u>
25 2-Chloroethylvinyl Ether	110758				<u>h</u>	<u>h</u>
26 Chloroform	67663				5.7 <u>61</u> lc	470 <u>730</u> lc
27 Dichlorobromomethane	75274			Y	0.55 <u>8.8</u> cl	17 <u>86</u> cl
28 1,1-Dichloroethane	75343				<u>h</u>	<u>h</u>
29 1,2-Dichloroethane	107062			Y	0.38 <u>96</u> cl	37 <u>2,000</u> cl
30 1,1-Dichloroethylene	75354				330 <u>310</u> lc	7100 <u>5,200</u> lc
31 1,2-Dichloropropane	78875			Y	0.50 <u>8.5</u> cl	15 <u>98</u> cl
32 1,3-Dichloropropene	542756			Y	0.34 <u>2.5</u> cl	21 <u>38</u> cl
33 Ethylbenzene	100414				530 <u>32</u> c	2100 <u>41</u> c
34 Methyl Bromide	74839				47 <u>130</u> c	1500 <u>3,700</u> c
35 Methyl Chloride	74873				h	h
36 Methylene Chloride	75092				4.6 <u>38</u> cl	590 <u>960</u> cl
37 1,1,2,2-Tetrachloroethane	79345			Y	0.17 <u>1.4</u> cl	4.0 <u>8.6</u> cl
38 Tetrachloroethylene	127184				0.69 <u>15</u> cl	3.3 <u>23</u> cl
39 Toluene	108883				1300 <u>47</u> c	15000 <u>170</u> c

A		B Aquatic life		C Human health for consumption of:		
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	<div>Carcinogen?</div>	Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2
40 1,2-Trans-Dichloroethylene	156605				140 <u>120</u> c	10000 <u>1,200</u> c
41 1,1,1-Trichloroethane	71556				<u>11,000</u> h c	<u>56,000</u> h c
42 1,1,2-Trichloroethane	79005			Y	0.59 <u>4.9</u> cl	46 <u>29</u> cl
43 Trichloroethylene	79016				2.5 <u>2.6</u> c f	30 <u>11</u> c f
44 Vinyl Chloride	75014			Y	0.025 <u>0.21</u> cl	2.4 <u>5.0</u> cl
45 2-Chlorophenol	95578				84 <u>30</u> c	150 <u>260</u> c
46 2,4-Dichlorophenol	120832				77 <u>9.6</u> c	290 <u>19</u> c
47 2,4-Dimethylphenol	105679				380 <u>110</u> c	850 <u>820</u> c
48 2-Methyl-4,6-Dinitrophenol	534521				13 <u>1.6</u> c	280 <u>8.6</u> c
49 2,4-Dinitrophenol	51285				69 <u>12</u> c	5300 <u>110</u> c
50 2-Nitrophenol	88755				<u>h</u>	<u>h</u>
51 4-Nitrophenol	100027				<u>h</u>	<u>h</u>
52 3-Methyl-4-Chlorophenol	59507				<u>350</u> c	<u>750</u> c
53 Pentachlorophenol	87865	20 m	13 m	Y	0.27 <u>0.11</u> cl	3.0 <u>0.12</u> cl
54 Phenol	108952				21000 <u>3,800</u> c	1700000 <u>85,000</u> c
55 2,4,6-Trichlorophenol	88062				1.4 <u>1.5</u> c f	2.4 <u>2.0</u> c f
56 Acenaphthene	83329				670 <u>26</u> c	990 <u>28</u> c
57 Acenaphthylene	208968				<u>h</u>	<u>h</u>
58 Anthracene	120127				8300 <u>110</u> c	40000 <u>120</u> c
59 Benzidine	92875			Y	0.000086 <u>0.0014</u> cl	0.00020 <u>0.033</u> cl
60 Benzo(a)Anthracene	56553			Y	0.0038 <u>0.0042</u> cl	0.018 <u>0.0042</u> cl
61 Benzo(a)Pyrene	50328			Y	0.0038 <u>0.00042</u> cl	0.018 <u>0.00042</u> cl
62 Benzo(b)Fluoranthene	205992			Y	0.0038 <u>0.0042</u> cl	0.018 <u>0.0042</u> cl
63 Benzo(ghi)Perylene	191242				<u>h</u>	<u>h</u>
64 Benzo(k)Fluoranthene	207089			Y	0.0038 <u>0.042</u> cl	0.018 <u>0.042</u> cl

A		B Aquatic life		C Human health for consumption of:		
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	<div>Carcinogen?</div>	Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2
65 Bis(2-Chloroethoxy) Methane	111911				<u>h</u>	<u>h</u>
66 Bis(2-Chloroethyl)Ether	111444			<u>Y</u>	0.030 <u>0.29</u> cl	0.53 <u>6.8</u> cl
67 Bis(2-Chloroisopropyl) Ether	108601				1400 <u>220</u> c	65000 <u>1,200</u> c
68 Bis(2-Ethylhexyl) Phthalate	117817			<u>Y</u>	1.2 <u>1.2</u> cl	2.2 <u>1.2</u> cl
69 4-Bromophenyl Phenyl Ether	101553				<u>h</u>	<u>h</u>
70 Butylbenzyl Phthalate	85687				1500 <u>0.33</u> c	1900 <u>0.33</u> c
71 2-Chloronaphthalene	91587				1000 <u>330</u> c	1600 <u>380</u> c
72 4-Chlorophenyl Phenyl Ether	7005723				<u>h</u>	<u>h</u>
73 Chrysene	218019			<u>Y</u>	0.0038 <u>0.42</u> cl	0.018 <u>0.42</u> cl
74 Dibenzo (a,h) Anthracene	53703			<u>Y</u>	0.0038 <u>0.00042</u> cl	0.018 <u>0.00042</u> cl
75 1,2-Dichlorobenzene	95501				420 <u>700</u> c	1300 <u>1,100</u> c
76 1,3-Dichlorobenzene	541731				320 <u>3.5</u> c	960 <u>4.8</u> c
77 1,4-Dichlorobenzene	106467				63 <u>180</u> c	190 <u>300</u> c
78 3,3'-Dichlorobenzidine	91941			<u>Y</u>	0.021 <u>0.29</u> cl	0.028 <u>0.48</u> cl
79 Diethyl Phthalate	84662				17000 <u>200</u> c	44000 <u>210</u> c
80 Dimethyl Phthalate	131113				270000 <u>600</u> c	1100000 <u>600</u> c
81 Di-n-Butyl Phthalate	84742				2000 <u>8.2</u> c	4500 <u>8.3</u> c
82 2,4-Dinitrotoluene	121142			<u>Y</u>	0.11 <u>0.46</u> cl	3.4 <u>5.5</u> cl
83 2,6-Dinitrotoluene	606202				<u>h</u>	<u>h</u>
84 Di-n-Octyl Phthalate	117840				<u>h</u>	<u>h</u>
85 1,2-Diphenylhydrazine	122667			<u>Y</u>	0.036 <u>0.25</u> cl	0.20 <u>0.65</u> cl
86 Fluoranthene	206440				130 <u>6.3</u> c	140 <u>6.4</u> c
87 Fluorene	86737				1100 <u>21</u> c	5300 <u>22</u> c
88 Hexachlorobenzene	118741			<u>Y</u>	0.00028 <u>0.00026</u> cl	0.00029 <u>0.00026</u> cl
89 Hexachlorobutadiene	87683			<u>Y</u>	0.44 <u>0.031</u> cl	18 <u>0.031</u> cl

A		B Aquatic life		C Human health for consumption of:		
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	<div>Carcinogen?</div>	Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2
90 Hexachloro-cyclopentadiene	77474				40 <u>1.3</u> c	1100 <u>1.3</u> c
91 Hexachloroethane	67721				1.4 <u>0.23</u> cl	3.3 <u>0.24</u> cl
92 Ideno (1,2,3-cd) Pyrene	193395			<u>Y</u>	0.0038 <u>0.0042</u> cl	0.018 <u>0.0042</u> cl
93 Isophorone	78591			<u>Y</u>	35 <u>330</u> cl	960 <u>6,000</u> cl
94 Naphthalene	91203				<u>h</u>	<u>h</u>
95 Nitrobenzene	98953				17 <u>12</u> c	690 <u>180</u> c
96 N-Nitrosodimethylamine	62759			<u>Y</u>	0.00069 <u>0.0065</u> cl	3.0 <u>9.1</u> cl
97 N-Nitrosodi-n-Propylamine	621647			<u>Y</u>	0.0050 <u>0.046</u> cl	0.51 <u>1.5</u> cl
98 N-Nitrosodiphenylamine	86306			<u>Y</u>	3.3 <u>14</u> cl	6.0 <u>18</u> cl
99 Phenanthrene	85018				<u>h</u>	<u>h</u>
100 Pyrene	129000				830 <u>8.1</u> c	4000 <u>8.4</u> c
101 1,2,4-Trichlorobenzene	120821				35 <u>0.24</u> c	70 <u>0.24</u> c
102 Aldrin	309002	3		<u>Y</u>	0.000049 <u>2.5E-06</u> cl	0.000050 <u>2.5E-06</u> cl
103 alpha-BHC	319846			<u>Y</u>	0.0026 <u>0.0012</u> cl	0.0049 <u>0.0013</u> cl
104 beta-BHC	319857			<u>Y</u>	0.0091 <u>0.036</u> cl	0.017 <u>0.045</u> cl
105 gamma-BHC (Lindane)	58899	2	0.08		0.98 <u>1.4</u> lc	1.8 <u>1.4</u> lc
106 delta-BHC	319868				<u>h</u>	<u>h</u>
107 Chlordane	57749	2.4	0.0043	<u>Y</u>	0.00080 <u>0.0010</u> cl	0.00081 <u>0.0010</u> cl
108 4,4'-DDT	50293	1.1	0.001	<u>Y</u>	0.00022 <u>9.8E-05</u> cl	0.00022 <u>9.8E-05</u> cl
109 4,4'-DDE	72559			<u>Y</u>	0.00022 <u>5.5E-05</u> cl	0.00022 <u>5.5E-05</u> cl
110 4,4'-DDD	72548			<u>Y</u>	0.00031 <u>0.00042</u> cl	0.00031 <u>0.00042</u> cl
111 Dieldrin	60571	2.5	0.0019	<u>Y</u>	0.000052 <u>4.2E-06</u> cl	0.000054 <u>4.2E-06</u> cl
112 alpha-Endosulfan	959988	0.22	0.056		62 <u>7.0</u> c	89 <u>8.5</u> c

A		B Aquatic life		C Human health for consumption of:		
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	<div>Carcinogen?</div>	Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2
113 beta-Endosulfan	33213659	0.22	0.056		<u>62</u> <u>11</u> c	<u>89</u> <u>14</u> c
114 Endosulfan Sulfate	1031078				<u>62</u> <u>9.9</u> c	<u>89</u> <u>13</u> c
115 Endrin	72208	0.18	0.0023		<u>0.059</u> <u>0.011</u> c	<u>0.060</u> <u>0.011</u> c
116 Endrin Aldehyde	7421934				<u>0.29</u> <u>0.38</u> c	<u>0.30</u> <u>0.40</u> c
117 Heptachlor	76448	0.52	0.0038	Y	<u>0.000079</u> <u>2.0E-05</u> cl	<u>0.000079</u> <u>2.0E-05</u> cl
118 Heptachlor Epoxide	1024573	0.52	0.0038	Y	<u>0.000039</u> <u>0.00010</u> cl	<u>0.000039</u> <u>0.00010</u> cl
119 Polychlorinated Biphenyls PCBs:	n		0.014 n	Y	<u>0.000064</u> <u>0.00019</u> clo	<u>0.000064</u> <u>0.00019</u> clo
120 Toxaphene	8001352	0.73	0.0002	Y	<u>0.00028</u> <u>0.0023</u> cl	<u>0.00028</u> <u>0.0023</u> cl
121 Chlorine		19 k	11 k			
<u>122</u> <u>1,2,4,5-Tetrachlorobenzene</u>	<u>95943</u>				<u>0.0093</u> c	<u>0.0094</u> c
<u>123</u> <u>2,4,5-Trichlorophenol</u>	<u>95954</u>				<u>140</u> c	<u>190</u> c
<u>124</u> <u>Bis (Chloromethyl) Ether</u>	<u>542881</u>			Y	<u>0.0015</u> cl	<u>0.055</u> cl
<u>125</u> <u>Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]</u>	<u>93721</u>				<u>82</u> c	<u>130</u> c
<u>126</u> <u>Chlorophenoxy Herbicide (2,4-D)</u>	<u>94757</u>				<u>1,000</u> c	<u>3,900</u> c
<u>127</u> <u>Dinitrophenols</u>	<u>25550587</u>				<u>13</u> c	<u>320</u> c
<u>128</u> <u>Hexachlorocyclohexane (HCH)-Technical</u>	<u>608731</u>			Y	<u>0.027</u> cl	<u>0.032</u> cl
<u>129</u> <u>Methoxychlor</u>	<u>72435</u>				<u>0.0054</u> c	<u>0.0055</u> c
<u>130</u> <u>Pentachlorobenzene</u>	<u>608935</u>				<u>0.035</u> c	<u>0.036</u> c
Table Footnotes						
a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.						
b. See definitions of Acute Criteria (CMC) and Chronic Criteria (CCC), Section 010 of these rules.						

A		B Aquatic life		C Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	<div>Carcinogen?</div> Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2

c. ~~This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of May 17, 2002. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case. This criterion is based on input values to human health criteria calculation specified in Idaho's Technical Support Document (TSD) for Human Health Criteria Calculations - 2015. Criteria for non-carcinogens are calculated using the formula:~~

$$AWQC = RfD * RSC * \left(\frac{BW}{DI + (FI * BAF)} \right)$$

~~and criteria for carcinogens are calculated using the formula:~~

$$AWQC = RSD * \left(\frac{BW}{DI + (FI * BAF)} \right)$$

~~Where:~~
AWQC = Ambient water quality criterion (mg/L)
BW = Human Body Weight (kg), 80 is used in these criteria
DI = Drinking Water Intake, (L/day), 2.4 is used in these criteria
FI = Fish Intake, (kg/day), 0.0665 is used in these criteria
BAF = Bioaccumualtion Factor, L/kg, chemical specific value, see TSD
RfD = Reference dose (mg/kg-day), chemical specific value, see TSD

$$RSD = \frac{\text{Target Incremental Cancer Risk}}{\text{Cancer Potency Factor}}$$

RSC = Relative Source Contribution, chemical specific value, see TSD

d. Inorganic forms only.

e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.

f. Criterion expressed as total recoverable (unfiltered) concentrations.

g. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.

h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.

A		B Aquatic life		C Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2
<p>i. Aquatic life criteria for these metals are a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii. and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the example values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).</p>					
<p>j. Criteria are expressed as weak acid dissociable (WAD) cyanide.</p>					
<p>k. Total chlorine residual concentrations.</p>					
<p>l. EPA guidance allows states to choose a risk factor from a range of 10⁻⁴ to 10⁻⁶ <u>for the incremental increase in cancer risk used in human health criteria calculation</u>. Idaho has chosen to base this criterion on carcinogenicity of 10⁻⁶ risk.</p>					
<p>m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)</p>					
<p>n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.</p>					
<p>o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).</p>					
<p>p. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: TRC = [BW x {RfD - (RSCxRfD)}] / Σ TL. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.</p>					
<p>q. <u>This criterion is based on the drinking water Maximum Containment Level (MCL).</u></p>					

(3-29-10)()

02. **Factors for Calculating Hardness Dependent Metals Criteria.** Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

- a. $CMC = WER \exp\{mA[\ln(\text{hardness})] + bA\}$ X Acute Conversion Factor. (5-3-03)
- b. $CCC = WER \exp\{mc[\ln(\text{hardness})] + bc\}$ X Chronic Conversion Factor.

Metal	mA	bA	mc	bc	aAcute Conversion Factor	aChronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	0.8367	-3.560	0.6247	-3.344	0.944 see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i.) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table. The conversion factor shall not exceed one (1).

Cadmium

Acute: $CF = 1.136672 - [(\ln \text{hardness})(0.041838)]$ NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.

Chronic: $CF = 1.101672 - [(\ln \text{hardness})(0.041838)]$

Lead (Acute and Chronic): $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$

b. Not applicable

c. No chronic criteria are available for silver.

(3-29-10)

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications ~~including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters.~~ Mixing zones may be applied to toxic substance criteria subject to the limitations set forth in Section 060 and set out below. ~~(5-3-03)()~~

a. For all waters for which the Department has determined mixing zones to be applicable, the toxic substance criteria apply at ~~the appropriate locations specified within or at~~ the boundary of the mixing zone(s) and beyond. ~~otherwise the~~ Absent an authorized mixing zone, the toxic substance criteria apply throughout the waterbody including at the end of any discharge pipe, canal or other discharge point. ~~(4-11-06)()~~

b. Low flow design discharge conditions. Water quality-based effluent limits and mixing zones for toxic substances shall be based on the following low flows in perennial receiving streams. Numeric chemical

~~standards can only~~ **criteria may** be exceeded in perennial streams ~~permitted discharges~~ outside any applicable mixing zone **only** when flows are less than ~~the following~~ **these** values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	30Q5 Harmonic mean flow
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow (4-11-06)()

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedance of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedance for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

~~v. Where "30Q5" is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)~~

~~vi.~~ Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of **aquatic life** metals criteria. (5-3-03)()

i. For metals other than cadmium, for purposes of calculating hardness dependent aquatic life criteria from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. For cadmium, the minimum hardness for use in those equations shall not be less than ten (10) mg/l, as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (3-29-10)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects

ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (4-6-05)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at http://www.deq.idaho.gov/media/639808-idaho_mercury_wq_guidance.pdf. (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

d. Application of toxics criteria. ()

i. Frequency and duration for aquatic life toxics criteria. Column B1 criteria are concentrations not to be exceeded for a one-hour average more than once in three (3) years. Column B2 criteria are concentrations not to be exceeded for a four-day average more than once in three (3) years. ~~(4-11-06)~~ ()

ii. Frequency and duration for human health toxics criteria. Columns C1 and C2 criteria are not to be exceeded based on an annual harmonic mean. ()

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

a. “Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria,” EPA, October 1993, <http://www.deq.idaho.gov/media/827413-epa-guidance-dissolved-criteria-1093.pdf>. (4-5-00)

b. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993, <http://www.deq.idaho.gov/media/827417-epa-guidance-dynamic-modeling-translators-0893.pdf>. (4-5-00)

c. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993, <http://www.deq.idaho.gov/media/827421-epa-guidance-analytical-techniques-1093.pdf>. (4-5-00)

d. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994, <http://www.deq.idaho.gov/media/827409-epa-guidance-water-effect-ratios-for-metals-0294.pdf>. (4-5-00)

e. "Technical Support Document for Water Quality-Based Toxics Control." EPA, March 1991. <http://www.deq.idaho.gov/media/60177101/58-0102-1201-epa-technical-support-document-1991.pdf>. ()

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's *Aquatic Toxicity Information Retrieval (ACQUIRE) ECOTOX* database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or ~~(4-5-00)~~ ()

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department ~~from the most recent recommended criteria~~ using best available science on toxicity thresholds (i.e. reference dose or cancer slope factor), such as defined in EPA's Integrated Risk Information System (IRIS) or other peer-reviewed source acceptable to the Department. ()

ii. When using ~~EPA recommended criteria~~ toxicity thresholds to derive water quality criteria to protect human health, a fish consumption rate ~~of seventeen point five (17.5) grams/day, a representative of the population to be protected, a mean adult body weight, an adult 90th percentile~~ water ingestion rate ~~of two (2) liters/day, a trophic level weighted BAF or BCF,~~ and a hazard quotient of one (1) for non-carcinogens or a cancer risk level of 10^{-6} for carcinogens shall be utilized. ~~(4-11-06)~~ ()

Note: In 2006, Idaho updated 167 human health criteria for 88 chemicals. On May 10, 2012, EPA disapproved Idaho's 2006 update of 167 human health criteria for toxic substances (see IDAPA 58.01.02.210.01) and the use of 17.5 g/day fish consumption rate for human health criteria. This action was based on EPA's judgment that the fish consumption rate used in criteria derivation was not adequately protective. As a result of this action, the fish consumption rate of 6.5 g/day published in the 2005 version of IDAPA 58.01.02.210.05.b.i. continues to apply and is effective for federal Clean Water Act purposes. For more information regarding this EPA disapproval, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

(BREAK IN CONTINUITY OF SECTIONS)

284. SOUTH FORK COEUR D'ALENE SUBBASIN, SUBSECTION 110.09, HUC 17010302, AQUATIC LIFE CRITERIA FOR CADMIUM, LEAD AND ZINC.

The following criteria are to be met dependent upon the hardness, expressed as mg/l of calcium carbonate, of the water. Criterion maximum concentrations (CMC), one (1) hour average concentrations, and criterion continuous concentrations (CCC), four (4) day average concentrations, of the dissolved metals (in µg/l) are not to exceed, more than once every three (3) years, the values calculated using the following equations: (3-15-02)

01. Cadmium. (3-15-02)

a. $CMC = 0.973 \times e^{[(1.0166 \times \ln(\text{hardness})) - 3.924]}$ (3-15-02)

b. $CCC = [1.101672 - (\ln(\text{hardness}) \times 0.041838)] \times e^{[(0.7852 \times \ln(\text{hardness})) - 3.490]}$ (3-15-02)

02. Lead. (3-15-02)

a. $CMC = e^{[(0.9402 \times \ln(\text{hardness})) + 1.1834]}$ (3-15-02)

b. $CCC = e^{[(0.9402 \times \ln(\text{hardness})) - 0.9875]}$ (3-15-02)

03. Zinc. (3-15-02)

a. $CMC = e^{[(0.6624 \times \ln(\text{hardness})) + 2.2235]}$ (3-15-02)

b. $CCC = e^{[(0.6624 \times \ln(\text{hardness})) + 2.2235]}$ (3-15-02)

04. Application. (3-15-02)

a. The maximum hardness allowed for use in the equations in Section 284 shall not be greater than four hundred (400) mg/l even if the actual ambient hardness is greater than four hundred (400) mg/l. (3-15-02)

b. The criteria described in Section 284 apply to ~~the South Fork Coeur d'Alene River subbasin, units P-11 and P-13.~~ (3-15-02)

~~c. In addition to the waters listed in subsection 284.04.b, the criteria described in Section 284 apply to~~ all surface waters within the subbasin, except for natural lakes, for which the statewide criteria given in Section 210 apply. (3-15-02) ()

(BREAK IN CONTINUITY OF SECTIONS)

400. RULES GOVERNING POINT SOURCE DISCHARGES.

01. Implementation Policy. (7-1-93)

a. As provided for in Subsection 080.01, and Sections 200, 210, 250, 251, 252, 253, 275, and 400 for point source discharges, failure to meet general or specific water quality criteria is a violation of the water quality standards. (4-5-00)

b. No unauthorized discharge from a point source shall occur to waters of the state. (4-11-06)

02. Limitations to Point Source Restrictions. So long as a point source discharge or wastewater treatment facility is regulated by the terms and conditions of an authorization pursuant to Subsection 080.02, a Board order, decree or compliance schedule, or a valid NPDES permit issued by the EPA, the discharge or facility will not be subject to additional restrictions or conditions based on Subsection 080.01 and Sections 200, 210, 250, 251, 252, and 253. (3-29-12)

03. Compliance Schedules for Water Quality-Based Effluent Limitations. Discharge permits for point sources may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations when new limitations are in the permit for the first time. (3-15-02)

04. Wetlands Used for Wastewater Treatment. (8-24-94)

a. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of wastewater or stormwater treatment, and operated in compliance with NPDES permit conditions, shall not be subject to the application of general water quality-based or site-specific criteria and standards. (8-24-94)

b. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of treatment of nonpoint sources of pollution, and operated in compliance with best management practices, shall not be subject to the application of general water quality-based or site specific criteria and standards. (8-24-94)

c. Discharges from treatment systems described in Sections 400.04.a. and 400.04.b. to waters of the state are subject to all applicable rules and requirements governing such discharges. (8-24-94)

05. Flow Tiered NPDES Permit Limitations. Discharge permits for point sources discharging to waters exhibiting unidirectional flow may incorporate tiered limitations for conventional and toxic constituents at the discretion of the department. (8-24-94)

06. Intake Credits for Water Quality-Based Effluent Limitations. Discharge permits for point sources may incorporate intake credits for water quality-based effluent limits. These credits are subject to the limitations specified in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment *sine die* of the Second Regular Session of the Sixty-third Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Idaho Code §§ 39-105, 39-107, and 39-3601 et seq.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 5, 2015, [Vol. 15-8, pages 147 through 160](#). After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0102-1501 or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Josh Schultz at josh.schultz@deq.idaho.gov, (208)373-0264.

Dated this 2nd Day of December, 2015.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 21, 2015. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to add language to the Idaho Water Quality Standards that is consistent with the federal regulations for designating and revising uses assigned to waterbodies, providing basis for guidance on the use designation/revision process.

A Use Attainability Analysis (UAA) is required in order to revise or remove a designated beneficial use that is not an existing use on a water body. According to federal Clean Water Act regulation (40 CFR 131.10), a designated use may be changed or removed if it is demonstrated that attaining the designated use is not feasible. The federal regulations describe six reasons for justifying infeasibility of use attainment, as well as limitations on removal of a currently designated use.

Not all waterbody beneficial use designations necessarily reflect the most appropriate use and may benefit from a UAA. Idaho has had mixed success in developing UAAs and changing use designations. Currently DEQ does not have language in its Water Quality Standards pertaining to the UAA process, and consequently, DEQ has no basis for a policy or guidance document on when a UAA is appropriate or how to perform a UAA. UAA involves considerable data collection, analysis, and resources to meet the high demonstrable threshold required to revise use designations. Without guidance on when a UAA is required and the requirements of a successful UAA, a UAA is difficult and risky.

In 2014 the state of Idaho Office of Performance Evaluations (OPE) submitted Evaluation Report 14-03 to the Joint Legislative Oversight Committee. The Report recommended that DEQ complete its UAA guidance document. In the DEQ response to Report 14-03, DEQ committed to completing the UAA guidance after a basis for UAA guidance was established in the Water Quality Standards. This rulemaking is intended to develop sufficient language regarding the UAA process such that the OPE recommended guidance may be completed.

Idahoans that recreate in, drink from, or fish Idaho's surface waters, and any who discharge pollutants to those same waters, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the March 2015 Idaho Administrative Bulletin, [Vol. 15-3, pages 16-17](#), and a preliminary draft rule was made available for public review. Meetings were held on April 7 and May 19, 2015. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments. A record of the negotiated rule drafts, written comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary is available at www.deq.idaho.gov/58-0102-1501.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions that resulted in drafting the proposed rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final rule draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Josh Schultz at josh.schultz@deq.idaho.gov, (208)373-0264.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 4, 2015.

DATED this 5th Day of August, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-1501

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards," the following definitions apply: (4-11-06)

01. Activity. For purposes of antidegradation review, an activity that causes a discharge to a water subject to the jurisdiction of the Clean Water Act. (3-18-11)

02. Acute. A stimulus severe enough to induce a rapid response. In aquatic toxicity tests, acute refers to a single or short-term (i.e., ninety-six (96) hours or less) exposure to a concentration of a toxic substance or effluent which results in death to fifty percent (50%) of the test organisms. When referring to human health, an acute effect is not always measured in terms of lethality. (3-30-07)

03. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity due to exposure to the toxic substance or effluent. Acute criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Maximum Concentration (CMC). There are no specific acute criteria for human health; however, the human health criteria are based on chronic health effects and are expected to adequately protect against acute effects. (3-30-07)

04. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

05. Assigned Criteria. Criteria associated with beneficial uses from Section 100 of these rules. (3-18-11)

06. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured. (8-24-94)

07. Basin Advisory Group. No less than one (1) advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture,

mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

08. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

09. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

10. Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

11. Bioaccumulative Pollutants. A compound with a bioaccumulation factor of greater than one thousand (1,000) or a bioconcentration factor of greater than one thousand (1,000). (4-11-15)

12. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

13. Board. The Idaho Board of Environmental Quality. (7-1-93)

14. Chronic. A stimulus that persists or continues for a long period of time relative to the life span of an organism. In aquatic toxicity tests, chronic refers to continuous exposure to a concentration of a toxic substance or effluent which results in mortality, injury, reduced growth, impaired reproduction, or other adverse effect to aquatic organisms. The test duration is long enough that sub-lethal effects can be reliably measured. When referring to human health, a chronic effect is usually measured in terms of estimated changes in rates (# of cases/ 1000 persons) of illness over a lifetime of exposure. (3-30-07)

15. Chronic Criteria. Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity due to exposure to the toxic substance or effluent. Chronic criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Continuous Concentration (CCC). Human health chronic criteria are based on lifetime exposure. (3-30-07)

16. Compliance Schedule or Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

17. Cost-Effective and Reasonable Best Management Practices (BMPs) for Nonpoint Sources. All approved BMPs specified in Subsections 350.03 and 055.07 of these rules. BMPs for activities not specified are, in accordance with Section 350, determined on a case-by-case basis. (3-18-11)

18. Daily Maximum (Minimum). The highest (lowest) value measured during one (1) calendar day or a twenty-four (24) hour period, as appropriate. For ambient monitoring of dissolved oxygen, pH, and temperature, multiple measurements should be obtained at intervals short enough that the difference between consecutive measurements around the daily maximum (minimum) is less than zero point two (0.2) ppm for dissolved oxygen, zero point one (0.1) SU for pH, or zero point five (0.5) degree C for temperature. (3-30-07)

19. Daily Mean. The average of at least two (2) appropriately spaced measurements, acceptable to the Department, calculated over a period of one (1) day: (3-20-97)

- a.** Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)
- b.** If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)
- c.** In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)
- d.** For ambient monitoring of temperature, the daily mean should be calculated from equally spaced measurements, at intervals such that the difference between any two (2) consecutive measurements does not exceed one point zero (1.0) degree C. (3-30-07)
- 20. Degradation or Lower Water Quality.** “Degradation” or “lower water quality” means, for purposes of antidegradation review, a change in a pollutant that is adverse to designated or existing uses, as calculated for a new point source, and based upon monitoring or calculated information for an existing point source increasing its discharge. Such degradation shall be calculated or measured after appropriate mixing of the discharge and receiving water body. (3-29-12)
- 21. Deleterious Material.** Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)
- 22. Department.** The Idaho Department of Environmental Quality. (7-1-93)
- 23. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (8-24-94)
- 24. Designated Agency.** The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department’s division of environmental quality for all other activities. (3-20-97)
- 25. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements,” Sections 110 through 160, whether or not the uses are being attained. (4-5-00)
- 26. Desirable Species.** Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)
- 27. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)
- 28. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For purposes of antidegradation review, means “discharge” as used in Section 401 of the Clean Water Act. (3-18-11)
- 29. Dissolved Oxygen (DO).** The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)
- 30. Dissolved Product.** Petroleum product constituents found in solution with water. (8-24-94)
- 31. Dynamic Model.** A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)

32. **E. coli (*Escherichia coli*)**. A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)
33. **Effluent**. Any wastewater discharged from a treatment facility. (7-1-93)
34. **Effluent Biomonitoring**. The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)
35. **EPA**. The United States Environmental Protection Agency. (7-1-93)
36. **Ephemeral Waters**. A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-11-06)
37. **Existing Activity or Discharge**. An activity or discharge that has been previously authorized or did not previously require authorization. (3-18-11)
38. **Existing Beneficial Use Or Existing Use**. Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards." (4-11-06)
39. **Facility**. As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)
40. **Four Day Average**. The average of all measurements within a period of ninety-six (96) consecutive hours. While a minimum of one (1) measurement per each twenty-four (24) hours is preferred, for toxic chemicals in Section 210, any number of data points is acceptable. (3-30-07)
41. **Free Product**. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)
42. **Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water**. Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)
43. **General Permit**. An NPDES permit issued by the U.S. Environmental Protection Agency authorizing a category of discharges under the federal Clean Water Act or a nationwide or regional permit issued by the U.S. Army Corps of Engineers under the federal Clean Water Act. (3-29-12)
44. **Geometric Mean**. The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)
45. **Ground Water**. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-07)
46. **Harmonic Mean Flow**. The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). (8-24-94)
47. **Hazardous Material**. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated.

(7-1-93)

48. Highest Statutory and Regulatory Requirements for Point Sources. All applicable effluent limits required by the Clean Water Act and other permit conditions. It also includes any compliance schedules or consent orders requiring measures to achieve applicable effluent limits and other permit conditions required by the Clean Water Act. (3-18-11)

49. Hydrologic Unit Code (HUC). A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

50. Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one (1) or more excursions below the design flow can occur. (8-24-94)

51. Hypolimnion. The bottom layer in a thermally-stratified body of water. It is fairly uniform in temperature and lays beneath a zone of water which exhibits a rapid temperature drop with depth such that mixing with overlying water is inhibited. (3-30-07)

52. Integrated Report. Refers to the consolidated listing and reporting of the state's water quality status pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act. (3-18-11)

53. Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

54. Intermittent Waters. A stream, reach, or water body which naturally has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-11-06)

55. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

56. Loading Capacity. The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

57. Lowest Observed Effect Concentration (LOEC). The lowest concentration of a toxic substance or an effluent that results in observable adverse effects in the aquatic test population. (3-30-07)

58. Man-Made Waterways. Canals, flumes, ditches, wasteways, drains, laterals, and/or associated features, constructed for the purpose of water conveyance. This may include channels modified for such purposes prior to November 28, 1975. These waterways may have uniform and rectangular cross-sections, straight channels, follow rather than cross topographic contours, be lined to reduce water loss, and be operated or maintained to promote water conveyance. (3-30-07)

59. Maximum Weekly Maximum Temperature (MWMT). The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period ending on the day of calculation. When used seasonally, e.g., spawning periods, the first applicable WMT occurs on the seventh day into the time period. The MWMT is the single highest WMT that occurs during a given year or other period of interest, e.g., a spawning period. (3-30-07)

60. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

61. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place

where effluents are treated. (7-1-93)

62. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

63. Natural Background Conditions. The physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. Natural disturbances including, but not limited to, wildfire, geologic disturbance, diseased vegetation, or flow extremes that affect the physical, chemical, and biological integrity of the water are part of natural background conditions. Natural background conditions should be described and evaluated taking into account this inherent variability with time and place. (3-30-07)

64. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

65. New Activity or Discharge. An activity or discharge that has not been previously authorized. Existing activities or discharges not currently permitted or licensed will be presumed to be new unless the Director determines to the contrary based on review of available evidence. An activity or discharge that has previously taken place without need for a license or permit is not a new activity or discharge when first licensed or permitted. (3-18-11)

66. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a.** Irrigated and nonirrigated lands used for: (7-1-93)
 - i.** Grazing; (7-1-93)
 - ii.** Crop production; (7-1-93)
 - iii.** Silviculture; (7-1-93)
- b.** Log storage or rafting; (7-1-93)
- c.** Construction sites; (7-1-93)
- d.** Recreation sites; (3-20-97)
- e.** Septic tank disposal fields. (8-24-94)
- f.** Mining; (3-20-97)
- g.** Runoff from storms or other weather related events; and (3-20-97)
- h.** Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

67. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

68. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

69. One Day Minimum. The lowest daily instantaneous value measured. (3-20-97)

70. One Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

71. Operator. For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

72. Outstanding Resource Water (ORW). A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

73. Owner. For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

74. Permit or License. A permit or license for an activity that is subject to certification by the state under Section 401 of the Clean Water Act, including, for example, NPDES permits, dredge and fill permits, and FERC licenses. (3-18-11)

75. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

76. Petroleum Products. Products derived from petroleum through various refining processes. (7-1-93)

77. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

78. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

79. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

80. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

81. Public Swimming Beaches. Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. (4-11-06)

- 82. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (7-1-93)
- 83. Reference Stream or Condition.** A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)
- 84. Release.** Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)
- 85. Resident Species.** Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)
- a.** Are usually present at the site; (8-24-94)
 - b.** Are present only seasonally due to migration; (8-24-94)
 - c.** Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)
 - d.** Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)
 - e.** Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)
- 86. Responsible Persons in Charge.** Any person who: (8-24-94)
- a.** By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)
 - b.** Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)
 - c.** Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)
- 87. Sediment.** Undissolved inorganic matter. (3-30-07)
- 88. Seven Day Mean.** The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)
- 89. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)
- 90. Short-Term or Temporary Activity.** An activity which is as short as possible but lasts for no more than one (1) year, is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-30-07)
- 91. Silviculture.** Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either

planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

92. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

93. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

94. State. The state of Idaho. (7-1-93)

95. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

96. Suspended Sediment. The undissolved inorganic fraction of matter suspended in surface water. (3-30-07)

97. Suspended Solids. The undissolved organic and inorganic matter suspended in surface water. (3-30-07)

98. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

99. Thermal Shock. A rapid temperature change that causes aquatic life to become disoriented or more susceptible to predation or disease. (4-11-15)

100. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

101. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

102. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

103. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

104. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. (4-11-06)

105. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as

determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

106. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

107. Use Attainability Analysis. A structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. ()

1078. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

1089. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

10910. Water Body Unit. Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

1101. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

1112. Water Quality-Based Effluent Limitation. An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

1123. Water Quality Limited Water Body. After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

1134. Waters and Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

1145. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

1156. Watershed Advisory Group. An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

1167. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

~~11-78.~~ **Zone of Initial Dilution (ZID).** An area within a Department authorized mixing zone where acute criteria may be exceeded. This area shall be no larger than necessary and shall be sized to prevent lethality to swimming or drifting organisms by ensuring that organisms are not exposed to concentrations exceeding acute criteria for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. (4-11-15)

(BREAK IN CONTINUITY OF SECTIONS)

102. DESIGNATION AND REVISION OF BENEFICIAL USES.

When designating or revising beneficial uses for a water body, the Department shall consult with the basin advisory group and the watershed advisory group with the responsibilities for the water body described in Chapter 36, Title 39, Idaho Code. After consultation, the Director shall identify the designated beneficial uses of each water body in these rules pursuant to the rulemaking and public participation provisions of Chapter 52, Title 67, Idaho Code. ()

01. Designation of Beneficial Uses. Beneficial uses shall be designated in accordance with Section 39-3604, Idaho Code, taking into consideration the uses set forth in Section 100, and such physical, geological, chemical, and biological measures as may affect the surface water. Beneficial uses are designated according to water body unit unless designated otherwise. Use designations are made for each water body or segment whether or not they are being attained or are fully supported at the time of designation. ()

a. In designating beneficial uses, which a water body can reasonably be expected to attain, the Department shall consider: ()

i. Existing uses of the water body; ()

ii. The physical, geological, hydrological, atmospheric, chemical and biological measures that affect the water body; ()

iii. The beneficial use attainability measures identified in Section 39-3607, Idaho Code; ()

iv. The economic impact of the designation and the economic costs required to fully support the beneficial uses; ()

v. The attainment and maintenance of the water quality standards of downstream waters, including the waters of downstream states; ()

vi. Adopting subcategories of a beneficial use and setting the appropriate criteria to reflect varying needs of such subcategories of beneficial uses, for instance, to differentiate between cold water and warm water fisheries; ()

vii. At a minimum, that beneficial uses are deemed attainable if they can be achieved by the imposition of effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and cost-effective and reasonable best management practices for nonpoint source control; and ()

viii. Designating seasonal beneficial uses as an alternative to reclassifying a water body or segment thereof to uses requiring less stringent water quality criteria. If seasonal beneficial uses are adopted, water quality criteria may be adjusted to reflect the timing of the beneficial use, e.g., salmonid spawning. However, seasonal beneficial uses and their criteria shall not preclude the attainment and maintenance of a more protective beneficial use at other times. ()

b. In no case shall waste transport or waste assimilation be a designated beneficial use for a water body. ()

02. Revision of Beneficial Uses. ()

a. Designated beneficial uses shall be reviewed and revised when such physical, geological, hydrological, atmospheric, chemical or biological measures indicate the need to do so. Designated beneficial uses may be revised or removed if the designated beneficial use is not an existing use, and it is demonstrated that attaining the designated beneficial use is not feasible due to one of the following factors: ()

i. Naturally occurring pollutant concentrations prevent the attainment of the use; ()

ii. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating state water conservation requirements to enable uses to be met; ()

iii. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; ()

iv. Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; ()

v. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or ()

vi. Controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act would result in substantial and widespread economic and social impact. ()

b. Designated beneficial uses may not be removed if: ()

i. They are existing uses unless a use requiring more stringent criteria is added; or ()

ii. Such uses can be attained by implementing effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and by implementing cost-effective and reasonable best management practices for nonpoint source control. ()

c. Where existing water quality standards specify designated uses less than those which are presently being attained, the Department shall revise its standards to reflect the uses actually being attained. ()

d. A use attainability analysis is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. A use attainability analysis must be conducted whenever: ()

i. The Department designates uses for a water body that do not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or ()

ii. The Department acts to remove a designated use which provides for protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; to remove a subcategory of such uses; or to designate subcategories of such uses which require less stringent criteria than previously applicable. ()

e. A use attainability analysis is not required under this rule whenever: ()

i. The Department designates beneficial uses which include protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or ()

ii. The Department removes a beneficial use that does not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.04 - RULES FOR ADMINISTRATION OF WASTEWATER TREATMENT FACILITY GRANTS

DOCKET NO. 58-0104-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment *sine die* of the Second Regular Session of the Sixty-third Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 2, 2015, [Vol. 15-9, pages 308 through 310](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0104-1501 or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Tim Wendland at tim.wendland@deq.idaho.gov, (208)373-0439.

Dated this 2nd Day of December, 2015.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 16, 2015. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to comply with a recent revision to the Clean Water Act that requires planning documents, that are used for State Revolving Fund (SRF) projects, to assess the cost and effectiveness, to the maximum extent practicable, of efficient water use, reuse, recapture and conservation, and

energy conservation. This proposed rule change incorporates the required elements of planning documents that are not already in the existing rule. The additional required elements are a result of the 2014 amendments to the Clean Water Act (Pub.L. 113-121).

Prospective grant and loan recipients, consulting engineers, grant and loan administrators, and other funding agencies may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on the outcome of the negotiated rulemaking process conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the July 2015 Idaho Administrative Bulletin, **Vol. 15-7, page 100**, and a preliminary draft rule was made available for public review. A meeting was held on July 21, 2015. Members of the public did not attend the meeting or submit written comments. At the conclusion of the negotiated rulemaking process, DEQ formatted the final rule draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule. The negotiated rulemaking record, which includes the negotiated rule drafts, and documents distributed during the negotiated rulemaking process, is available at www.deq.idaho.gov/58-0104-1501.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Tim Wendland at tim.wendland@deq.idaho.gov, (208) 373-0439.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 30, 2015.

Dated this 2nd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0104-1501

030. PROJECT SCOPE AND FUNDING.

Grant funds awarded under this program will be used entirely to prepare a wastewater treatment facility planning document. The planning document will identify the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.16, "Wastewater Rules," and the federal Clean Water Act, 33 U.S.C. Sections 1381 et seq. The planning document must be approved by the Department. (3-29-12)

01. Planning Document. (3-29-12)

a. A planning document shall include all items required by IDAPA 58.01.16, "Wastewater Rules," Subsection 411.03 or 410.04. Should the grant recipient proceed to construction using federal funds (e.g., a state revolving fund loan), then the items listed in Subsection 030.01.b. of these rules shall be required prior to construction. (3-29-12)

b. A planning document that is prepared anticipating the use of federal funds shall include an environmental review that will require the Department approval of both a draft and final planning document. (3-29-12)

i. The draft planning document shall include all items required by 58.01.16 "Wastewater Rules," Subsection 411.03 or 410.04, as well as the following: (3-29-12)

- (1) Description of existing conditions for the proposed project area; (4-2-08)
- (2) Description of future conditions for the proposed project area; (4-2-08)
- (3) Development and initial screening of alternatives; and (3-29-12)
- (4) Development of an environmental review specified by the Department as described in Section 042. (3-29-12)

ii. The final planning document shall include all items required of the draft planning document as well as the following: (3-29-12)

- (1) Final screening of principal alternatives and plan adoption; (4-2-08)
- (2) Selected plan description and implementation arrangements; ~~and~~ ~~(3-29-12)~~ ()
- (3) Relevant engineering data supporting the final alternative; ~~and~~ ~~(3-29-12)~~ ()

~~(4) Assessment of the cost and effectiveness, to the maximum extent practicable, of efficient water use, reuse, recapture and conservation, and energy conservation, with cost including construction, operation and maintenance, and replacement. ()~~

iii. The grant recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The grant recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the grant recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the grant recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document may be prepared. (3-29-12)

c. The draft and final planning document shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (3-29-12)

d. The draft and final planning documents must be reviewed and approved by the Department. (3-29-12)

e. The planning period shall be twenty (20) years for all facilities except for conveyance systems which may be forty (40) years. (4-2-08)

02. Limitation on Funding Assistance. The maximum grant funding provided in a state planning grant award shall not exceed fifty percent (50%) of the total eligible costs for grants awarded. (4-2-08)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 - GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment *sine die* of the Second Regular Session of the Sixty-third Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. This rule was adopted as a temporary rule by the Board in May 2015 and is currently effective.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, June 3, 2015, [Vol. 15-6, pages 68 through 75](#). After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0111-1501 or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does regulate an activity not regulated by the federal government. This rulemaking has been initiated as directed by the Idaho Legislature in House Bill 197.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov or (208)373-0356.

Dated this 2nd Day of December, 2015.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

<p>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE</p>

EFFECTIVE DATE: The temporary rule was effective June 1, 2015.

AUTHORITY: In compliance with Idaho Code §§ 67-5221(1) and 67-5226(1), notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality has initiated proposed rulemaking. This action is authorized by Idaho Code §§ 39-105, 39-107, 39-120, and 39-126.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Idaho Code § 67-5222(2), a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before June 19, 2015. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to make revisions to the Ground Water Quality Rule, IDAPA 58.01.11, for consistency with the 2015 revision to Idaho Code § 39-102 enacted under House Bill 197. House Bill 197 clarifies that degradation of ground water caused by mining activities is allowed at point of compliance as long as the mine operator uses best management practices to the maximum extent practical. This rule revises Sections 150, 301, 400, and 401.

Mining industry, conservation groups, environmental protection groups, state and federal land management agencies, and concerned citizens of the state of Idaho may be interested in commenting on this proposed rule. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2015 for adoption of a pending rule. The pending rule is expected to become final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Idaho Code § 67-5226(1)(b), the Governor has found that temporary adoption of the rule is necessary to meet the statutory deadline to promulgate a rule by June 1, 2015.

INCORPORATION BY REFERENCE: Pursuant to Idaho Code § 67-5229(2)(a), the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. House Bill 197 includes an emergency clause which requires the Board of Environmental Quality to promulgate a rule with an effective date of June 1, 2015. With this deadline, there is no time to conduct negotiated rulemaking. DEQ determined that negotiated rulemaking was not feasible due to the statutory deadline and because DEQ has no discretion with respect to implementing Idaho Code provisions.

IDAHO CODE § 39-107D STATEMENT: This temporary/proposed rule does regulate an activity not regulated by the federal government. This rulemaking has been initiated as directed by the Idaho Legislature in House Bill 197.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov or (208)373-0356.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 3, 2015.

DATED this 3rd Day of June, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0111-1501

150. IMPLEMENTATION.

This rule establishes minimum requirements to maintain and protect ground water quality. This rule applies to all activities with the potential to degrade ground water quality. (3-20-97)

01. Ground Water Quality Standards. The numerical and narrative standards in Sections 200 and 301 identify minimum levels of protection for ground water quality and shall be used as a basis for: (3-20-97)

a. Evaluating or comparing ground water quality when developing or modifying best available methods, best management practices, or best practical methods; (3-20-97)

b. Identifying permit conditions; (3-20-97)

c. Establishing cleanup levels; and (3-20-97)

d. Determining appropriate actions when ground water quality standards are exceeded. (3-20-97)

02. Aquifer Categorization. Aquifers of the state shall be categorized based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing water quality, and social and economic considerations. There shall be three aquifer categories, Sensitive Resource, General Resource, and Other Resource, to provide different levels of protection. The level of protection required for each category and application of standards to these categories are shown in Table I.

Table 1. Level of Protection and Application of Standards to Aquifer Categories		
Category	Level of Protection	Application of Standards
Sensitive Resource	Apply best management practices and best available methods. This category provides the highest level of ground water protection.	May apply stricter standards than in Section 200.
General Resource	Apply best management practices and best practical methods <u>to the maximum extent practical.</u>	Apply numerical and narrative standards in Section 200.
Other Resource	Apply best management practices and best practical methods <u>to the maximum extent practical.</u>	May apply less strict standards than in Section 200.

(7-1-98)()

a. All aquifers where there are activities with the potential to degrade ground water quality are categorized in Section 300. Those aquifers where no activities with the potential to degrade ground water quality are occurring will remain uncategorized until such activities are commenced. If no action is taken to categorize an aquifer when an activity(ies) with the potential to degrade ground water quality is initiated, the aquifer will automatically be categorized as General Resource. (3-20-97)

b. Categorization should be considered when an activity with the potential to degrade ground water quality is proposed over an aquifer or portion of an aquifer which presently has no such activities and, based on the criteria in Section 350, the aquifer may be most appropriately categorized as Sensitive Resource or Other Resource. (3-20-97)

c. Recategorization should be considered when information on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations, in conjunction with one or more of the criteria in Section 350, demonstrates that the aquifer or portion of an aquifer may be more appropriate in another category. (3-20-97)

03. Ground Water-Surface Water Interconnection. The beneficial uses of interconnected surface water shall be recognized when evaluating ground water quality protection. The implementation of water quality programs shall ensure that the quality of ground water that discharges to surface water does not impair the identified beneficial uses of the surface water and that surface water infiltration does not impair beneficial uses of ground water. (3-20-97)

04. Interagency Coordination. The Department will coordinate with other federal, state, and local agencies to pursue interagency agreements when necessary to ensure implementation of this rule for activities which have the potential to degrade ground water quality. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

301. MANAGEMENT OF ACTIVITIES WITH THE POTENTIAL TO DEGRADE AQUIFERS.

01. Sensitive Resource Category Aquifers. (3-20-97)

a. Activities with the potential to degrade Sensitive Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best available methods except when a point of compliance is set pursuant to Section 401. ~~(3-20-97)~~()

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Sensitive Resource. In addition, stricter numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-20-97)

02. General Resource Category Aquifers. (3-20-97)

a. Activities with the potential to degrade General Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. ~~(3-20-97)~~()

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as General Resource. (3-20-97)

03. Other Resource Category Aquifers. (3-20-97)

a. Activities with the potential to degrade Other Resource aquifers shall be managed in a manner which maintains existing ground water quality, except for those identified constituents which may have a less stringent standard, through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. ~~(3-20-97)~~()

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Other Resource. In addition, less strict numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

400. GROUND WATER CONTAMINATION.

01. Releases Degrading Ground Water Quality. No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: (3-20-97)

- a. Causes a ground water quality standard to be exceeded; (3-20-97)
- b. Injures a beneficial use of ground water; or (3-20-97)
- c. Is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method. (3-20-97)

02. ~~Prevention~~ Measures Taken in Response to Degradation. (~~3-20-97~~)()

a. Except when a point of compliance is set pursuant to Section 401. ~~When~~ when a numerical standard is not exceeded, but degradation of ground water quality is detected and deemed significant by the Department, the Department shall take one (1) or more of the following actions: (~~3-20-97~~)()

- i. Require a modification of regulated activities to prevent continued degradation; (3-20-97)
- ii. Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; (3-20-97)

iii. Allow limited degradation of ground water quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: (3-30-07)

(1) Best management practices, best available methods or best practical methods, as appropriate for the aquifer category, are being applied; and (3-20-97)

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or (3-20-97)

iv. Allow degradation of ground water quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: (3-20-97)

(1) Best management practices are being applied; and (3-20-97)

(2) The degradation will not adversely impact a beneficial use. (3-20-97)

b. The following criteria shall be considered when determining the significance of degradation: (3-20-97)

i. Site specific hydrogeologic conditions; (3-20-97)

ii. Water quality, including seasonal variations; (3-20-97)

iii. Existing and projected future beneficial uses; (3-20-97)

iv. Related public health issues; and (3-20-97)

v. Whether the degradation involves a primary or secondary constituent in Section 200. (3-20-97)

03. Contamination Exceeding a Ground Water Quality Standard. The discovery of any contamination exceeding a ground water standard that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further contamination or clean up existing contamination, as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code. (3-20-97)

04. Agricultural Chemicals. Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ground water contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory requirements. (3-20-97)

05. Site-Specific Ground Water Quality Levels or Points of Compliance. The Department may allow site-specific ground water quality levels, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, or may allow site-specific points of compliance, based on consideration of effects to human health and the environment, for: (7-1-09)

- a. Remediation conducted under the Department's oversight; (3-20-97)
- b. Permits issued by the Department; (3-20-97)
- c. Situations where the site background level varies from the ground water quality standard; (7-1-09)
- d. Dissolved concentrations of secondary constituents listed in Section 200 of this rule. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; or (7-1-09)
- e. Other situations authorized by the Department in writing. (3-20-97)

401. MINING.

01. Request for Setting Point(s) of Compliance and Standards Applicable to Mining Activities. At the request of a mine operator, pursuant to this section, the Department shall set a point of compliance, or points of compliance, at which the mine operator ~~must~~ shall protect current and projected future beneficial uses of the ground water and meet the ground water quality standards as described in ~~Subsection 150.01~~ Section 200 or as allowed under Subsection 400.05. Degradation of ground water is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category as specified in Table 1 of Subsection 150.02. If a request is not made, the mine operator must meet the ground water quality standards as described in Subsection 150.01 in ground water both within and beyond the mining area unless the Department establishes the point(s) of compliance consistent with Subsection 401.03. Mining activities must be managed using the level of protection appropriate for the aquifer category in accordance with Subsection 150.02 and Section 301. (7-1-09)()

02. Application Process. (7-1-09)

a. If the mine operator requests a point of compliance, or points of compliance, the mine operator shall make written application to the Department. The application shall be accompanied by a fee of two thousand five hundred dollars (\$2,500). The application shall include the following information in sufficient detail to allow the Department to establish point(s) of compliance: (7-1-09)

- i. Name, location, and mailing address of the mining operation; (7-1-09)
- ii. Name, mailing address, and phone number of the mine operator; (7-1-09)
- iii. Land ownership status of the mining operation (federal, state, private or public); (7-1-09)
- iv. The legal structure (corporation, partnership, etc.) and residence of the mine operator; (7-1-09)
- v. The legal description, to the quarter-quarter section, of the location of the proposed mining operation; (7-1-09)
- vi. Evidence the mine operator is authorized by the Secretary of State to conduct business in the state of Idaho; (7-1-09)
- vii. A general description of the operational plans for the mining operation from construction through final reclamation. This description shall include any proposed phases for construction, operations, and reclamation and a map that identifies the location of all mining activities; (7-1-09)

viii. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the mining area, identifying and showing the location and extent of the following features: (7-1-09)

(1) All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches; (7-1-09)

(2) All public and private drinking water supply source(s) within one (1) mile of the mining area; (7-1-09)

(3) All service roads and public roads; (7-1-09)

(4) All buildings and structures within one (1) mile of the mining area; (7-1-09)

(5) All special resource waters within one (1) mile of the mining area; and (7-1-09)

(6) All Clean Water Act Section 303(d) listed streams, and their listed impairments, within one (1) mile of the mining area; (7-1-09)

ix. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction; (7-1-09)

x. Information regarding the relevant factors set forth in Subsection 401.03; and (7-1-09)

xi. A proposed point of compliance, or points of compliance. (7-1-09)

b. Within thirty (30) days of receipt of an application, the Department shall issue a written notice to the mine operator indicating: (7-1-09)

i. That the application is complete; or (7-1-09)

ii. That the Department is rejecting the application as incomplete. In such a case, the Department shall provide a list of deficiencies. Upon a determination that the application is incomplete, the Department shall refund one-half (1/2) of the application fee. (7-1-09)

c. The Department shall establish the point(s) of compliance within one hundred eighty (180) days after receipt of a complete application unless the Department determines that additional time is necessary due to unusual circumstances. (7-1-09)

03. Setting the Point(s) of Compliance. The point(s) of compliance shall be set as close as possible to the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.a. through 401.03.h., but in no event shall the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance shall be set so that, outside the mining area boundary, there is no injury to current or projected future beneficial uses of ground water and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance shall be based on an analysis and consideration of all relevant factors including, but not limited to: (7-1-09)

a. The hydrogeological characteristics of the mining area and surrounding land, including any dilution characteristics of the aquifer and any natural attenuation supported by site-specific data; (7-1-09)

b. The concentration, volume, and physical and chemical characteristics of contaminants resulting from the mining activity, including the toxicity and persistence of the contaminants; (7-1-09)

c. The quantity, quality, and direction of flow of ground water underlying the mining area; (7-1-09)

- d.** The proximity and withdrawal rates of current ground water users; (7-1-09)
- e.** A prediction of projected future beneficial uses; (7-1-09)
- f.** The availability of alternative drinking water supplies; (7-1-09)
- g.** The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water; and (7-1-09)
- h.** Public health, safety, and welfare effects. (7-1-09)

04. Ground Water Monitoring and Reporting. The Department shall require ground water monitoring and reporting whenever the Department sets the point(s) of compliance. The Department shall not require ground water monitoring that duplicates ground water monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. (7-1-09)

- a.** A ground water monitoring system required under Subsection 401.04 shall be designed to: (7-1-09)
 - i.** Represent the quality of background ground water that has not been affected by the mining activity; and (7-1-09)
 - ii.** Represent the quality of ground water passing the point(s) of compliance in order to determine compliance with ground water quality standards or effectiveness of best management practices. (7-1-09)
- b.** When practicable, indicator monitoring wells or other devices may be required. Such indicator wells and other devices shall not be used to determine compliance with the ground water quality standards, but instead may be used to evaluate modeling results, to predict the quality of ground water at the point(s) of compliance, or to determine the effectiveness of best management practices. (7-1-09)
- c.** All monitoring wells shall be constructed (well depth, well screen size, well screen interval, gravel pack, etc.) and developed so that ground water samples represent the quality of ground water that is relevant to current and future beneficial uses. (7-1-09)

05. Coordination with Other State or Federal Agencies/Public Notice. Before setting the point(s) of compliance or requiring ground water monitoring, the Department shall coordinate with and seek recommendations from other state or federal agencies that have regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting or changing the point(s) of compliance. The Department shall issue a public notice after it sets the point(s) of compliance. (7-1-09)

06. Limitations. Section 401 addresses only those contaminants that naturally occur in the mining area ground water or in the surrounding rock or soil and are present in concentrations above the natural background level as a result of mining activities. (7-1-09)

07. Application of Provisions. The provisions set out in Section 401 apply to new mining activities or to an expansion of existing mining activities commencing after July 1, 2009. All consent orders, compliance schedules, and other agreements adopted or issued by the Department prior to July 1, 2009 pertaining to ground water protection at mine sites shall remain in full force and effect. (7-1-09)

08. Change in Point(s) of Compliance/Ground Water Monitoring. (7-1-09)

- a.** A change in the point(s) of compliance may be requested by the mine operator when there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03. A change requested by the mine operator shall include an identification of the new proposed point(s) of compliance, a description of the cause for the change and any data supporting the change. The mine operator's request shall be handled as an application submitted pursuant to Subsection 401.02.a. and shall be subject to all other provisions of Section 401. (7-1-09)

b. The Department may initiate a change in the point(s) of compliance if there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03, and the Department determines that the change is necessary to ensure there is no injury to current or projected future beneficial uses of ground water and no violation of water quality standards applicable to any interconnected surface waters. The Department shall notify the mine operator in writing of the Department's intent to change the point(s) of compliance. The Department shall make its final decision to change the point(s) of compliance within sixty (60) days of the notice to the mine operator unless the Department and the mine operator agree more time is necessary to make the decision.
(7-1-09)

c. The Department may require additional or new ground water monitoring or indicator wells when the Department changes the point(s) of compliance. The Department may also require additional or different ground water monitoring or indicator wells if the Department determines, based upon a change in or new information regarding the mining activity or any of the factors listed in Subsection 401.03, that the monitoring no longer meets the requirements set forth in Subsection 401.04. The mine operator may also request a change in the monitoring.
(7-1-09)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.12 - RULES FOR ADMINISTRATION OF WATER POLLUTION CONTROL LOANS

DOCKET NO. 58-0112-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment *sine die* of the Second Regular Session of the Sixty-third Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 2, 2015, [Vol. 15-9, pages 311 and 312](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0112-1501 or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Tim Wendland at tim.wendland@deq.idaho.gov, (208)373-0439.

Dated this 2nd Day of December, 2015.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 16, 2015. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Congress recently amended the Clean Water Act's requirements for the State Revolving Fund (SRF) loan effort. The amendment requires that Idaho consider population trends and unemployment data, in addition to the existing criteria of median household income, when determining which borrowers will qualify

for disadvantaged loan terms. This rule change incorporates the additional criteria for evaluating the eligibility for disadvantaged loans that are not already in the existing rule. The additional required elements are a result of the 2014 amendments to the Clean Water Act (Pub.L. 113-121).

Prospective grant and loan recipients, consulting engineers, grant and loan administrators, and other funding agencies may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on the outcome of the negotiated rulemaking process conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the July 2015 Idaho Administrative Bulletin, [Vol. 15-7, page 138](#), and a preliminary draft rule was made available for public review. A meeting was held on July 21, 2015. Members of the public did not attend the meeting or submit written comments. At the conclusion of the negotiated rulemaking process, DEQ formatted the final rule draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule. The negotiated rulemaking record, which includes the negotiated rule drafts, and documents distributed during the negotiated rulemaking process, is available at www.deq.idaho.gov/58-0112-1501.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Tim Wendland at tim.wendland@deq.idaho.gov, (208) 373-0439.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 30, 2015.

Dated this 2nd Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0112-1501

021. DISADVANTAGED LOANS.

Disadvantaged Loan Awards. In conjunction with the standard loans, the Department may award disadvantaged loans to applicants deemed disadvantaged using the following criteria: (3-29-12)

01. Qualifying for a Disadvantaged Loan. In order to qualify for a disadvantaged loan, a loan applicant must have an annual user rate for wastewater service for residential customers which exceeds ~~one and one-~~

~~half percent (1½%)~~ two percent (2%) of the applicant community's median household income or, if the user rate is between one and one-half percent (1½%) and two percent (2%) of the applicant community's median household income, the community must also have: unemployment that exceeds the state average; and a decreasing population. The applicant shall agree to a thirty (30) year loan unless the design life of the project is documented to be less than thirty (30) years. The annual user rate would be based on all operating, maintenance, replacement, and debt service costs (both for the existing system and for upgrades). If the applicant's service area is not within the boundaries of a municipality, or if the applicant's service area's median household income is not consistent with the municipality as a whole, the applicant may use the census data for the county in which it is located or may use a representative survey, conducted by a Department approved, objective third party, to verify the median household income of the applicant's service area. ~~(3-29-12)()~~

02. Adjustment of Loan Terms. DEQ will equally apportion funds available for principal forgiveness to all prospective disadvantaged loan recipients. Consistent with achieving user rates ~~of one and one-half percent (1½%) of the applicant community's median household income~~ as per the criteria set forth in Subsection 021.01, and where possible with available funds, loan terms may be adjusted in the following order: decreasing the interest rate and providing principal forgiveness. ~~(3-29-12)()~~

a. Decreasing Interest Rate. The loan interest rate may be reduced from the rate established by the Director for standard loans to a rate that results in an annual user rate ~~equal to one and one-half percent (1½%) of median household income~~ equaling the criteria set forth in Subsection 021.01. The interest rate may be reduced to as low as zero percent (0%). ~~(3-29-12)()~~

b. Principal Forgiveness. If even at zero percent (0%) interest, the annual user rate per residential user still exceeds ~~one and one-half percent (1½%) of median household income; the criteria set forth in Subsection 021.01,~~ then the principal which causes the user charge to exceed one and one-half percent (1½%) may be reduced except the criteria set forth in Subsection 021.01 may be partially forgiven or reduced. ~~‡~~The principal reduction cannot exceed fifty percent (50%) of the total loan. Principal forgiveness terms may be revised (from initial estimates established in the annual Intended Use Plan) based upon final construction costs, such that loan terms do not result in user rates that are below ~~one and one-half percent (1½%) of the applicant community's median household income~~ the criteria set forth in Subsection 021.01. ~~(3-29-12)()~~