

TEMPORARY RULES COMMITTEE RULES REVIEW BOOK

Submitted for Review Before
**Senate Resources &
Environment Committee**
66th Idaho Legislature
First Regular Session – 2021



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2021



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

January 11, 2021

MEMORANDUM

TO: **Members of the 2021 Idaho State Legislature**

FROM: **Alex J. Adams, Administrator** *Alex J. Adams*
Bradley A. Hunt, Rules Coordinator *Bradley A. Hunt*

SUBJECT: **Overview of Executive Agency Rulemaking in 2020**

Background. Governor Little initiated a rules moratorium for calendar year 2020 and thus the volume of rulemaking is down substantially relative to most years. Most rules published in the Legislative Rules Review book are simply re-published because the 2020 Legislature adjourned *sine die* without passing a concurrent resolution approving any pending fee rules as specified in Section 67-5224, Idaho Code. The necessary fee rules were re-published in the following special bulletins:

- [April 15](#) – Temporary Fee Rules
- [September 16](#) – Proposed Fee Rules
- [November 18](#) – Pending Fee Rules

Changes in Existing Fee Rules. Since all fee rules expired upon sine die, there is no existing rule available to amend. Therefore, only a clean version of the rule chapter is able to be presented to the Legislature in January 2021. In some cases, fee rules were modified based on public comment, or to implement Executive Order [2020-13](#), among other reasons. Given the unprecedented volume, all edits are incorporated within a single docket and presented as a clean fee rule chapter. There are several ways that legislators may view previous rules for comparison purposes:

- An [archive of any rule](#) since 1996 is available on the DFM website. This allows legislators to see the evolution of a rule over time.
- The Legislative Services Office analyzes all proposed rules. You can find their analysis of proposed rules which, in some cases, may discuss changes to rules between sine die and the proposed rules. These may be found on the [Legislature's website](#).
- Changes made between the proposed and pending rule stages were noted in the [November 18th](#) bulletin where applicable.

Process for Approving/Extending Rules. Below, you will find a brief description on legislative actions and outcomes regarding the rules review process and contents of the Legislative Rules Review Books:

- Pending Fee Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to become final.
- Temporary Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to be extended.
- Pending Rules become final and effective sine die unless rejected, in whole or in part, via concurrent resolution adopted by both bodies.
 - Pending rules may be approved, in whole or in part, or rejected if determined to be inconsistent with legislative intent of the governing statute.
 - If rejected, new or amended language must be identified at a numerical or alphabetical designation within the rule and specified in the concurrent resolution.
- A link to LSO's proposed rule analysis is provided at the beginning of each docket and includes any required supporting documentation (e.g. Cost Benefit Analysis (CBA), Incorporation By Reference Synopsis (IBRS)) as part of the analysis.
- All 2021 review books can be accessed on the DFM website [here](#).

Contact Information. If questions arise during the rules review process, please do not hesitate to contact the Rules Coordinator, Brad Hunt: Brad.Hunt@dfm.idaho.gov; 208-854-3096.

SENATE RESOURCES & ENVIRONMENT COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2021 Legislative Session

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – Rules Governing Licensing

Docket No. 13-0104-21014

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2101

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 22, 2020.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. This action is authorized pursuant to Title 36, Idaho Code, including Sections 36-104 and 36-408, Idaho Code.

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

The Governor has found that temporary rulemaking is appropriate to increase the number of general hunt elk tags set aside for outfitters to 2,800 on a statewide basis and reserve them for sale to persons who have entered into an agreement to use the services of an outfitter licensed under Chapter 21, Title 36, Idaho Code.

This rulemaking balances outfitter industry and local economic interests in conjunction with the Commission November 20, 2020 action to set nonresident tag limits for all previously uncapped general elk hunts (established by zone) to address hunter congestion and crowding. Temporary rulemaking is appropriate because the current ceiling for statewide outfitter set-aside elk tags (2,400 tags) otherwise limits outfitter elk tag allocation in previously uncapped elk zones to approximately 59% of outfitter reported annual use history. The temporary rule provides the Commission flexibility to increase the outfitter tag allocation in previously uncapped elk zones and to support potential changes in outfitter tag allocation in previously capped elk zones when the Commission sets 2021-2022 elk seasons.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that the adoption of a temporary rule confers a benefit by giving the Commission the ability to reduce otherwise negative potential impacts to Idaho's outfitter industry and related potential local economic impacts. Temporary rulemaking also promotes broader community support for related Commission actions to benefit resident hunters by limiting non-resident hunters to reduce hunter congestion and crowding.

In addition, temporary rulemaking is consistent with Section 36-408, Idaho Code, as amended in 2019 and 2020, which authorizes the Commission to set the number of outfitter allocated tags for a capped elk zone based on verified outfitter use history.

FEE SUMMARY: Not applicable. This temporary rule does not impose new fees or charges.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Jon Rachael at (208) 465-8465.

Dated this 22nd day of December, 2020.

Paul Kline, Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 13-0104-2101

500. NONRESIDENT DEER AND ELK TAG OUTFITTER SET-ASIDE.

01. Tags. The following numbers of nonresident general hunt deer tags and nonresident general hunt elk tags will annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter licensed under Chapter 21, Title 36, Idaho Code. For each Hunting Season: (3-20-20)

a. One thousand nine hundred eighty-five (1,985) deer tags (the combined total of regular and White-tailed); (3-20-20)

b. Two thousand ~~four~~ **eight** hundred (2,~~4~~**8**00) elk tags (the combined total of A and B tags for all zones). (~~3-20-20~~)(12-22-20)T

02. Restrictions. Tags for use in general hunts will be sold on a first-come, first-serve basis through July 14 of each year. Application for purchase of these tags will be made by the outfitter for the nonresident on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the nonresident has a contract to hunt with the outfitter making application. (3-20-20)

03. Unsold Tags. Any tags not sold by July 15 of each year will be sold by the Department to nonresidents on a first-come, first serve basis. (3-20-20)