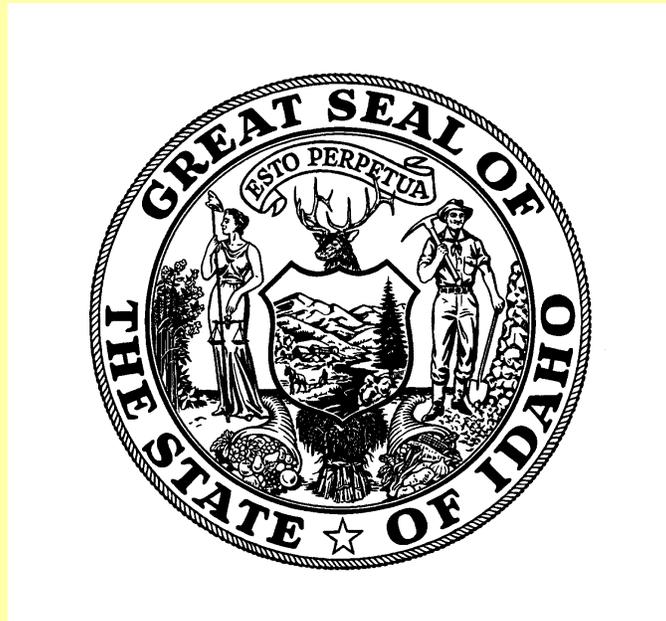


PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
House Resources &
Conservation Committee
66th Idaho Legislature
Second Regular Session – 2022**



Prepared by:

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

January 2022



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

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

January 10, 2022

MEMORANDUM

TO: Members of the 2022 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 2021

Background. Governor Little maintains and continues to stress the importance of an efficiently functioning government along with ensuring continuity of the services citizens expect and implemented through executive administrative rules. Nearly all rules published in the Legislative Rules Review books are simply re-published because the 2021 Legislature adjourned *sine die* without passing a concurrent resolution approving any pending fee rules as specified in Section 67-5224, Idaho Code, as well as not extending any effective rule on July 1 by statute as outlined in Section 67-5292, Idaho Code. The necessary rules were re-published in the following special bulletins:

- [July 21](#) – Temporary Rules
- [October 20](#) – Proposed Rules
- [December 22](#) – Pending Rules

Changes in Existing Rules. Since the vast majority of rules either expired or were not approved, 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 2022. In some cases, rules were modified based on public comment, or to implement Executive Order [2020-01](#), Zero-Based Regulation (ZBR), among other reasons. Given the unprecedented volume, edits are incorporated within a single omnibus docket, or in the case of ZBR rulemaking a standalone docket, and presented as a clean 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 between previous rules and the proposed rules. These may be found on the [Legislature's website](#).
- Changes made between the proposed and pending rule stages for omnibus rulemaking were noted in the [December 22](#) bulletin where applicable.

Process for Approving 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.
- 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 2022 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.

HOUSE RESOURCES & CONSERVATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 13 – DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0000-2100

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2022 Idaho State Legislature for final approval. The pending rule becomes final and effective upon 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, or date specified in, the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104, 36-105, 36-111, 36-201, 36-301, 36-401, 36-405, 36-406A, 36-407, 36-408, 36-409, 36-412, 36-501, 36-504, 36-506, 36-601, 36-701, 36-703, 36-704, 36-706, 36-708, 36-804, 36-901, 36-1001, 36-1101, 36-1102, 36-1402, 36-1508, 36-2201, 36-2202, 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 pending rule adopts and publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 13, rules of The Department of Fish and Game, with changes noted separately below:

IDAPA 13

- 13.01.01, *Rules of Practice and Procedure of the Idaho Fish and Game Commission;*
- 13.01.02, *Rules Governing Mandatory Education and Mentored Hunting – (Exempting IDAPA 13.01.02.200 and 201);*
- 13.01.03, *Public Use of Lands Owned or Controlled by the Department of Fish and Game;*
- 13.01.04, *Rules Governing Licensing – (Exempting IDAPA 13.01.04.601);*
- 13.01.06, *Rules Governing Classification and Protection of Wildlife;*
- 13.01.07, *Rules Governing Taking of Wildlife;*
- 13.01.08, *Rules Governing the Taking of Big Game Animals – (Exempting IDAPA 13.01.08.263);*
- 13.01.09, *Rules Governing the Taking of Game Birds and Upland Game Animals;*
- 13.01.10, *Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife – (Exempting 13.01.10.410);*
- 13.01.11, *Rules Governing Fish;*
- 13.01.12, *Rules Governing Commercial Fishing;*
- 13.01.14, *Rules Governing Falconry;*
- 13.01.15, *Rules Governing Use of Dogs;*
- 13.01.16, *Rules Governing Trapping of Wildlife and Taking of Furbearing Animals;*
- 13.01.17, *Rules Governing Use of Bait for Hunting Big Game Animals;*
- 13.01.18, *Rules Governing Feeding of Pronghorn, Elk, and Deer; and*
- 13.01.19, *Rules for Selecting, Operating, Discontinuing, and Suspending Vendors – (Exempting IDAPA 13.01.19.102).*

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the October 20, 2021, Special Edition of the Idaho Administrative Bulletin, [Vol. 21-10SE, pages 1108-1222](#). Three changes were made to the proposed text. First, the Commission made a clarifying edit to IDAPA 13.01.08.350, relating to mandatory report/presentation requirements for portions of carcasses, and allowing for the waiving of evidence of sex / species requirements. This edit relates to a temporary rule adopted by the Commission relating to the recent detection of Chronic Wasting Disease (CWD) in Idaho. Second, the Commission made clarifying edits to IDAPA 13.01.09.110, relating to purchasing leftover youth only controlled hunts for consistency between hunts for big game and game birds. Third, the Commission modified rules relating to movement of cervid carcasses in CWD management zones in IDAPA 13.01.10.301. This modification reflects temporary rule language adopted by the Commission that allows the Director to designate a CWD management zone on a temporary basis; allows the movement of tissue and cervid heads so that they can be presented to the Department for sampling; and clarifies legal consequences for violating cervid transport rules.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking, and because rule amendments are consistent with this budget.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Fredericks, Deputy Director at (208) 334-3771.

Dated this 22nd day of December, 2021.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE OMNIBUS 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 36-103, 36-104, 36-105, 36-111, 36-201, 36-301, 36-401, 36-405, 36-406A, 36-407, 36-408, 36-409, 36-412, 36-501, 36-504, 36-506, 36-601, 36-701, 36-703, 36-704, 36-706, 36-708, 36-804, 36-901, 36-1001, 36-1101, 36-1102, 36-1402, 36-1508, 36-2201, 36-2202, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 13, rules of The Department of Fish and Game, with changes noted separately below:

IDAPA 13

- 13.01.01, *Rules of Practice and Procedure of the Idaho Fish and Game Commission;*
- 13.01.02, *Rules Governing Mandatory Education and Mentored Hunting – (Exempting IDAPA 13.01.02.200 and 201);*
- 13.01.03, *Public Use of Lands Owned or Controlled by the Department of Fish and Game;*
- 13.01.04, *Rules Governing Licensing – (Exempting IDAPA 13.01.04.601);*
- 13.01.06, *Rules Governing Classification and Protection of Wildlife;*
- 13.01.07, *Rules Governing Taking of Wildlife;*
- 13.01.08, *Rules Governing the Taking of Big Game Animals – (Exempting IDAPA 13.01.08.263);*
- 13.01.09, *Rules Governing the Taking of Game Birds and Upland Game Animals;*

- 13.01.10, *Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife* – (Exempting 13.01.10.410);
 - 13.01.11, *Rules Governing Fish*;
 - 13.01.12, *Rules Governing Commercial Fishing*;
 - 13.01.14, *Rules Governing Falconry*;
 - 13.01.15, *Rules Governing Use of Dogs*;
 - 13.01.16, *Rules Governing Trapping of Wildlife and Taking of Furbearing Animals*;
 - 13.01.17, *Rules Governing Use of Bait for Hunting Big Game Animals*;
 - 13.01.18, *Rules Governing Feeding of Pronghorn, Elk, and Deer*; and
 - 13.01.19, *Rules for Selecting, Operating, Discontinuing, and Suspending Vendors* – (Exempting IDAPA 13.01.19.102).
- Changes to IDAPA 13.01.01 (the subject of negotiated rulemaking in 2021 under Executive Order 2020-01) integrate delegation of authority provisions related to current agency practice for issuing permits, orders, etc. to address property damage from wildlife and feeding emergencies (transferring language from IDAPA 13.01.18.101).
 - Changes to IDAPA 13.01.04 include the addition of licensed optometrists to those medical professionals authorized to certify qualifying disabilities for applicants for Reasonable [weapon] Modification Permits. Changes also include an increase to outfitter set-aside elk tags to 2,900 (from current temporary rule of 2,800 elk tags). Revision to IDAPA 13.01.04 clarifies resident use of unsold nonresident tags as second tags in light of the agency’s adoption of nonresident tag limits for some elk zones and deer units in which residents are not subject to tag limits.
 - Revisions to IDAPA 13.01.07 (the subject of negotiated rulemaking in 2021 under Executive Order 2020-01) include the transfer of requirements for taking of upland game animals and integrating them into the re-codified IDAPA 13.01.09. The re-codified IDAPA 13.01.07 consolidates duplicative references in multiple chapters to generally applicable requirements such as seasons and limits; wounded animals; management/hunt area descriptions; closure areas; and shooting hours. IDAPA 13.01.07 also include Game Management Unit (GMU) boundary descriptions previously contained in IDAPA 13.01.08, with minor adjustments to better align with management and enforcement objectives and clarify points of confusion.
 - Changes to IDAPA 13.01.08 include clarification to 13.01.08.257.08 (Eligibility for Controlled Hunt Application) to allow either a senior or a disabled license holder to apply for a youth-only hunt in the second application period, or purchase a leftover youth only controlled hunt tag. This correction addresses wording inadvertently omitted in a previous rule revision. Duplicative tag designation provisions for turkey and big game animals were consolidated in the re-codified IDAPA 13.01.04.
 - Changes to IDAPA 13.01.09 (also the subject of negotiated rulemaking in 2021 under Executive Order 2020-01) include provisions for consistency of controlled hunt applications across game bird species; identification of caliber limits for airguns, allowance of the use of crossbows for upland game birds, and deletion of references to a sage grouse permit to reflect 2021 legislation (House Bill 235) establishing a sage grouse tag. Duplicative tag designation provisions for turkey and big game animals were consolidated in the re-codified IDAPA 13.01.04.
 - A change to IDAPA 13.01.15 clarifies that anyone that harvests black bear, mountain lion, bobcat or fox using dogs, except clients of licensed outfitters, must have a Hound Hunter Permit. This correction addresses wording inadvertently omitted in a previous rule revision.
 - The rulemaking also revises IDAPA 13.01.08 and 13.01.16 to reflect changes arising from legislation enacted in 2021 (House Bill 91 and Senate Bill 1211) regarding allowances for take, tag use, and shooting hours for wolves, and use of bait in trapping furbearing animals; this rulemaking integrates rules for trapping of wolves (previously adopted in IDAPA 13.01.17) into IDAPA 13.01.16.

Any additional changes are non-substantive and are proposed only to correct typographical errors, clarify points of confusion and/or make language across chapters consistent.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

Negotiated rulemaking was conducted under dockets 13-0101-2101, 13-0104-2102, 13-0107-2101, and 13-0109-2101 published in the March 3, 2021 Idaho Administrative Bulletin, Vol. 21-3, pages 17-24, and affects the following rule chapters included in this proposed rulemaking: IDAPA 13.01.01, 13.01.04, 13.01.07, and 13.01.09.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Jim Fredericks, Deputy Director at (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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

Substantive changes have been made to the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

THE FOLLOWING IS THE TEXT OF OMNIBUS PENDING DOCKET NO. 13-0000-2100

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.01 – RULES OF PRACTICE AND PROCEDURE OF THE IDAHO FISH AND GAME COMMISSION

000. LEGAL AUTHORITY.

Sections 36-103 and 36-104, Idaho Code, authorize the Commission to adopt rules concerning administration of the state's wildlife policy. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission." These rules govern rulemaking, contested cases, meeting procedure, and appearances before the Commission and Department. ()

002. ADMINISTRATIVE PROCEDURE.

IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," govern rulemaking and contested cases for the Commission and Department unless otherwise provided by these rules. ()

003. – 010. (RESERVED)

011. COMMISSION OFFICERS.

The Commission annually elects a Chair and Vice-chair for the ensuing year. Newly elected officers assume their respective duties at the end of the meeting at which they are elected. ()

012. DUTIES OF CHAIR AND VICE-CHAIR.

The Chair presides at meetings, sets meeting agendas, and performs other duties at Commission direction. The Vice-chair performs the Chair's duties in the Chair's absence. If both Chair and Vice-chair are absent, the Commission may appoint an Acting Chair to preside. ()

013. DIRECTOR – COMMISSION SECRETARY.

The Director is Commission Secretary (non-voting). The Secretary is custodian of Commission records and responsible for taking meeting minutes and issuing publications and notices. ()

014. DELEGATION OF POWERS.

The Commission may delegate powers to the Director as law allows. The Director may delegate powers to Department employees as law allows. Because timely addressing property damage from wildlife or feeding emergencies depends on local conditions, the Commission and Director delegate authority to issue kill permits, declare emergency depredation hunts, declare feeding emergencies, or expend funds on feeding to the Department's Regional Supervisors. ()

015. INVESTIGATIONS.

The Commission may authorize formal or informal investigations for fact-finding (e.g., IDAPA 04.11.01.420.01), with results reported to the Director, hearing officer or Commission. ()

016. OFFICIAL RECEIPT OF DOCUMENTS.

The Director, or a specified designee in a particular matter, is the officer with whom to file all documents in rulemakings or contested cases under IDAPA 04.11.01, at the principal office address listed on the cover sheet to these rules, unless provided otherwise by statute, rule, order, or notice. A document is not officially received by the Commission until received at the Commission's office, as evidenced by date stamp placed on paper documents, or timestamp of email receipt as of a business day. Communications received by individual Commissioners are not considered officially received by the Commission unless they are received at the Commission office. ()

017. ORDERS.

01. **Signature on Commission Orders.** The Chair or the Director (as Secretary) signs all orders authorized by the Commission. ()

02. **Signature on Director's Orders.** The Director (as Director) signs all orders issued under the Director's authority in carrying out Idaho Code, Title 36. ()

018. – 049. (RESERVED)

050. CONDUCT OF COMMISSION MEETINGS.

The Commission holds regular and special meetings under Section 36-104(a), Idaho Code. ()

01. Motions and Voting. A motion needs a second for Commission consideration. All members vote upon all motions placed before the Commission unless excused by the Chair for reasons stated for the record. ()

02. Parliamentary Rules. Robert's Revised Rules of Order, with Procedure in Small Boards, governs the conduct of Commission meetings when applicable, unless inconsistent with statute or these rules. ()

051. PUBLIC TESTIMONY AT COMMISSION MEETINGS.

The Commission provides an opportunity for oral public testimony at its annual and quarterly meetings and at other times at its discretion. ()

01. Record Information. For administrative record purposes, any persons wishing to speak at a meeting will provide their names and contact addresses. ()

02. Limiting Testimony. The Chair has sole discretion to set a uniform time limit for oral public testimony at a meeting, and to limit oral testimony that is: ()

a. Not relevant to Commission business; ()

b. Not directed to the Commission (e.g., where the person testifying seeks to converse with the audience or individuals other than the Commission); or ()

c. Is threatening, abusive, or profane. ()

03. Written Testimony. The Commission accepts written testimony instead of or in addition to oral testimony. ()

04. Public Conduct. No person may behave in a manner that disrupts the orderly conduct of a Commission meeting or hearing. Any person who refuses to conduct himself appropriately, and who fails to depart immediately from the meeting area when the Chair notifies him to do so, is subject to removal. ()

052. – 999. (RESERVED)

13.01.02 – RULES GOVERNING MANDATORY EDUCATION AND MENTORED HUNTING

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-401, 36-412, and 36-1508 authorize the Commission to adopt rules concerning administration of hunting, archery, and trapping education programs and mentored hunting. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.02, “Rules Governing Mandatory Education and Mentored Hunting.” These rules establish criteria for hunting, archery, and trapping education programs and mentored hunting. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accompanied. Close enough during hunting to be within normal conversation or hearing range without shouting or the aid of electronic devices. ()

011. -- 100. (RESERVED)

101. MENTORED HUNTING PROGRAM.

Other than as specified herein, nothing in this section alters statutory or rule requirements for licensing or the take of wildlife. ()

01. Hunting Passport. A Hunting Passport is a special authorization for a person to take wildlife as a mentee, provided the Passport holder is accompanied by a mentor and participating in the Mentored Hunting Program. Hunting Passports may be obtained from the Department or license vendor. ()

a. A person may obtain a Hunting Passport without hunter education certification. ()

b. A Hunting Passport expires December 31 of the year for which it is valid. ()

c. A Hunting Passport is to be carried on one’s person and exhibited on request as provided in Section 36-1201, Idaho Code. ()

02. Eligibility of Mentee. ()

a. Only persons eight (8) years of age or older who have not previously possessed a Hunting Passport, a hunting license or equivalent license in any state or other country may possess a Hunting Passport to participate in the Mentored Hunting Program as a mentee. A youth may possess additional Hunting Passport(s) each year until reaching ten (10) years of age. ()

b. Any mentee possessing a Hunting Passport is eligible to possess game tags for general hunts if the mentee is qualified to participate in the hunt. ()

c. Any mentee possessing a Hunting Passport is not eligible to possess a controlled hunt game tag or permit, except as designated for a Landowner controlled hunt tag if the mentee is qualified to participate in the hunt. ()

d. Any mentee with a Hunting Passport is not eligible to hunt big game unless the Passport holder is ten (10) years of age or older. ()

e. Any mentee with a Hunting passport eight (8) to seventeen (17) years of age is eligible to participate in: general season hunts, youth-only general hunts, landowner permission controlled hunts and depredation hunts for turkey; and youth pheasant seasons. ()

03. Eligibility of Mentor. ()

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. ()

b. A mentor may accompany no more than two (2) mentees at one (1) time that are participating in the

Mentored Hunting Program. ()

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

102. NONRESIDENT JUNIOR MENTORED LICENSE.

A person hunting big game or turkey with a valid Nonresident Junior Mentored License and game tag, held in accordance with Sections 36-404 and 36-407, Idaho Code, must be accompanied by an adult with a valid game tag for the species hunted. ()

103. -- 249. (RESERVED)

250. WOLF TRAPPER EDUCATION.

No person may trap for wolves without successfully completing a wolf trapping education class held by the Department. No person may buy a wolf tag with a trapping license without a certificate of completion of such class. ()

251. -- 999. (RESERVED)

**13.01.03 – PUBLIC USE OF LANDS OWNED OR CONTROLLED BY
THE DEPARTMENT OF FISH AND GAME**

000. LEGAL AUTHORITY.

Section 36-104(b), Idaho Code, authorizes the Commission to adopt rules concerning the use of lands owned or controlled by the Department. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.03 “Public Use of Lands Owned or Controlled by the Department of Fish and Game.” These rules govern use of lands owned or controlled by the Department. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Aircraft. Any vehicle capable of use for transportation on or in the air and any unmanned aircraft system. ()

02. Commercial Use. Any use or activity related to a business venture or for which a fee is charged, or in which the primary purpose is the sale or barter of goods or services, regardless of whether the use or activity is intended to produce a profit. ()

03. Lands Owned or Controlled by the Department. Real property, owned or controlled by the Commission or Department, managed for public recreation or for the protection, maintenance, and enhancement of fish and wildlife. ()

04. Designated Roads and Trails. All roads and trails posted as open or designated as open on Department public use maps. ()

05. Safety Zone. A posted area established for the safety and protection of persons, equipment, structures, or livestock and where shooting within, across, or into the area is not permitted. ()

06. Unattended. As it pertains to decoys, the absence of any person within one hundred (100) yards from any decoy for a period of more than one-half (1/2) hour. ()

07. Watercraft. Any vessel capable of use for transportation on or in the water. ()

011. – 099. (RESERVED)

100. PUBLIC USE RESTRICTIONS.

01. Activities Not Allowed Without Authorization. Unless specifically authorized by the Commission, Director, Regional Supervisor, or designee, no person may: ()

a. Enter, use, or occupy lands or water when said lands are posted against such entry, use, or occupancy. ()

b. Camp or park a vehicle or trailer in any area posted against such use, or to leave unattended a camp, vehicle, or trailer for more than forty-eight (48) hours, or to camp or park a vehicle or trailer for more than ten (10) days during any thirty (30) day period on any one (1) Wildlife Management Area (WMA) or one (1) access site separate from a WMA. ()

c. Operate any motorized vehicle, including over-snow use, except on designated roads and trails. ()

d. Use watercraft on any waters posted against such use. ()

e. Use any form of fireworks or explosives. ()

f. Permit any dog or other domestic animal to run at large when not present to control or care for it, or to permit any dog to be off leash when posted against such use. ()

g. Conduct a dog field trial of any type, except a dog field trial or dog training using artificially

propagated game birds between August 1 and September 30 with Department authorization under IDAPA 13.01.15.300, “Rules Governing the Use of Dogs.” ()

h. Construct any blind, pit, platform, or tree stand, where soil is disturbed or trees are cut or altered, and fasteners, such as wire, rope, or nails are used; or to leave any portable manufactured blind or tree stand overnight. ()

i. Adjust, open, close, tamper with, or manipulate in any manner, any diversion structure, headgate, flume, recorded or flow dock or any device for water control. This provision does not limit the powers of agencies or irrigation districts as provided by statute or rule. ()

j. Shoot within, across, or into posted safety zones. ()

k. Leave any decoy unattended, or to place any decoy any earlier than two (2) hours before official shooting hours for waterfowl, or to leave any decoy at a hunting site later than two (2) hours after official shooting hours for waterfowl. ()

l. Discharge any paintball guns. ()

m. Disturb or remove any soils, gravel, or minerals. ()

n. Turn domestic livestock into, or allow said animals to graze or trail on or across Department lands, except riding and pack animals may be used in association with recreational uses or as posted. ()

o. Cut, dig, or remove any crops, trees, shrubs, grasses, forbs, logs, or fuel wood. ()

p. Place, maintain, or store any beehives or bee boards. ()

q. Use lands for any commercial purpose. ()

r. Place a geocache. ()

s. Use for group events of over fifteen (15) people. ()

t. Land or launch aircraft except on public airstrips. ()

u. Use or transport any hay, straw, or mulch that is not weed-free certified. ()

101. – 999. (RESERVED)

13.01.04 – RULES GOVERNING LICENSING

000. LEGAL AUTHORITY.

Sections 36-104(b), 36-301, 36-401 through 413, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning issuance and sales of licenses. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.04, "Rules Governing Licensing." These rules govern licensing. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Authorized Corporate Representative. Any shareholder in a corporation, designated in writing by the corporation as the eligible applicant, who is in actual physical control of the eligible property. ()

02. Blind Person. A blind person has a medically documented loss or impairment of vision and includes any person whose visual acuity with correcting lens does not exceed twenty/two hundred (20/200) in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees. ()

03. Domicile. The place where an individual has his true, fixed, permanent home and to which place he has the intention of returning whenever he is absent. An individual can have several dwelling places, but only one (1) domicile. Factors to consider establishing domicile include, but are not limited to: ()

a. What address does the person use on tax returns and where does the person file a state resident income tax return? ()

b. Where is the person registered to vote? ()

c. Where do the person and his immediate family live? ()

d. Where does the person have his mail sent or forwarded to? ()

e. Where does he register his automobiles? ()

f. Where has the person claimed a homeowner exemption on a personal residence? ()

g. Where does he have a driver's license? ()

04. Disabled. A disabled person is defined as a person meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code. ()

05. Eligible Property. At least three hundred twenty (320) acres of land, excluding any government lands, in one (1) controlled hunt area determined by the Department to be valuable for habitat or propagation purposes for deer, elk, pronghorn, and/or black bear, whether owned by one (1) or more persons, a partnership, or corporation. ()

06. Landowner. Any person or corporation whose name appears on a deed as the owner of eligible property or whose name appears on a contract for sale of eligible property as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability corporations wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership or corporation. ()

07. Permanent Disability. A medically determinable physical impairment, which a physician has certified that the condition has no expectation for a fundamental or marked change at any time in the future. ()

08. Physician. A person licensed to practice medicine pursuant to the Idaho Medical Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority if the person is not licensed to practice in Idaho. ()

09. Resident. “Resident” is defined in Section 36-202(s), Idaho Code. ()

011. – 049. (RESERVED)

050. RESIDENT LICENSES AND LIFETIME CERTIFICATES.

A person, upon payment of the appropriate fee set forth in Sections 36-413 or 36-416, Idaho Code, and proof of Idaho residence or qualification for resident license privileges, may receive the corresponding resident license or lifetime license certificate under the conditions set forth in this section. ()

01. Proof of Residence. Resident license and lifetime license certificate applications must be supported by an original or unaltered copy of the following: ()

a. Idaho Driver’s License for all persons who drive. ()

b. Nondrivers may use other suitable proof of residency, such as: ()

i. Idaho Identification Card issued by the Idaho Transportation Department; or ()

ii. Two (2) documents bearing the applicant’s name and address, not issued by the applicant, such as: ()

(1) Rent receipts or mortgage statements for previous six (6) months; ()

(2) Home utility bills for previous six (6) months; ()

(3) A notarized statement from an employer on business letterhead; ()

(4) Proof of voter registration dated six months prior; ()

c. For persons under eighteen (18) years of age who do not have an Idaho Driver’s license or Idaho Identification Card: ()

i. For lifetime license certificates: a certified copy of the minor’s birth certificate, and proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection. ()

ii. For annual or shorter-term licenses: proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection and attestation by the parent or legal guardian of the minor’s identity. ()

02. Verification of Idaho Residency. The Department may investigate and verify that the information submitted by the applicant as to Idaho residency is true and correct. ()

03. Application by Telephone or Electronic Methods. Application for annual or shorter term licenses may be made by telephone or other electronic methods, provided the applicant supplies the number from a valid license or identification card issued by the Idaho Transportation Department. ()

04. Applications for Lifetime License Certificates. Applications for lifetime license certificates will be made on a form prescribed by the Department and may only be submitted either in person at a Department office or by mail to the Department at P.O. Box 25, Boise, ID 83707. ()

051. PURCHASING LICENSES FOR OTHERS.

01. Resident Licenses. A resident may purchase a license for the resident’s spouse or child under the age of eighteen (18) living in the same household, provided that the purchaser presents proof of residence for the person who will hold the license. ()

02. Nonresident Licenses. A person may purchase a nonresident license for another person because no residency certification is necessary. ()

03. Lifetime License Certificates. If the lifetime license certificate is being purchased for a person other than the one submitting the application, the purchaser must provide proof of residence for the intended recipient of the lifetime license certificate in accordance with Section 050 of these rules. ()

052. – 199. (RESERVED)

200. LICENSES, PERMITS, AND TAGS FOR LIFETIME LICENSE CERTIFICATE HOLDERS.

01. Licenses. Authorized lifetime license certificate holders will be issued the appropriate combination, hunting, or fishing license annually, provided they are eligible for said license. ()

02. Permits and Tags. The certificate holder has the responsibility to obtain any appropriate permit or game tag. ()

201. CERTIFICATE NON-TRANSFERABLE.

Neither the lifetime license certificate nor the annual licenses are transferable. The fee paid is not refundable under any circumstances. ()

202. CERTIFICATE HOLDERS RESIDING OUT-OF-STATE.

01. Validity. The lifetime license certificate does not become invalid if the certificate holder subsequently resides outside the state of Idaho. ()

02. Effect of Subsequent Change in Residency. Should the certificate holder subsequently become a nonresident, the following applies: ()

a. The holder may only purchase permits, and tags at the nonresident fee. ()

b. The holder will be treated as a resident for purposes of controlled hunt applications and limits or quotas on the number of tags or permits based on resident/non-resident status. ()

c. The holder will be entitled to resident bag and possession limits. ()

203. OBTAINING CERTIFICATES UNLAWFULLY.

It is unlawful for any person to obtain, use or possess, or attempt to obtain, use or possess a lifetime license certificate by fraud, deceit or misrepresentation. All licenses including lifetime license certificates unlawfully obtained shall be seized and shall become null and void. Any fees paid will not be refunded. ()

204. REVOCATION OF CERTIFICATE AND LICENSES.

A lifetime license and the rights of a lifetime license certificate holder to obtain a license may be revoked pursuant to Section 36-1402, and Chapter 15, Title 36, Idaho Code. ()

205. – 249. (RESERVED)

250. DEFACED OR ALTERED LICENSES INVALID.

Any license that is defaced, altered, or tampered with will be invalid from the date and time of issuance. It is unlawful to use or attempt to use any license that has been defaced, tampered with, or altered. Evidence of defacing, tampering, or altering includes but is not limited to tears or erasures or typeovers to the license stock. ()

251. – 254. (RESERVED)

255. AUTHORIZATION NUMBER PENDING RECEIPT OF LICENSE.

01. Authorization Number. A person applying by telephone or other electronic method will receive an authorization number assigned as directed by the Department. ()

02. Authorization Number Used in Lieu of License. The authorization number provided to telephone applicants may be used in lieu of the actual license only by the individual for whom the license was purchased. When used in lieu of a license, the person must carry government-issued identification and present such identification and provide the authorization number to comply with Section 36-1201, Idaho Code. The authorization number may be used for not more than fourteen (14) calendar days from the date of issue, except authorization numbers for short-term licenses are valid only for the stated term from the beginning effective date of the license. This allows the authorization-number holder to hunt or fish during the time period it takes to mail the license to the individual. Thereafter, the individual must have in possession the appropriate signed license to hunt or fish. ()

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

04. Authorization Number Only Eligible for Certain Activities. The authorization number may be used only for those hunting or fishing activities that do not require a license, tag, or permit to be notched or attached to a carcass. ()

256. – 261. (RESERVED)

262. RESIDENT LICENSES – JOB CORPS STUDENTS.

A Job Corps student may obtain a resident fishing license pursuant to Section 36-202(s)4, Idaho Code, provided the student presents certification of current enrollment at a Job Corps Center in Idaho signed by the Center director. ()

263. RESIDENT LICENSES – MILITARY PERSONNEL – U.S. AND FOREIGN

01. Nonresident Eligibility. ()

a. A nonresident member of the Armed Forces of the United States or a foreign country may obtain a resident license pursuant to Section 36-202(s)(3), provided the service member presents a copy of assignment orders (in official form appropriate for the branch of service, such as “Request and Authorization for Permanent Change of Station-Military”) that indicate the member is on active duty with a permanent duty station in Idaho at the time of license application. The nonresident active duty member’s spouse and dependent children less than eighteen (18) years of age may obtain a resident license, provided they present a copy of the assignment orders and documentation they are member of the active duty member’s household in Idaho. ()

b. Members of the Armed forces who are not residents of the state, and who are stationed or domiciled in Idaho for fewer than thirty (30) days immediately preceding application are not eligible for resident licenses or a military furlough license and must purchase nonresident licenses and tags. ()

c. Discharged servicemembers who were not residents of the state of Idaho at the time of their induction or enlistment, or who have not been stationed within the state of Idaho for a period of at least six (6) months prior to their discharge are not entitled to resident licenses until they have domiciled in this state for a period of six (6) months. The Department will rely on Discharge Form DD214 (or official successor form certifying release or discharge from active duty) for the home of record. ()

d. Civilian employees of the military who are not Idaho residents are not eligible for resident licenses. ()

02. Resident. Idaho residents who are in the military service of the United States and maintain Idaho as their official home of residence are eligible to purchase a resident license or obtain a military furlough license, pursuant to Section 36-202(s)(2), provided they provide a current leave and earnings statement or other proof identifying Idaho as their official state of residence. The service member’s spouse and dependent children less than eighteen (18) years of age living in the service member’s household may purchase resident licenses. ()

264. RESIDENT LICENSES – STUDENT.

01. Absent Full-time Student. Pursuant to Section 36-202(s)1, Idaho Code, an Idaho resident who is a

full-time student of an out-of-state institution of learning, paying nonresident tuition or otherwise not claiming residency in another state, is entitled to receive a resident license, for a period not to exceed five (5) years, even though the student is not physically present in Idaho continuously for a period of six (6) months preceding his application for such license. ()

02. Temporarily Present. Students who are temporarily present within the state of Idaho while exercising residency privileges in another state or country are not eligible to purchase resident licenses. ()

265. FOREIGN EXCHANGE HIGH SCHOOL STUDENTS.

Pursuant to Section 36-202(s), Idaho Code, any foreign exchange student enrolled in an Idaho high school may obtain a resident fishing license, provided the student presents proof of Idaho high school enrollment and a copy of the U.S. Immigration document or other government document showing "J-1" student classification. All other foreign students are nonresidents. ()

266. FOREIGNERS/ALIENS IN IDAHO.

Foreigners residing in the state on a temporary visa are not eligible for a resident license. Persons residing in the state who present a valid permanent visa or a currently pending application for U.S. citizenship are eligible for a resident license if they have been domiciled within Idaho for six (6) months with a bona fide intent to remain. ()

267. – 301. (RESERVED)

302. DISABILITY LICENSES.

Disability licenses include: Disabled Combination, Disabled Hunting, Disabled Fishing, Disabled American Veterans Combination, Disabled American Veterans Hunting, Disabled American Veterans Fishing, and Nonresident Disabled American Veterans Hunting. ()

01. Attestation to Disability. No person may misrepresent any information to obtain a disability license. ()

02. Documentation for Eligibility. The Department will not process an application for a disability license unless the applicant provides to the Department (by mail or in person) or vendor one (1) of the following: ()

a. A Social Security Administration benefit verification letter in the individual's name showing that the applicant is receiving SSI (Supplemental Security Income) or SSDI benefits for the current year; ()

b. A letter from the Railroad Retirement board verifying disability status dated within three (3) years preceding the application for a disabled license; ()

c. An official identification card issued by the U.S. Department of Defense, or a letter, of any date, from the U.S. Department of Veterans Affairs, verifying a service-connected disability rating of forty percent (40%) or greater. Such documentation will be required only for the initial application and will not be required for subsequent disability license application. The Department will not process applications for nonresident Disabled American Veteran licenses unless applicants provide this documentation. ()

d. A current year's letter from U.S. Veterans Affairs showing an individual is receiving a nonservice-connected pension. ()

e. Certification of permanent disability on a form prescribed by the Department, completed and signed by the applicant's physician, physician assistant, or nurse practitioner, also signed by the applicant, stating which of the criteria set forth in Subsection 010.04 of this rule, qualifies the applicant as permanently disabled and why. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. ()

f. A valid Idaho driver's license if the holder meets disability requirements of Section 49-117(7)(b), Idaho Code, and the license is marked as disabled. ()

303. DISABLED PERSONS MOTOR VEHICLE HUNTING PERMITS.

01. Applications for Disabled Motor Vehicle Hunting Permits. ()

a. Applications for disabled motor vehicle hunting permits will be on a form prescribed by the Department, completed and signed by the applicant, or an individual may present their valid Idaho driver's license in lieu of the prescribed Department form if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, except for blindness, and the driver's license is appropriately marked as disabled. ()

b. Each application submitted on the Department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating which of the criteria set forth in Section 36-1101, Idaho Code, qualifies the applicant and why, along with the applicant's certification that the applicant is capable of holding and firing, without assistance from other persons, legal hunting equipment. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for short-term or long-term disability on the application. If the disability is short term and physical mobility is expected to improve, the physician, physician assistant, or nurse practitioner must include a date when the disability is expected to end. ()

02. Disabled Motor Vehicle Hunting Permits. ()

a. Disabled motor vehicle hunting permits will expire no later than December 31 of the fifth year following the date of issuance. ()

b. The permit shall be prominently displayed on any vehicle from which the person is hunting, on the driver's side of the dashboard of the parked vehicle, suspended from the rearview mirror, or otherwise displayed so as to be in plain view of any person looking at the vehicle or through any windshield. ()

304. REASONABLE MODIFICATION PERMIT (WEAPON RESTRICTIONS).

01. Application. Applications for reasonable modification permits (for medical reasons) to allow use of equipment otherwise unauthorized in a special weapon season (archery or muzzleloader only) will include: ()

a. All information requested on a form prescribed by the Department; ()

b. The applicant's signature; ()

c. Signed certification from the applicant's physician, physician assistant, optometrist, or nurse practitioner stating the criteria limiting the applicant's ability to participate without special accommodation, including checking of the appropriate box for short-term or long-term disability, and for short-term disability, including date when the disability is expected to end; ()

d. A copy of the license of the physician, physician assistant, optometrist, or nurse practitioner, if that person is not licensed to practice in Idaho; ()

e. Applicant's certification that applicant is able to hold and fire, without help from other persons, legal firearms or archery equipment; and ()

f. A description of the equipment accommodation requested, explaining how the requested accommodation will allow the applicant to participate in the special weapon hunt without enhancing their abilities beyond the limitations and purpose of the special weapon hunt. ()

02. Determination. The Department will make its determination based on the reasonableness of the accommodation and its consistency insofar as possible with all provisions guiding other participants in the special weapon hunting season. The Department has discretion to deny the application as unreasonable in light of restrictions for other participants in the hunt, or set a modification different from the modification requested. ()

a. Reasonable modification related to accommodation for use of scope or sight magnification (including battery-powered or tritium-lighted reticles) for archery or muzzleloader equipment may include magnification up to 4x power because of equipment availability. ()

b. Reasonable modification related to archery only hunts may include the use of a crossbow or a device that holds a bow at partial or full draw. ()

03. Authority. Reasonable Modification Permits authorize holders to use equipment, as specified in the permit, that is otherwise prohibited in a special weapon season. ()

04. Expiration and Carrying. ()

a. Reasonable modification permits expire no later than December 31 of the fifth year following the date of issuance, or the earlier ending of any shorter-term disability. ()

b. A permit holder must carry a copy of the permit while hunting in any special weapon hunt in which the permit applies. ()

305. DISABLED HUNTER AND COMPANION: GAME TAGS, PERMITS, AND LIMITS.

01. Assistance of Disabled Hunter by Designated Companion. Any disabled hunter possessing a valid disability license, disabled motor vehicle or disabled archery permit, as provided in Sections 302 through 304, or who is a disabled veteran participating in a hunt as provided in Section 36-408(7), Idaho Code, may be accompanied by a designated companion who may assist the disabled hunter with taking wildlife. ()

02. Excepted From Game Tag or Game Permit Possession Only. The companion assisting a disabled hunter is excepted from game tag or permit possession to take game wounded by a disabled hunter. All other applicable rules governing the taking of wildlife apply to the companion, including possession of a valid hunting license and any applicable weapons permit (archery or muzzleloader) for the hunt. ()

03. Validation and Attachment of Tag. The companion to a disabled hunter may validate and attach the disabled hunter's game tag or permit in accordance with applicable rules (IDAPA 13.01.08, Rules Governing Taking of Big Game Animals, or IDAPA 13.01.09, Rules Governing Taking of Game Birds and Upland Game Animals). ()

04. Accompanying the Disabled Hunter. The companion must accompany the disabled hunter while hunting. Once a disabled hunter has wounded game, the hunter's companion does not need to be accompanied by the disabled hunter while taking game wounded by the disabled hunter or while tagging or retrieving downed game on behalf of the disabled hunter. ()

05. Written Statement of Designation. While taking wounded or killed game to assist a disabled hunter, the companion to a disabled hunter must possess a written statement from the disabled hunter designating that person as the disabled hunter's companion, signed by the disabled hunter including the disabled hunter's name, address, hunting license number, any applicable tag or permit number, and the dates of designation as a companion. If a companion to a disabled hunter transports any wildlife on behalf of a disabled hunter, a proxy statement is required in accordance with Section 36-502, Idaho Code. ()

06. Companion's Possession Limit. Any wounded game killed, or game tagged or retrieved, by a designated companion on behalf of a disabled hunter counts against the disabled hunter's possession limit and does not count against the companion's possession limit. ()

07. Disabled Hunter Considered for Violation. The disabled hunter in possession of the valid game tag or permit is considered the hunter for violation of waste or destruction of wildlife under Section 36-1202, Idaho Code. ()

306. – 399. (RESERVED)

400. LANDOWNER APPRECIATION PROGRAM (LAP).

01. Property and Landowner Registration. ()

a. Only landowners who have registered their eligible property with the Department are eligible to apply for LAP controlled hunt tags for deer, elk, pronghorn, and/or black bear. Registered landowners must notify the Department of any changes in property ownership or eligibility. ()

b. Registration of an eligible property and landowner applicant will be on a form prescribed by the Department. The landowner must submit the registration form; a copy of the deed(s) and the most recent tax assessment(s) describing the eligible property and showing the name(s) of the owner(s); and a map of the eligible property to the Department regional office. Department personnel will certify the registration and land description and return a copy to the landowner. ()

c. If the person registering is an authorized corporate or partnership representative, the registration will include written verification from the board of directors, partnership, or an officer of the corporation, other than himself, verifying that he is authorized to register the property and eligible applicants. ()

02. Hunt Areas. LAP controlled hunt tags will be issued only for those controlled hunt areas designated by the Commission as eligible for such tags. ()

03. Tag Eligibility. Landowners may receive LAP controlled hunt tags only for the species and sex that use the eligible property and only for LAP hunt areas in which the registered property is located. ()

04. Controlled Hunt Applications. Applications for LAP controlled hunt tag(s) will be on a form prescribed by the Department. ()

a. Applications from landowners with six hundred forty (640) acres or more will be accepted on or after May 15 of each year. Applications submitted in person or mailed to the Department main office or any Regional Office, postmarked not later than June 15 of each year, will be entered in the random drawing for LAP controlled hunt tags. Each application will be entered in the random drawing one (1) time based upon each six hundred and forty (640) acres of eligible property registered by the landowner that are within the LAP controlled hunt area. ()

b. One (1) application may be submitted by a landowner with eligible property consisting of six hundred forty (640) acres to four thousand nine hundred ninety-nine (4,999) acres. A second application may be submitted for eligible property consisting of five thousand (5,000) acres or more. ()

05. Left Over Tags. Landowners with eligible property consisting of three hundred twenty (320) acres or more may apply for left-over tags following the random draw. Written applications will be accepted beginning on the first business day on or after July 15 of each year on a first-come, first-served basis, provided they are accompanied by the appropriate application fee as specified in Section 36-416, Idaho Code. ()

06. Issuance of Controlled Hunt Tag(s). ()

a. Once the Commission has determined the number of controlled hunt tags to be issued in any controlled hunt area, an additional ten percent (10%) of the number of controlled hunt tags may be issued as LAP tags. In subsequent years up to twenty-five percent (25%) of the number of controlled hunt tags may be issued only if the hunt is over subscribed by eligible LAP applicants. ()

b. Where the number of LAP applicants exceeds the number of LAP controlled hunt tags available in an area, successful applicants will be determined by drawing. All eligible landowners in the drawing will be considered for one (1) tag before any landowner is eligible for a second tag. ()

c. No more than two (2) LAP controlled hunt tags may be issued to any eligible landowner. ()

d. Only one (1) leftover LAP controlled hunt tag may be issued for eligible property consisting of

between three hundred twenty (320) and six hundred thirty-nine (639) acres within a LAP controlled hunt area. Only one (1) LAP controlled hunt tag may be issued for eligible property consisting of between six hundred forty (640) and four thousand nine hundred ninety-nine (4,999) acres within a LAP controlled hunt area. One (1) additional controlled hunt tag may be issued to a landowner or designated agent(s) for eligible property in excess of five thousand (5,000) acres within a LAP controlled hunt area. No landowner or designated agent(s) is eligible to receive more than one (1) LAP controlled hunt tag for one (1) species in a calendar year. ()

e. A successful landowner, corporate or partnership representative drawing a LAP controlled hunt tag may designate an eligible individual to whom the controlled hunt tag will be issued. ()

07. Sale or Marketing Unlawful. It is unlawful to sell or market LAP controlled hunt tags. In addition to any statutory penalties, a violator of this provision will not be eligible to participate in the LAP program for three (3) years. ()

08. Application of Controlled Hunt Restrictions. ()

a. The restriction that applying for a moose, bighorn sheep, or mountain goat controlled hunt makes the applicant ineligible to apply for any other controlled hunt does not apply to persons who are otherwise eligible to apply for a LAP controlled hunt tag. ()

b. LAP controlled hunts are exempt from limits or quotas on nonresident tags. ()

c. LAP controlled hunt tags are exempt from the one (1) year waiting periods for deer, elk and pronghorn controlled hunt applications under IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," Section 257. ()

09. Special Restrictions. Any person hunting with a LAP controlled hunt tag may hunt only within the boundaries described in the LAP controlled hunt area. Bag and possession limits set forth in IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," Section 200, apply to holders of LAP controlled hunt tags. ()

401. – 499. (RESERVED)

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: ()

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

b. Two thousand nine hundred (2,900) elk tags (the combined total of A and B tags for all zones). ()

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. ()

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. ()

501. – 504. (RESERVED)

505. DEER AND ELK TAG ALLOCATION.

01. Allocation of Tags for Capped General Hunt Units or Zones. Pursuant to Section 36-408, Idaho

Code, the Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in units or zones with limited numbers of tags. The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, to allocate outfitter tags in capped general hunt units or zones. ()

a. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone that exceed twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year. ()

b. The allocation of tags will be calculated on a unit or zone basis. Any reduction or increase in hunting opportunities will be proportionate among non-outfitted hunters and outfitted hunters, and will be proportionate among resident and non-resident hunters; EXCEPT where such reduction would result in an allocation of greater than twenty-five percent (25%) for non-resident hunters, the Commission may reduce the allocation for non-resident hunters to a percentage of not less than twenty-five percent (25%). ()

02. Allocation of Tags for Controlled Hunt Areas. The Commission may only allocate outfitter tags in controlled hunt areas with historic licensed deer and/or elk outfitted area(s). Hunt application and eligibility rules will apply to allocated tags in controlled hunts. ()

a. The number of outfitter allocated tags will be in addition to the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. ()

b. A person is not eligible to apply for an outfitter allocated controlled hunt unless that person has a written agreement with an outfitter licensed in the hunt area. Successful applicants of an outfitter allocated controlled hunt must hunt with an outfitter licensed for the hunt area. The outfitter must purchase the successful applicant's controlled hunt tag by August 20. ()

c. Successful applicants who do not want to participate in the outfitted hunt may decline the hunt upon written notification to the Department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be subject to any applicable waiting period under IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," Section 257. ()

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

e. The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, to allocate outfitter tags in controlled hunt areas: ()

i. No less than one (1) tag and no more than three percent (3%) of the total tags; or ()

ii. A number based on the average historic use during the previous five (5) year period to be rounded up when a decimal equals or exceeds zero point six (0.6) and rounded down when a decimal is less than zero point six (0.6); or ()

iii. An unlimited number of allocated tags or a number of allocated tags based on historic use as alternatives only for controlled hunt areas with limited nonresident tags and unlimited resident tags; or ()

iv. No tags will be allocated. ()

506. DEER AND ELK OUTFITTER ALLOCATED TAG.

01. Distribution of Outfitter Allocated Tags. Allocated tags will be sold by the Department, as designated by Section 36-2107, Idaho Code, and IDAPA 24.35.01.057, "Rules of Idaho Outfitters and Guides Licensing Board," to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold and in outfitter allocated controlled hunts. Application for the purchase of allocated tags will be made by the outfitter for the hunter 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 hunter has a signed agreement to hunt with the outfitter making application. ()

02. Designated Buyers. Purchasers of allocated tags who return their unused tag and a notarized affidavit stating that the tag buyer has not hunted may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. ()

03. Unsold Tags. Any allocation tags not sold by August 1 of each year will be sold by the Department on a first-come, first-served basis. ()

507. – 549. (RESERVED)

550. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. General Hunt Tag Quotas. The following number of general hunt tags will be set aside annually and reserved for sale to nonresidents: ()

a. Fourteen thousand (14,000) total deer tags (regular and white-tailed deer tags); ()

b. Twelve thousand eight hundred fifteen (12,815) total elk tags (A and B tags); ()

c. One thousand five hundred (1,500) white-tailed deer tags, available only upon sell out of deer tags referenced in Subsection 550.01.a. ()

02. Disabled American Veteran Hunt Tag Quotas. The following number of disabled American veteran general hunt tags will be set aside annually and reserved for sale to eligible nonresidents. ()

a. Five hundred (500) total disabled American veteran deer tags (regular and white-tailed deer tags); ()

b. Three hundred (300) total disabled American veteran elk tags (A and B tags). ()

03. Exceptions. Tag sales to the following persons will not be counted in the quotas in Section 550 of these rules: ()

a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. ()

b. Designated Buyers of unused nonresident tags to which the quota has already applied: an unused nonresident general hunt deer or elk tag, accompanied by a notarized affidavit stating that the tag buyer has not hunted, may be designated to another nonresident for purchase at the regular tag price, by the original buyer or an outfitter or guide retained by the original buyer, or absent such designation, may be sold by the Department on a first-come, first-serve basis. ()

c. Holders of resident lifetime license certificates who are no longer Idaho residents. ()

d. Holders of nonresident junior mentored tags. ()

551. – 559. (RESERVED)

560. SALE OF UNSOLD NONRESIDENT GENERAL DEER AND ELK TAGS AS SECOND TAGS.

Any nonresident general deer or elk tags unsold on or after August 1 may be sold to residents and to nonresidents as a second general hunt tag, at the nonresident tag price. Unless the Commission has limited the use of second tags in a unit or zone by proclamation, a resident may buy a second tag for an elk zone where a nonresident limit has been reached if the zone is unlimited to residents, and a resident may use a second regular or white-tailed deer tag in any unit in the same manner as a first resident general hunt tag. ()

561. – 601. (RESERVED)

602. SPECIAL MILITARY DEPLOYMENT REFUND AND RAIN CHECK.

01. Special Refund and Rain Check. This special refund and rain check rule applies to the appropriate calendar year hunting season. Because of military deployment, some persons will be unable to hunt big game animals for which they purchased tags. ()

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

03. Tag Options. Holders of a general season or controlled hunt tag for deer, elk, moose, bighorn sheep, or mountain goat may request: ()

a. A refund of the hunting license and tag fee; ()

b. A rain check for a hunting license and the same general or controlled hunt tag for the same species for the next calendar year hunting season; or ()

c. For deer and elk only, an exchange in the calendar year for a general season tag for the same species in another zone or area so long as tags are available in that area or zone. ()

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

a. A refund of the hunting license and tag fee; or ()

b. A rain check for a hunting license and tag for the next calendar year hunting season. ()

05. Ineligible to Request Tag Refund or Rain Check. If the person hunts a species of wildlife before requesting a refund or rain check, then the tag fee for that species will not be refunded or eligible for a rain check for the next calendar year season. ()

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

07. Refunds Will Be for the Amount Paid. All refunds will be for the amount the person paid for the hunting license or tag. ()

08. Use of Department-Approved Form for Rain Check or Refund Request. Requests for a refund or rain check under this section will be made on the Department-approved form (found on Idaho Fish and Game website at <http://fishandgame.idaho.gov/>) on or before December 31 of the calendar year in which the license and tags were valid, along with a copy of deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty. Those requests received after this date will not be eligible for the special refund or rain check. ()

603. – 699. (RESERVED)

700. BIGHORN SHEEP AUCTION TAG.

01. Eligibility. Only persons eligible to purchase an Idaho hunting license are eligible to bid on the bighorn sheep auction tag. ()

02. Validity of Tag. The Bighorn Sheep Auction Tag will be valid in Controlled Hunt Area 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery Tag holder chooses not to hunt in Controlled Hunt Area 11. ()

03. License and Controlled Hunt Tag. ()

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the auction. ()

b. The successful bidder for the Bighorn Sheep Auction Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. ()

04. Application of Big Game Rules. All rules governing IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," apply to the eligible and successful bidders other than as specified herein. ()

a. No successful bidder is eligible to apply for a bighorn sheep controlled hunt tag the same year the bidder is issued a Bighorn Sheep Auction Tag. ()

b. Bighorn sheep auction tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep. ()

701. GOVERNOR'S WILDLIFE PARTNERSHIP TAGS.

01. Application of Big Game Rules. All rules in IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," apply to recipients of Governor's Wildlife Partnership Tags other than as specified in this section. ()

02. Eligibility. ()

a. Only persons eligible to purchase an Idaho hunting license are eligible to bid on a Governor's Wildlife Partnership Tag. ()

b. A person is eligible to receive only one (1) Governor's Wildlife Partnership Tag in a calendar year. ()

c. There is no waiting period for eligibility for Governor's Wildlife Partnership Tags for elk, deer, or pronghorn. ()

03. Validity of Tag. Each Governor's Wildlife Partnership Tag is valid for one (1) designated species annually and within the timeframe and area prescribed by the Commission. ()

04. License and Controlled Hunt Tag. ()

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the Governor's Wildlife Partnership Tag auction. ()

b. The successful bidder for a Governor's Wildlife Partnership Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. ()

c. If a recipient of a Governor’s Wildlife Partnership Tag draws a controlled hunt tag for that species for the same year, the controlled hunt tag is voided and the tag fee will be refunded upon the return of the tag to the Department, unless the tag is a controlled depredation hunt tag or a controlled hunt extra tag. The recipient of a Governor’s Wildlife Partnership Tag may purchase second, extra, or leftover tags if a holder of a controlled hunt tag for deer, elk, or pronghorn is allowed to do so under IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals.” ()

d. Any person who receives a Governor’s Wildlife Partnership Tag for bighorn sheep, mountain goat or moose, and who is otherwise eligible to apply for a deer, elk or pronghorn controlled hunt tag, and who draws such a tag, will be allowed to hunt for those species during the same year the Governor’s Wildlife Partnership Tag is valid. ()

702. – 799. (RESERVED)

800. BIGHORN SHEEP LOTTERY TAG.

01. Eligibility. ()

a. Only persons eligible to purchase an Idaho hunting license are eligible to purchase tickets for the Bighorn Sheep Lottery Tag. “Tickets” for the Lottery Tag are hunt applications and are not transferable. A person may submit an application for another eligible individual. ()

b. If any person is drawn for the Bighorn Sheep Lottery Tag and has already been drawn for a bighorn sheep controlled hunt tag for the same year, the controlled hunt tag will be voided and the tag fees refunded after return of the earlier drawn tag to the Department. The Lottery Tag is valid to hunt bighorn sheep in the year drawn. ()

02. Validity of Tag. The Bighorn Sheep Lottery Tag will be valid in Controlled Hunt Area 11 only during even-numbered years and during odd-numbered years when the Bighorn Sheep Auction Tag holder chooses not to hunt in Controlled Hunt Area 11. ()

03. Tag. ()

a. A hunting license (if needed) and a controlled hunt tag will be provided to the eligible person drawn for the Lottery Tag from the net proceeds. ()

b. The Bighorn Sheep Lottery Tag will only be issued to the eligible person whose name appears on the application drawn for the tag, and will not be issued to another individual. ()

04. Application of Big Game Rules. All rules in IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals,” apply to Lottery Tag applicants and the Tag recipient, other than as specified herein. ()

a. Bighorn Sheep Lottery Tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep. ()

b. Any person who wins a Bighorn Sheep Lottery Tag, and who is otherwise eligible to apply for a deer, elk, or pronghorn controlled hunt tag and who has drawn such a tag, will be allowed to hunt for those species during the same year the Bighorn Sheep Lottery Tag is valid. ()

801. – 899. (RESERVED)

900. CHILDREN WITH SPECIAL NEEDS BIG GAME TAG.

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

a. Any of the five (5) big game tags described in Section 901 that has not been issued by July 15 each

year may also be available for children with life threatening conditions. ()

02. Eligibility. A special needs big game tag will only be issued to a resident or nonresident minor (seventeen (17) years of age or younger) with a life threatening medical condition as certified by a qualified and licensed physician, and who is sponsored by a qualified organization defined in Section 36-408(6), Idaho Code. Minimum age, hunter education, and license requirements are waived for individuals applying for or receiving a special needs big game tag. ()

03. Validity of Tag. Each special needs tag will be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. ()

a. The special needs tag is valid in any open hunt, controlled or general, as provided by Commission proclamation, EXCEPT the use of the special needs tag is restricted from use in any Controlled Hunt with less than five (5) controlled hunt tags. ()

b. Applicants may only receive one (1) special needs tag in a lifetime. ()

c. In exercising hunting privileges, the recipient of a special needs tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. ()

04. Application. Applications will be on a form as prescribed by the Department. ()

a. Applications will only be considered from eligible nonprofit organizations. For drawing eligibility, the Department must receive an application between January 2 through January 31, inclusively, of the calendar year for the hunt. ()

b. Applications received by the Department after January 31 may be considered on a first-come basis if there are not sufficient eligible applications. ()

c. A copy of the nonprofit organization's IRS determination letter must accompany the application. ()

05. Fees. All fees associated with applying for and receiving a special needs tag, including fees for any associated Disabled Persons Motor Vehicle Hunting Permit or Disabled Archery Permit, are waived. ()

06. Random Draw. Eligible applications will be randomly drawn for tag issuance if the number of applications exceeds the number of tags available. ()

07. Nonresident Tag Limitation. Not more than one (1) special needs tag will be issued to a nonresident, unless there are insufficient applications for resident applicants. ()

901. DISABLED VETERANS SPECIAL BIG GAME TAG.

01. Availability. The Department will make five (5) big game tags available for disabled veterans, of which two (2) tags will be designated to the Idaho Division of Veterans Services. ()

a. Any of the five (5) big game tags described in Section 900 that has not been issued by July 15 each year may also be available for disabled veterans. ()

02. Eligibility. A disabled veterans special big game tag will only be issued to a disabled veteran, as certified by the Idaho Division of Veterans Services, who is sponsored by a qualified organization defined in Section 36-408(7), Idaho Code. ()

a. A disabled veteran does not need a hunting license or hunter education to apply for or receive a disabled veterans special big game tag. ()

b. An individual may only receive one (1) disabled veterans special big game tag in a lifetime.

()

03. Validity of Tag. Each disabled veterans special big game tag will be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. The disabled veterans special big game tag will be valid for use in any general or controlled hunt open for that species, EXCEPT for those Controlled Hunts with fewer than five (5) controlled hunt tags, as authorized by Commission proclamation. ()

a. Applicants may only receive one (1) disabled veterans special big game tag in a lifetime. ()

04. Application. Applications will be on a form as prescribed by the Director. ()

a. Applications will only be considered from an eligible nonprofit organization or governmental agency. For drawing eligibility, the Department must receive the application between January 2 through January 31, inclusively, of the calendar year for the hunt. ()

b. Applications received by the Department after January 31 may be considered on a first come basis if there are not sufficient eligible applications. ()

c. A copy of the nonprofit organization's IRS determination letter must accompany the application. ()

05. Fees. All fees associated with applying for and receiving a disabled veterans special big game tag, including any associated Disabled Persons Motor Vehicle Hunting Permit or Disabled Archer Permit, are waived. ()

902. – 949. (RESERVED)

950. DESIGNATION OF CONTROLLED HUNT TAGS TO CHILDREN.

01. Designation by Residents. Any resident who possesses any big game controlled hunt tag except a moose, bighorn sheep, mountain goat, or grizzly bear tag, or who possesses a turkey controlled hunt tag, may designate that tag to that person's resident minor child or grandchild who is eligible to participate in the hunt. ()

02. Designation by Nonresidents. Any nonresident who possesses any big game controlled hunt tag except a moose, bighorn sheep, mountain goat, or grizzly bear tag, or who possesses a controlled hunt turkey tag, may designate that tag to that person's nonresident minor child or grandchild who is eligible to participate in the hunt. ()

03. Applicability of Controlled Hunt Rules. Rules for eligibility, tag claim deadline, and use for the hunt apply to the adult who possesses and designates a controlled hunt tag and to the designated minor child or grandchild. Rules for application for controlled hunt tags apply to the adult who possesses and designates a controlled hunt tag to his or her minor child or grandchild. Mandatory education requirements will apply to the designated minor child or grandchild. ()

04. Form. 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 Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. ()

05. Children. Any resident child or grandchild cannot be designated more than one (1) controlled hunt tag per species per calendar year. ()

06. Date for Designation. A person may only designate a tag under this section before the opening date for the hunt for which the tag would be used. ()

951. – 999. (RESERVED)

13.01.06 – RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

000. LEGAL AUTHORITY.

Sections 36-104(b) and 36-201, Idaho Code, authorize the Commission to adopt rules concerning the classification and protection of wildlife in the state of Idaho. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” These rules establish the classification and protection of wildlife. ()

002. – 099. (RESERVED)

100. CLASSIFICATION OF WILDLIFE – BIG GAME ANIMALS.

01. Black bear – *Ursus americanus*. ()

02. Bighorn sheep – *Ovis canadensis*, identified as “California bighorn sheep” when occurring south of Interstate 84 and as “Rocky Mountain bighorn sheep” when occurring north of Interstate 84. ()

03. Elk – *Cervus canadensis*. ()

04. Gray wolf – *Canis lupus*. ()

05. Grizzly bear – *Ursus arctos*. ()

06. Moose – *Alces americanus*. ()

07. Mountain goat – *Oreamnos americanus*. ()

08. Mountain lion – *Puma concolor*. ()

09. Mule deer – *Odocoileus hemionus*. ()

10. Pronghorn – *Antilocapra americana*. ()

11. White-tailed deer – *Odocoileus virginianus*. ()

101. CLASSIFICATION OF WILDLIFE – UPLAND GAME ANIMALS.

01. Mountain cottontail – *Sylvilagus nuttallii*. ()

02. Pygmy rabbit – *Brachylagus idahoensis*. ()

03. Snowshoe hare – *Lepus americanus*. ()

04. Red squirrel – *Tamiasciurus hudsonicus*. ()

102. CLASSIFICATION OF WILDLIFE – GAME BIRDS.

Game birds include upland game birds, migratory game birds, and American crow. ()

01. Upland Game Birds. ()

a. Pheasants: *Phasianus sp.*, including ring-necked pheasant (*P. cochicus*). ()

b. Partridge: gray (Hungarian) partridge – *Perdix perdix*; chukar – *Alectoris sp.* ()

c. Quail: northern bobwhite – *Colinus virginianus*; California quail – *Callipepla californica*; mountain quail – *Oreortyx pictus*; and Gambel’s quail – *Callipepla gambelii*. ()

d. Grouse: Dusky (blue) grouse – *Dendragapus obscurus*; ruffed grouse – *Bonasa umbellus*; spruce grouse – *Falcapennis canadensis*; Greater sage grouse – *Centrocercus urophasianus*; and sharp-tailed grouse – *Tympanuchus phasianellus*. “Forest grouse” means dusky grouse, ruffed grouse, and spruce grouse. ()

- e. Wild turkey – *Meleagris gallopavo*. ()
 - 02. Migratory Game Birds. ()
 - a. American coot – *Fulica americana*. ()
 - b. Doves: mourning dove – *Zenaida macroura* and white-winged dove – *Zenaida asiatica*. ()
 - c. Ducks: members of the *Anatidae* family other than geese and swans, including bufflehead – *Bucephala albeola*; canvasback – *Aythya valisineria*; gadwall – *Mareca strepera*; Barrow’s goldeneye – *Bucephala islandica*; common goldeneye – *Bucephala clangula*; harlequin duck – *Histrionicus histrionicus*; mallard – *Anas platyrhynchos*; common merganser – *Mergus merganser*; hooded merganser – *Lophodytes cucullatus*; red-breasted merganser – *Mergus serrator*; long-tailed duck – *Clangula hyemalis*; northern pintail – *Anas acuta*; redhead – *Aythya americana*; ring-necked duck – *Aythya collaris*; ruddy duck – *Oxyura jamaicensis*; greater scaup – *Aythya marila*; lesser scaup – *Aythya affinis*; northern shoveler – *Spatula clypeata*; blue-winged teal – *Spatula discors*; cinnamon teal – *Spatula cyanoptera*; green-winged teal – *Anas crecca*; American wigeon – *Mareca americana*; Eurasian wigeon – *Mareca penelope*; and wood duck – *Aix sponsa*. ()
 - d. Geese: members of the *Anatidae* family other than ducks and swans, including Canada goose – *Branta canadensis* (“Canada goose” to include cackling goose – *Branta hutchinsii*); Ross’s goose – *Anser rossii*; snow goose – *Anser caerulescens*; and greater white-fronted goose – *Anser albifrons*. ()
 - e. Swans: members of the *Anatidae* other than ducks and geese, including Trumpeter swan – *Cygnus buccinator*; and Tundra swan – *Cygnus columbianus*. ()
 - f. Wilson's snipe – *Gallinago delicata*. ()
 - g. Sandhill Crane – *Antigone canadensis*. ()
 - 03. American Crow – *Corvus brachyrhynchos*. ()
103. CLASSIFICATION OF WILDLIFE – GAME FISH. ()
Game fish includes the following fish and crayfish: ()
- 01. American shad – *Alosa sapidissima*. ()
 - 02. Arctic grayling – *Thymallus arcticus*. ()
 - 03. Atlantic salmon – *Salmo salar*. ()
 - 04. Bear Lake whitefish – *Prosopium abyssicola*. ()
 - 05. Black bullhead – *Ameirus melas*. ()
 - 06. Black crappie – *Pomoxis nigromaculatus*. ()
 - 07. Blue catfish – *Ictalurus furcatus*. ()
 - 08. Blueback trout – *Salvelinus alpinus oquassa*. ()
 - 09. Bluegill – *Lepomis macrochirus*, including hybrid with pumpkinseed. ()
 - 10. Bonneville cisco – *Prosopium gemmifer*. ()
 - 11. Bonneville whitefish – *Prosopium sylonotus*. ()
 - 12. Brook trout – *Salvelinus fontinalis*. ()

13. **Brown bullhead** – *Ameiurus nebulosus*. ()
14. **Brown trout** – *Salmo trutta*. ()
15. **Bull trout** – *Salvelinus confluentus*. ()
16. **Burbot** – *Lota lota*. ()
17. **Channel catfish** – *Ictalurus punctatus*. ()
18. **Chinook salmon** – *Oncorhynchus tshawytscha*. ()
19. **Coho salmon** – *Oncorhynchus kisutch*. ()
20. **Crayfish** – *Pacifastacus sp.* ()
21. **Cutthroat trout** – *Oncorhynchus clarkii*, including subspecies Bonneville cutthroat trout – *O. clarkii utah*, Lahontan cutthroat trout – *O. clarkii henshawi*, Westslope cutthroat trout – *O. clarkii lewisi*, and Yellowstone (including “finespotted”) cutthroat trout – *O. clarkii bouvieri*. ()
22. **Flathead catfish** – *Pylodictis olivaris*. ()
23. **Golden trout** – *Oncorhynchus aguabonita*. ()
24. **Green sunfish** – *Lepomis cyanellus*. ()
25. **Kokanee** – *Oncorhynchus nerka kennerlyi* (not anadromous). ()
26. **Lake trout** – *Salvelinus namaycush*. ()
27. **Lake whitefish** – *Coregonus clupeaformis*. ()
28. **Largemouth bass** – *Micropterus salmoides*. ()
29. **Mountain whitefish** – *Prosopium williamsoni*. ()
30. **Northern pike** – *Esox lucius*. ()
31. **Pumpkinseed** – *Lepomis gibbosus*. ()
32. **Pygmy whitefish** – *Prosopium coulterii*. ()
33. **Rainbow trout** – *Oncorhynchus mykiss*, including redband trout – *O. mykiss gairdneri*. ()
34. **Rainbow/cutthroat trout (cutbow)** – *O. mykiss* x *O. clarkii* hybrid. ()
35. **Sauger** – *Sander canadensis*. ()
36. **Smallmouth bass** – *Micropterus dolomieu*. ()
37. **Splake** – *S. namaycush* x *S. fontinalis*. ()
38. **Sockeye salmon** – *Oncorhynchus nerka* (anadromous). ()
39. **Steelhead trout** – *Oncorhynchus mykiss* (anadromous). ()

- 40. **Tiger Trout** – *Salmo trutta* x *Salvelinus fontinalis*. ()
- 41. **Tiger muskie** – *Esox lucius* x *E. masquinongy*. ()
- 42. **Walleye** – *Sander viteus*. ()
- 43. **Warmouth** – *Lepomis gulosus*. ()
- 44. **White crappie** – *Pomoxis annularis*. ()
- 45. **White sturgeon** – *Acipenser transmontanus*. ()
- 46. **Yellow bullhead** – *Ameiurus natalis*. ()
- 47. **Yellow perch** – *Perca flavescens*. ()
- 104. **CLASSIFICATION OF WILDLIFE – FURBEARING ANIMALS.**
 - 01. **American badger** – *Taxidea taxus*. ()
 - 02. **American marten** – *Martes americana*. ()
 - 03. **American mink** – *Vison vison*. ()
 - 04. **Beaver** – *Castor canadensis*. ()
 - 05. **Bobcat** – *Lynx rufus*. ()
 - 06. **Canada lynx** – *Lynx canadensis*. ()
 - 07. **Common muskrat** – *Ondatra zibethicus*. ()
 - 08. **Fisher** – *Pekania pennanti*. ()
 - 09. **Northern river otter** – *Lontra canadensis*. ()
 - 10. **Pacific marten** – *Martes caurina*. ()
 - 11. **Red fox** – *Vulpes vulpes* (all color phases). ()
- 105. – 149. **(RESERVED)**
- 150. **THREATENED OR ENDANGERED SPECIES.**
- 151. – 199. **(RESERVED)**
- 200. **PROTECTED NONGAME SPECIES.**
 - 01. **Mammals.** ()
 - a. **American pika** – *Ochotona princeps*. ()
 - b. **Bats** – all species. ()
 - c. **Chipmunks** – *Tamias spp.* ()
 - d. **Columbia Plateau ground squirrel** – *Urocitellus canus*. ()

- e. Golden-mantled ground squirrel – *Callospermophilus lateralis*. ()
- f. Great Basin ground squirrel – *Uroditellus mollis*. ()
- g. Kit fox – *Vulpes macrotis*. ()
- h. Wolverine – *Gulo gulo*. ()
- i. Northern Idaho ground squirrel – *Uroditellus brunneus*. ()
- j. Northern flying squirrel – *Glaucomys sabrinus*. ()
- k. Rock squirrel – *Otospermophilus variegatus*. ()
- l. Southern Idaho ground squirrel – *Uroditellus endemicus*. ()
- m. Woodland caribou – *Rangifer tarandus caribou*. ()
- n. Wyoming ground squirrel – *Uroditellus elegans nevadensis*. ()
- 02. Birds.** All native species, except game birds. ()
- 03. Amphibians.** All native species. ()
- 04. Reptiles.** All native species. ()
- 05. Fish.** ()
 - a. Bear Lake sculpin – *Cottus extensus*. ()
 - b. Northern leatherside chub – *Lepidomeda copei*. ()
 - c. Pacific Lamprey – *Entosphenus tridentatus*. ()
 - d. Sand roller – *Percopsis transmontana*. ()
 - e. Shoshone sculpin – *Cottus greenei*. ()
 - f. Wood River sculpin – *cottus leiopomus*. ()
 - g. Bluehead sucker – *Catostomus discobolus*. ()
- 201. PREDATORY WILDLIFE.**
Predatory wildlife are defined in Section 36-201, Idaho Code. ()
- 202. – 249. (RESERVED)**
- 250. UNPROTECTED WILDLIFE.**
Unprotected Wildlife includes all wildlife not classified in the preceding categories. ()
- 251. – 299. (RESERVED)**
- 300. PROTECTION OF WILDLIFE.**
 - 01. Game Species.** Those species of wildlife classified as Big Game Animals, Upland Game Animals, Game Birds, Migratory Birds, Game Fish/Crustacea, or Furbearing Animals may be taken only in accordance with

Idaho law and Commission rules.

()

02. Protected Nongame and Threatened or Endangered Species. No person may take or possess those species of wildlife classified as Protected Nongame, or Threatened or Endangered at any time or in any manner, except as provided in Idaho Code (including Sections 36-106(e), and 36-1107), and Commission rules. Protected Nongame status is not intended to prevent unintentional take of these species, protection of personal health or safety, limit property and building management, or prevent management of animals to address public health concerns or agricultural damage.

()

03. Unprotected and Predatory Wildlife. Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner, by holders of the appropriate valid Idaho hunting, trapping, fishing, or combination license, provided such taking is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations.

()

301. – 999. (RESERVED)

13.01.07 – RULES GOVERNING TAKING OF WILDLIFE

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-105, 36-901, 36-1101, 36-1102, Idaho Code, authorize the Commission to adopt rules concerning taking of wild animals, including wild fish. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.07, “Rules Governing Taking of Wildlife.” These rules govern adoption of seasons and limits by proclamation, game management unit descriptions for game animals and game birds, and requirements for reasonable efforts to retrieve wounded game and furbearing animals. ()

002. – 099. (RESERVED)

100. SEASONS AND LIMITS.

The Commission sets fishing, hunting, and trapping seasons, bag limits and possession limits by proclamation, including those for game fish, furbearing animals, upland game animals, game birds, big game animals, and falconry. Proclamations may include general, youth only, special/short-range weapon, and landowner appreciation seasons; exceptions by region, game management unit, or special rule fishing waters for limits or methods of take; designation of controlled hunts by specified areas; and limits or caps on tag numbers. The Commission adopts and publishes these proclamations in accordance with Section 36-105(3), Idaho Code. ()

101. – 199. (RESERVED)

200. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 1-5.

01. Unit 1. All of BOUNDARY COUNTY and that portion of BONNER COUNTY north of the Pend Oreille River, Pend Oreille Lake and Clark Fork River. ()

02. Unit 2. Those portions of BONNER and KOOTENAI COUNTIES within the following boundary: beginning at the intersection of the Idaho-Washington State line and the north bank of the Pend Oreille River, then east along the Pend Oreille River to Pend Oreille Lake at the railroad trestle in the southeast corner of the City of Sandpoint, then south across the railroad trestle, then east and south along the western shoreline of Pend Oreille Lake to the south boundary of Farragut State Park, then west along the boundary to State Highway 54 at Farragut State Park west entrance, then west on State Highway 54 to U.S. 95, then south on U.S. 95 to Lake Coeur d'Alene at the Spokane River source, then west along the southern bank of the Spokane River to the Idaho-Washington State line, then north along the state line to the point of beginning. ()

03. Unit 3. Those portions of KOOTENAI, SHOSHONE, and BENEWAH COUNTIES within the following boundary: beginning at Mission Point on the St. Joe River and State Highway 3, then northeast on State Highway 3 to Interstate 90, then east on Interstate 90 to Kingston, then north on Forest Highway 9 (North Fork of the Coeur d'Alene River Road) to Forest Service Road 209 (Little North Fork of the Coeur d'Alene River Road), then northwest along Forest Service Road 209 then north along Forest Road 385 to the watershed divide between the Coeur d'Alene River and Pend Oreille Lake, then northwest along the divide to Bernard Peak, then north to Steamboat Rock on Pend Oreille Lake, then west along the lake shore to the south boundary of Farragut State Park, then west along the boundary to State Highway 54 at the west entrance of Farragut State Park, then west on State Highway 54 to U.S. 95, then south on U.S. 95 to Coeur d'Alene Lake, then southeast along the eastern shoreline of Coeur d'Alene and Round Lakes to the point of beginning. ()

04. Unit 4. Those portions of BONNER, KOOTENAI, and SHOSHONE COUNTIES within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between Pend Oreille Lake and the Coeur d'Alene River, then southeast along the state line to the watershed divide between the Coeur d'Alene and St. Joe Rivers, then west along the divide to State Highway 3, then northeast on State Highway 3 to Interstate 90, then east on Interstate 90 to Kingston, then north on Forest Highway 9 (North Fork of the Coeur d'Alene River Road) to Forest Service Road 209 (Little North Fork of the Coeur d'Alene River Road), then northwest along Forest Service Road 209 then north along Forest Road 385 to the watershed divide between the Coeur d'Alene River and Pend Oreille Lake, then northeast along the divide to the point of beginning. ()

05. Unit 4A. Those portions of BONNER and KOOTENAI COUNTIES within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between Pend Oreille Lake and the Coeur d'Alene River, then southwest along the divide to Bernard Peak, then north to Steamboat Rock on Pend Oreille Lake, then northwest along the western shoreline of Pend Oreille Lake to the railroad trestle approximately one (1) mile south of Sandpoint, then north on the railroad trestle to Sandpoint, then east along the north banks of Pend Oreille Lake and the Clark Fork River to the Idaho-Montana State line, then south on the state line to the point of

beginning. ()

06. Unit 5. Those portions of BENEWAH and KOOTENAI COUNTIES within the following boundary: beginning at the intersection of the Idaho-Washington State line and the Spokane River, then east along the southern bank of the Spokane River to U.S. 95 at Coeur d'Alene Lake, then southeast along the eastern shoreline of Coeur d'Alene and Round Lakes to Mission Point, then upstream along the northern bank of the St. Joe River to the mouth of St. Maries River, then upstream along the St. Maries River to the intersection of the St. Maries River and State Highway 3 near Mashburn, then south on State Highway 3 to the intersection of State Highway 6, then southwest on State Highway 6 to the watershed divide between the St. Maries and Palouse Rivers, then northwest along the divide to West Dennis Peak, then west along the watershed divide between Hangman Creek and Palouse River to the Idaho-Washington State line, then north along the state line to the point of beginning. ()

201. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 6-10A.

01. Unit 6. Those portions of KOOTENAI, SHOSHONE, BENEWAH, CLEARWATER, and LATAH COUNTIES within the following boundary: beginning at St. Maries, then downstream along the northern bank of the St. Joe River to Mission Point on State Highway 3, then north on State Highway 3 to the watershed divide between the St. Joe and Coeur d'Alene Rivers, then east along the divide to Moon Pass Road, then south on Moon Pass Road to Milwaukee Road in Avery, then west on Milwaukee Road and Siberts Old River Road to Fishhook Creek Road (Forest Service Road 301), then south on Fishhook Creek Road to Breezy Saddle, then southwest on Forest Service Road 301 to White Rock Springs, then south along the watershed divide between the St. Maries River and Little North Fork of the Clearwater River over Stony Butte to Hemlock Butte, then northwest along the St. Maries River-Potlatch River watershed divide across Bald Mountain to State Highway 6, then northeast on State Highway 6 to the intersection of State Highway 3, then north on State Highway 3 to the St. Maries River, then downstream to the point of beginning. ()

02. Unit 7. That portion of SHOSHONE COUNTY within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between the St. Joe and Coeur d'Alene Rivers, then west along the divide to Moon Pass Road, then south on Moon Pass Road to Milwaukee Road in Avery, then west on Milwaukee Road and Siberts Old River Road to Fishhook Creek Road (Forest Service Road 301), then south on Fishhook Creek Road to Forest Service Road 201, then east on Forest Service Road 201 to Bluff Creek Saddle (Dismal Saddle), then southeast past Dismal Lake and Bathtub Springs to the watershed divide between the St. Joe and North Fork of the Clearwater Rivers, then east along the divide to the Idaho-Montana State line, then north along the state line to the point of beginning. ()

03. Unit 8. Those portions of LATAH, NEZ PERCE, and CLEARWATER COUNTIES within the following boundary: Beginning on the Idaho-Washington state line at the watershed divide between Hangman Creek and Palouse River, south along the divide to U.S. 95, then south along U.S. 95 to State Highway 6, then east along State Highway 6 to State Highway 9, then southeast along State Highway 9 to Deary, then south on State Highway 3 to Kendrick, then southeast along County Road P-1 through Southwick and Cavendish to the North Fork of the Clearwater River at Ahsahka, then downstream along the North Fork of the Clearwater River to its junction with the main Clearwater River including islands, then down the main Clearwater River to the Idaho-Washington state line, then north along the state line to the point of beginning. ()

04. Unit 8A. Those portions of BENEWAH, LATAH, CLEARWATER, and NEZ PERCE COUNTIES within the following boundary: Beginning at Ahsahka on County Road P-1, then northwest along County Road P-1 through Southwick and Cavendish to State Highway 3, then northeast along State Highway 3 to Deary, then northwest along State Highway 9 to State Highway 6, then west along State Highway 6 to U.S. 95, then north along U.S. 95 to the watershed divide between Hangman Creek and Palouse River, then southeast along the divide to West Dennis Mountain, then southeast along the St. Maries watershed divide to Hemlock Butte, then south on Elk Creek Road (Forest Service Road 382) to Elk River, then south on the Dent Bridge-Elk River Road to the south shoreline of Dworshak Reservoir, then along the southern shoreline to Dworshak Dam, then downstream along the North Fork of the Clearwater River (excluding islands) to the point of beginning. ()

05. Unit 9. Those portions of SHOSHONE and CLEARWATER COUNTIES within the following boundary: beginning at Getaway Point, then due south to the Little North Fork of the Clearwater River, then upstream to the watershed divide between Bear and Devils Club Creeks, then east along the divide to Larkins Peak, then

northeast along the watershed divide between the Little North Fork of the Clearwater River and the North Fork of the Clearwater River to Surveyors Ridge-Bathtub Springs Road (Forest Service Road 201), then northwest on Surveyors Ridge-Bathtub Springs Road past Bathtub Springs and Bluff Creek Saddle (Dismal Saddle), to Fishhook Creek Road (Forest Service Road 301), then south on Fishhook Creek Road to Breezy Saddle, then southwest on Fishhook Creek Road to Goat Mountain-Getaway Point Road, then southeast on Goat Mountain-Getaway Point Road to the point of beginning. ()

06. Unit 10. Those portions of SHOSHONE, CLEARWATER, and IDAHO COUNTIES within the following boundary: beginning at the confluence of the Little North Fork and the North Fork of the Clearwater Rivers at the upstream end of Dworshak Reservoir, then up the east shoreline of the reservoir and the Little North Fork of the Clearwater River to the watershed divide between Bear and Devils Club Creeks, then east along the divide to the watershed divide between the Little North Fork and the North Fork of the Clearwater Rivers, then east along the divide to the watershed divide between the North Fork of the Clearwater and the St. Joe Rivers, then east along the divide to the Idaho-Montana State line, then south along the state line to the divide between the North Fork of the Clearwater and the Lochsa Rivers, then west along the divide over Williams Peak to its intersection with the Lolo Motorway (Forest Service Road 500), then west on Lolo Motorway to its intersection with Hemlock Butte Road (Forest Service Road 104), then northwest on Hemlock Butte Road to Hemlock Butte and the watershed divide between Weitas and Orogrande Creeks, then north along the divide to Cabin Point then northwest along Forest Service Trail 17 to the North Fork Clearwater River then downstream along the North Fork of the Clearwater River and the north shoreline of Dworshak Reservoir to the point of beginning. ()

07. Unit 10A. Those portions of SHOSHONE, IDAHO and CLEARWATER COUNTIES within the following boundary: beginning at the mouth of the North Fork of the Clearwater River along the southern shoreline, upstream to Dworshak Dam, then up Dworshak Reservoir along the southern shoreline to Dent Bridge, then north on Elk River Road to Elk River, then north on Elk Creek Road (Forest Service Road 382) to Hemlock Butte, then north along the watershed divide between the St. Maries and Little North Fork of the Clearwater Rivers over Stony Butte to White Rock Springs, then east on Gold Center-Roundtop Road (Forest Service Road 301) to Goat Mountain-Getaway Point Road (Forest Service Roads 457 and 220), then south along Goat Mountain-Getaway Point Road to Getaway Point, then due south to the Little North Fork of the Clearwater River, then downstream to Dworshak Reservoir, then along the east shoreline of the reservoir to the North Fork of the Clearwater River, then east along the north shoreline of the reservoir and the North Fork of the Clearwater River, to Forest Service Trail 17, then south along Forest Service Trail 17 to Cabin Point and the watershed divide between Orogrande and Weitas Creeks, then south along the divide to Hemlock Butte and its intersection with Forest Service Road 104, then southeast on Forest Service Road 104 to Lolo Motorway (Forest Service Road 500), then south along Lolo Motorway to Smith Creek Road (Forest Service Road 101), then southwest along Smith Creek Road to the Middle Fork of the Clearwater River, then northwest along the Middle Fork of the Clearwater River to the point of beginning. ()

202. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 11-15.

01. Unit 11. Those portions of NEZ PERCE, LEWIS, and IDAHO COUNTIES within the following boundary: beginning at the mouth of the Clearwater River, upstream to U.S. 95 bridge near Spalding, then southeast on U.S. 95 to Graves Creek Road at Cottonwood, then south on Graves Creek Road to the Salmon River, then downstream to the Snake River, then downstream to the point of beginning. ()

02. Unit 11A. Those portions of CLEARWATER, NEZ PERCE, LEWIS, and IDAHO COUNTIES within the following boundary: beginning on the Clearwater River at the U.S. 95 bridge near Spalding, upstream (excluding islands) to the South Fork of the Clearwater River, then up the South Fork to Harpster Grade Bridge, then southwest on State Highway 13 to U.S. 95 at Grangeville, then northwest on U.S. 95 to the point of beginning. ()

03. Unit 12. Those portions of IDAHO and CLEARWATER COUNTIES within the following boundary: beginning at the junction of Smith Creek Road (Forest Service Road 101) and the Middle Fork of the Clearwater River, then northeast on Smith Creek Road to Lolo Motorway (Forest Service Road 500), then north along Lolo Motorway to the point where it leaves the watershed divide between the North Fork of the Clearwater and Lochsa Rivers at the heads of Papoose Creek and Cayuse Creek, then north along the divide over Williams Peak to the Idaho-Montana State line, then southeast along the state line to the watershed divide between the Lochsa and Selway Rivers, then west along the divide over Diablo Mountain, McConnell Mountain and Fenn Mountain to the

confluence of the Lochsa and Selway Rivers, then down the Middle Fork of the Clearwater River to the point of beginning. ()

04. Unit 13. That portion of IDAHO COUNTY bounded by the Snake River on the west, the Salmon River on the east and north and the White Bird-Pittsburg Landing Road on the south. ()

05. Unit 14. That portion of IDAHO COUNTY within the following boundary: beginning at Riggins on the Salmon River, then upstream to Wind River, then up Wind River to Anchor Creek, then up Anchor Creek to Anchor Meadows, then northeast along Forest Service Trail 313 (old wagon road) to the divide between the Salmon River and South Fork Clearwater River, then west on the divide to Square Mountain, then west on Square Mountain-Gospel Hill Road (Forest Service Road 444) to Grangeville-Salmon River Road (Forest Service Road 221), then north on Grangeville-Salmon River Road to State Highway 13 at Grangeville, then west on Highway 13 to U.S. 95, then northwest on U.S. 95 to Cottonwood, then south on Graves Creek Road to the Salmon River, then upstream to the point of beginning. ()

06. Unit 15. That portion of IDAHO COUNTY within the following boundary: beginning at Grangeville on State Highway 13, then northeast on State Highway 13 to the South Fork of the Clearwater River, then downstream to the road along Sally Ann Creek, then along the road to the town of Clearwater, then southeast along Forest Service Road 284 to Forest Service Road 464, then east along Forest Service Road 464 to the watershed divide between the South Fork Clearwater and Selway Rivers, then southeast along the divide over Forest Service Trail 835 to Anderson Butte, then south over Forest Service Trail 505 to Black Hawk Mountain and Soda Creek Point to Montana Road (Forest Service Road 468), then west on Montana Road to the Red River Ranger Station-Mackay Bar Road (Forest Service Road 222) then southwest on Red River Ranger Station-Mackay Bar Road to Dixie Summit, then west along the watershed divide between the South Fork Clearwater and Salmon Rivers over the Crooked River-Big Creek Divide, Orogrande Summit and Square Mountain to Moores Guard Station-Adams Ranger Station Road (Forest Service Road 444), then west on Moores Guard Station-Adams Ranger Station Road to Grangeville-Salmon River Road (Forest Service Road 221), then north on Grangeville-Salmon River Road to the point of beginning. ()

203. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 16-20A.

01. Unit 16. That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of the Middle Fork of the Clearwater River, then upstream to the confluence of the Lochsa and Selway Rivers, then east along the watershed divide between the Lochsa and Selway Rivers to the watershed divide between Gedney and Three Links Creeks, then south along the divide to Big Fog Mountain, then along Forest Service Trail 343 to Big Fog Saddle, then south along Fog Mountain Road (Forest Service Road 319) to the Selway River, then upstream to Meadow Creek, then up Meadow Creek-Falls Point Road (Forest Service Road 443) to Forest Service Road 464, then west along Forest Service Road 464 to Forest Service Road 284, then along Forest Service Road 284 to the town of Clearwater, then west along the road down Sally Ann Creek to State Highway 13, then downstream on the South Fork of the Clearwater River to the point of beginning. ()

02. Unit 16A. That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of Meadow Creek on the Selway River, up the Selway River to Mink Creek, then up the divide between Mink Creek and the drainages of Coyote, Wolf, Jims, and Otter Creeks, over Wolf Point and Highline Ridge to the divide between Meadow Creek and the Selway River, then southeast along the divide over Bilk Mountain and Elk Mountain to Elk Mountain Road (Forest Service 285), then southwest on Elk Mountain-Green Mountain-Montana Road to the watershed divide between the South Fork of the Clearwater River and the Selway River (near Mountain Meadows), then northeast along the divide over Soda Creek Point and around the head of Red River, then northwest along the divide over Black Hawk Mountain to Anderson Butte, then from Anderson Butte northwest on Forest Service Trail 835 to Falls Point Road (Forest Service Road 443), then northeast on Falls Point Road to the point of beginning. ()

03. Unit 17. That portion of IDAHO COUNTY within the following boundary: beginning at Fog Mountain Road (Forest Service Road 319) on the Selway River, then north along Fog Mountain Road to Big Fog Saddle, then north along Forest Service Trail 343 to Big Fog Mountain, then north along the watershed divide between Gedney and Three Links Creeks to the watershed divide between the Lochsa and Selway Rivers, then northeast along the divide over McConnell Mountain and Diablo Mountain to the Idaho-Montana State line, then

south along the state line to the watershed divide between the Selway and Salmon Rivers, then west along the divide over Square Top, Waugh Mountain, Salmon Mountain, Burnt Knob and Three Prong Mountain to Green Mountain-Elk Mountain Road (Forest Service 285), then north along Green Mountain-Elk Mountain Road to Elk Mountain, then along the watershed divide between the Selway River and Meadow Creek over Elk Mountain and Bilk Mountain to the head of Mink Creek, then down the divide between Mink Creek and the drainages of Otter, Jims, Wolf and Coyote Creeks over Highline Ridge and Wolf Point to the confluence of Mink Creek with the Selway River, then down the Selway River to the point of beginning. ()

04. Unit 18. Those portions of IDAHO and ADAMS COUNTIES within the following boundary: beginning at Riggins, up the Little Salmon River to Rapid River, then up Rapid River to and including the Shingle Creek drainage to the Snake River divide, then south along the divide to Purgatory Saddle at the head of Granite Creek, then down Granite Creek to the Snake River, then downstream to Pittsburg Landing, then east on Pittsburg Landing-White Bird Road to the Salmon River, then upstream to the point of beginning. ()

05. Unit 19. That portion of IDAHO COUNTY within the following boundary: beginning on the Salmon River at the mouth of Wind River, then up Wind River to Anchor Creek, then up Anchor Creek to Anchor Meadows, then northeast along Forest Service Trail 313 (old wagon road) to the divide between the Salmon River and South Fork Clearwater River, then east on the divide over Orogrande Summit and the Crooked River-Big Creek divide to Dixie Summit on Red River Ranger Station-Dixie-Mackay Bar Road (Forest Service Road 222), then south on Red River Ranger Station-Dixie-Mackay Bar Road to Mackay Bar, then down the Salmon River to the point of beginning. ()

06. Unit 19A. Those portions of IDAHO and VALLEY COUNTIES within the drainage of the south side of the Salmon River from French Creek-Burgdorf-Summit Creek Road upstream to the South Fork of the Salmon River, the drainage of the west side of the South Fork of the Salmon River from its mouth upstream to and including the Bear Creek watershed, and the drainage of the Secesh River upstream from the mouth of Paradise Creek (including the Paradise Creek watershed), except those portions of the French Creek, Lake Creek and Summit Creek drainages west of French Creek-Burgdorf-Summit Creek Road. ()

07. Unit 20. That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of the South Fork of the Salmon River, then north along Mackay Bar-Red River Ranger Station Road (Forest Service Road 222) to the Montana Road, then east along Montana Road to Green Mountain-Elk Mountain Road (Forest Service 285), then northeast along Green Mountain-Elk Mountain Road to the watershed divide between the Selway and Salmon Rivers around the head of Bargamin Creek, then southeast along the divide over Three Prong Mountain, Burnt Knob, Salmon Mountain and Waugh Mountain, then south down Waugh Ridge to the Salmon River, then downstream to the point of beginning. ()

08. Unit 20A. Those portions of IDAHO and VALLEY COUNTIES within the drainage of the south side of the Salmon River from the mouth of the South Fork of the Salmon River upstream to the mouth of the Middle Fork of the Salmon River; the drainage of the east side of the South Fork of the Salmon River from its mouth upstream to and including Hall Creek drainage, and the drainage of the west side of the Middle Fork of the Salmon River from its mouth upstream to but excluding the Big Creek drainage. ()

204. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 21-25.

01. Unit 21. That portion of LEMHI COUNTY within the following boundary: beginning at the Idaho-Montana State line on U.S. 93, then west along the state line to the Idaho-Lemhi County line, then southwest along the Idaho-Lemhi County line to the Salmon River, then upstream to the town of North Fork, then north on U.S. 93 to the point of beginning. ()

02. Unit 21A. That portion of LEMHI COUNTY within the drainage of the east side of the Salmon River downstream from and including the Carmen Creek drainage to the town of North Fork, and that portion of the North Fork of the Salmon River drainage east of U.S. 93 between the town of North Fork and the Idaho-Montana State line. ()

03. Unit 22. Those portions of IDAHO, ADAMS, and WASHINGTON COUNTIES within the following boundary: beginning at the mouth of Granite Creek on the Snake River, then up Granite Creek to Purgatory

Saddle located on the watershed divide between Rapid River and Snake River, then south along the divide to Lick Creek Lookout, then along the watershed divide between Boulder Creek and the Weiser River to the watershed divide between Mud Creek and the Weiser River, then south along the divide to U.S. 95, then southwest on U.S. 95 to Cambridge, then northwest on State Highway 71 to Brownlee Dam, then down the Snake River to the point of beginning. ()

04. Unit 23. Those portions of IDAHO, ADAMS, and VALLEY COUNTIES within the drainage of the south side of the Salmon River from its confluence with the Little Salmon River upstream to French Creek-Burgdorf-Summit Creek Road; those portions of the French Creek, Lake Creek and Summit Creek drainages west of French Creek-Burgdorf-Summit Creek Road; and within the Little Salmon River drainage, except that portion on the north side of Rapid River from the mouth upstream to and including Shingle Creek drainage. ()

05. Unit 24. That portion of VALLEY COUNTY within the drainage of the North Fork of the Payette River, except that portion south of Smiths Ferry Bridge-Packer John Road (Forest Service Road 689) up to Murray Saddle, and on the east side of the river and south of Smith Ferry-High Valley Road on the west side of the river. ()

06. Unit 25. That portion of VALLEY COUNTY within the drainage of the South Fork of the Salmon River south of the Hall Creek drainage on the east side of the river, and south of the Bear Creek drainage on the west side of the river, except that portion of the Secesh River drainage upstream from and including Paradise Creek drainage. ()

205. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 26-30A.

01. Unit 26. Those portions of IDAHO and VALLEY COUNTIES within the drainage of Big Creek (tributary to the Middle Fork of the Salmon River). ()

02. Unit 27. Those portions of LEMHI, VALLEY, and CUSTER COUNTIES within the drainage of the Middle Fork of the Salmon River as follows: the drainages on the east side of the Middle Fork Salmon River from its mouth upstream to Camas Creek; the drainages on the north side of Camas Creek from its mouth upstream to, but excluding, the Yellowjacket Creek drainage; the drainages on the south side of Camas Creek and south of the Camas Creek Trail (Forest Service Trail 134); the drainages on the east side of the Middle Fork Salmon River from Camas Creek upstream to, but excluding, the Marsh Creek drainage; and the drainages on the west side of the Middle Fork of the Salmon River upstream from, but excluding, the Big Creek drainage to, but excluding, the Sulphur Creek drainage. ()

03. Unit 28. That portion of LEMHI COUNTY within the drainage of the Salmon River south and west of the river from the mouth of the Middle Fork of the Salmon River upstream to, but excluding, the Ellis Creek and Morgan Creek drainages to the Custer County line, and that portion of the north side of Camas Creek and north of Camas Creek Trail (Forest Service Trail 134) upstream from and including the Yellowjacket Creek drainage. ()

04. Unit 29. That portion of LEMHI COUNTY within the Lemhi River drainage south and west of State Highway 28 and that portion of the Salmon River drainage east of the Salmon River from the Salmon River bridge in the City of Salmon upstream to and including the Poison Creek drainage. ()

05. Unit 30. That portion of LEMHI COUNTY within the Lemhi River drainage north and east of State Highway 28 and north and west of State Highway 29 and that portion of the Salmon River drainage east of the Salmon River from the U.S. 93 bridge in the City of Salmon downstream to, but excluding, the Carmen Creek drainage. ()

06. Unit 30A. That portion of LEMHI COUNTY within the Lemhi River Drainage north and east of State Highway 28 and east of State Highway 29. ()

206. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 31-35.

01. Unit 31. That portion of WASHINGTON COUNTY within the following boundary: beginning at

Brownlee Dam on the Snake River, then southeast on State Highway 71 to U.S. 95, then southwest on U.S. 95 to the Snake River at Weiser, then down the Snake River to the point of beginning. ()

02. Unit 32. Those portions of ADA, ADAMS, BOISE, GEM, PAYETTE, VALLEY, and WASHINGTON COUNTIES within the following boundary: beginning at Banks, then down State Highway 55 to Floating Feather Road, then west on Floating Feather Road to State Highway 16, then north on State Highway 16 to State Highway 52, then north on State Highway 52 to the Payette River, then downstream (excluding Payette River Islands) to the Snake River, then downstream to Weiser, then northeast on U.S. 95 to Emmett-Council Road in Indian Valley, then south on Emmett-Council Road to Sheep Creek Road, then east on Sheep Creek Road to Squaw Creek Road, then south on Squaw Creek Road to Ola, then northeast on Ola-Smiths Ferry Road to High Valley, then south on High Valley-Dry Buck Road to the point of beginning. ()

03. Unit 32A. Those portions of ADAMS, GEM, VALLEY, and WASHINGTON COUNTIES within the following boundary: beginning at U.S. 95 on the watershed divide between Weiser River and Mud Creek, then southeast along the watershed divide between Weiser River and Little Salmon River to No Business Lookout, then south along the watershed divide between Weiser River and North Fork Payette River to Lookout Peak, then south along the watershed divide between Squaw Creek and North Fork Payette River to Smiths Ferry-Ola Road, then northeast on Smiths Ferry-Ola Road to Smiths Ferry, then down the North Fork to Banks, then northwest on Banks-Dry Buck-High Valley Road to Ola-High Valley Road, then west on Ola-High Valley Road to Ola, then north on the Squaw Creek Road to Sheep Creek Road, then west on Sheep Creek Road to Emmett-Council Road, then north on Emmett-Council Road to U.S. 95 in Indian Valley, then north on U.S. 95 to the point of beginning. ()

04. Unit 33. Those portions of BOISE and VALLEY COUNTIES within the North Fork of the Payette River drainage east of the river and south of Smiths Ferry Bridge-Packer John Road (Forest Service Road 689) up to Murray Saddle, and the drainage of the Middle and South Forks of the Payette River, (except the drainage of the Deadwood River upstream from and including Nine Mile Creek on the west side, and No Man Creek on the east side), and that portion of the South Fork of the Payette River drainage downstream from and including the Lick Creek drainage on the north side of the South Fork of the Payette River and downstream from, but excluding, the Huckleberry Creek drainage on the south side of the South Fork of the Payette River. ()

05. Unit 34. Those portions of BOISE and VALLEY COUNTIES within the Middle Fork of the Salmon River drainage on the west side of the river upstream from and including the Sulphur Creek drainage, the drainage of Bear Valley Creek and the drainage of Deadwood River upstream from and including the Nine Mile Creek drainage on the west side and the No Man Creek drainage on the east side. ()

06. Unit 35. That portion of BOISE COUNTY within the South Fork of the Payette River drainage upstream from, but excluding, the Lick Creek drainage on the north side of the South Fork of the Payette River and upstream from, and including the Huckleberry Creek drainage on the south side of the South Fork of the Payette River. ()

207. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 36-40.

01. Unit 36. Those portions of BLAINE and CUSTER COUNTIES within the Salmon River drainage upstream from and including the Yankee Fork on the north side of the river, and upstream from, and including the Warm Springs, Treon, Cold, and Beaver Creek drainages on the south side of the Salmon River, and including the Marsh Creek drainage of the Middle Fork of the Salmon River. ()

02. Unit 36A. That portion of CUSTER COUNTY within the Salmon River drainage south and west of U.S. 93 between Willow Creek Summit and the U.S. 93 bridge across the Salmon River south of the town of Challis, and all drainages on the southeast side of the Salmon River upstream from the U.S. 93 bridge to, but excluding, the Warm Springs, Treon, Cold, and Beaver Creek drainages. ()

03. Unit 36B. That portion of CUSTER COUNTY within the Salmon River drainage on the north and west side of the Salmon River from and including the Ellis Creek drainage upstream to, but excluding, the Yankee Fork drainage. ()

04. Unit 37. Those portions of CUSTER and LEMHI COUNTIES within the Salmon and Pahsimeroi

River drainages east of the Salmon River, south and west of the Ellis-May-Howe Highway, and north and east of U.S. 93 between the U.S. 93 bridge across the Salmon River south of the town of Challis and Willow Creek Summit. ()

05. Unit 37A. Those portions of CUSTER and LEMHI COUNTIES within the Salmon and Pahsimeroi River drainages east of the Salmon River upstream from, but excluding, the Poison Creek drainage and north and east of the Ellis-May-Howe Highway. ()

06. Unit 38. Those portions of ADA, BOISE, CANYON, ELMORE, GEM, and PAYETTE COUNTIES within the following boundary: beginning at the confluence of the Payette and Snake Rivers, then up the Payette River (including islands) to State Highway 52 near Emmett, then south on State Highway 52 to State Highway 16, then south on State Highway 16 to Floating Feather Road, then east on Floating Feather Road to State Highway 55, then south on State Highway 55 to State Highway 44, then east on State Highway 44, and then east on, West State Street, to and then east on East Warm Springs Avenue (by way of Avenue B and E. Parkcenter Boulevard) to State Highway 21 then south on State Highway 21 to Interstate 84, then south on Interstate 84 to Mountain Home, then south on State Highway 51 to the Snake River, then downstream (including islands) to the Idaho-Oregon State line, then north on the state line to the point of beginning. ()

07. Unit 39. Those portions of ADA, BOISE, and ELMORE COUNTIES within the following boundary: beginning at the intersection of State Highway 21 and Interstate 84, then southeast on Interstate 84 to Mountain Home, then northeast on U.S. Highway 20 to, and then north on Anderson Ranch Dam Road to Anderson Ranch Dam, then up the South Fork of the Boise River (center of Anderson Ranch Reservoir) to Fall Creek, then up Fall Creek to the bridge at Lake Creek Road (Forest Service Road 113), then northwest on Lake Creek Road, and then north on Fall Creek-Trinity Mountain Road (Forest Service Road 123), to Ice Springs, and then northwest on fall Creek-Trinity Mountain Road (Forest Service Road 128), to and then north northeast on Trinity Mountain/Ridge Road (Forest Service Road 129), to and then south on Trinity Ridge-Rocky Bar Road (Forest Service Road 156), to and then north on James Creek Road (Forest Service Road 126) to James Creek Summit, then east along the watershed divide between the South and Middle Forks of the Boise River to the intersection of the Camas, Blaine and Elmore County lines, then north along the watershed divide between the Boise and Salmon Rivers to the watershed divide between the Boise and South Fork of the Payette Rivers, then west along the divide to Hawley Mountain, then northwest along the divide between the Payette River and the South Fork Payette River to Banks, then south on State Highway 55 to State Highway 44, then east on State Highway 44 and then east on, West State Street, to and then east on East Warm Springs Avenue (by way of Avenue B and E. Parkcenter Boulevard) to State Highway 21 then south on State Highway 21 to the point of beginning. ()

08. Unit 40. That portion of OWYHEE COUNTY within the following boundary: beginning on the Snake River at the Idaho-Oregon State line, upstream to Grand View, then southeast on State Highway 78 to Mud Flat Road, then southwest on Mud Flat-Juniper Mountain Road to the North Fork of the Owyhee River, then downstream to the Idaho-Oregon state line, then north along the state line to the point of beginning. ()

208. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 41-45.

01. Unit 41. That portion of OWYHEE COUNTY within the following boundary: beginning at Grand View on the Snake River, then southeast on State Highway 78, and then southwest on Mud Flat Road to Poison Creek Summit, then southeast along the watershed divide between the drainages of Poison, Shoofly and Jacks Creeks, and the drainage of Battle Creek to the El Paso Natural Gas Pipeline, then south along the pipeline to the Idaho-Nevada State line, then east along the state line to the Bruneau River, then downstream to State Highway 51, then north on State Highway 51 to the Snake River, then downstream (excluding islands) to the point of beginning. ()

02. Unit 42. That portion of OWYHEE COUNTY within the following boundary: beginning on the North Fork of the Owyhee River at the Idaho-Oregon State line, south along the state line to the Idaho-Nevada State line, then east along the state line to the El Paso Natural Gas Pipeline, then north along the pipeline to the watershed divide between Battle and Jacks Creeks, then northwest along the divide between Battle, Shoofly, and Poison Creeks to the Mud Flat-Juniper Mountain Road, then west on Poison Creek-Mud Flat Road to the North Fork of the Owyhee River crossing, then downstream to the point of beginning. ()

03. Unit 43. Those portions of CAMAS and ELMORE COUNTIES within the following boundary:

beginning at the confluence of the South Fork of the Boise River and Fall Creek (center of Anderson Ranch Reservoir), then up Fall Creek to the bridge at Lake Creek Road (Forest Service Road 113), then northwest on Lake Creek Road, and then north on Fall Creek-Trinity Mountain Road (Forest Service Road 123), to Ice Springs, and then northwest on Fall Creek-Trinity Mountain Road (Forest Service Road 128), to and then north northeast on Trinity Mountain/Ridge Road (Forest Service Road 129), to and then south on Trinity Ridge-Rocky Bar Road (Forest Service Road 156), to and then north on James Creek Road (Forest Service Road 126) to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection of the Camas, Blaine, and Elmore County lines, then southeast along the Camas-Blaine County line to, and then southwest on the Dollarhide Summit-Carrie Creek-Little Smoky Creek Road (Forest Service Road 227) to, and then south on the Five Points Creek-Couch Summit Road (Forest Service Road 094) to Couch Summit, then west along the South Fork of the Boise River-Camas Creek watershed divide to its intersection with Forest Service Trail 050 (Iron Mountain), then southwest on the Forest Service trail 050 to its intersection with Forest Service Trail 049, then southwest on Trail 049 to its intersection with the Middle Fork of Lime Creek, then downstream to Lime Creek, then downstream to the South Fork of the Boise River (middle of Anderson Ranch Reservoir) to the point of beginning. ()

04. Unit 44. Those portions of BLAINE, CAMAS, and ELMORE COUNTIES within the following boundary: beginning at the junction of U.S. 20 and Anderson Ranch Dam Road, then north on Anderson Ranch Dam Road to Anderson Ranch Dam, then up the South Fork of the Boise River (center of Anderson Ranch Reservoir) to Lime Creek, then upstream along Lime Creek to the Middle Fork of Lime Creek, then upstream along the Middle Fork Lime Creek to its intersection with Forest Service Trail 049, to and then northeast on Forest Trail 050 to the South Fork Boise River-Camas Creek watershed divide, then east along that divide to Couch Summit, then north on Five Points Creek Road (Forest Service Road 094), to Little Smoky Creek-Carrie Creek-Dollarhide Summit Road (Forest Service Road 227), then northeast on Little Smoky Creek-Carrie Creek-Dollarhide Summit Road to Dollarhide Summit, then southeast along the Little Smoky Creek-Big Wood River-Camas Creek watershed divide to Kelly Mountain, then south down Kelly Gulch Creek to, and then southwest on Croy Creek Road, then to, and then south on, Camp Creek Road, to and then south on County Line Road to U.S. 20, then west on U.S. 20 to the point of beginning. ()

05. Unit 45. Those portions of CAMAS, ELMORE, and GOODING COUNTIES within the following boundary: beginning at the junction of Interstate 84 and U.S. 20 (Mountain Home), then east on U.S. 20 to State Highway 46, then south on State Highway 46 to Gooding, then west on U.S. 26 to Interstate 84 (Bliss Exit 141), then west and north on Interstate 84 to the intersection with the Snake River at the King Hill Bridge (milepost 128.1), then downstream (excluding all islands) to State Highway 51, then north on State Highway 51 to the point of beginning. ()

209. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 46-50.

01. Unit 46. Those portions of ELMORE, OWYHEE, and TWIN FALLS COUNTIES within the following boundary: beginning at the State Highway 51 bridge on the Snake River, then upstream (including islands) to the Gridley Bridge across the Snake River near Hagerman, then southeast on U.S. 30 to U.S. 93, then south on U.S. 93 to Rogerson, then southwest on Rogerson-Three Creek-Jarbidge Road to the Idaho-Nevada state line, then west on the state line to the Bruneau River, then downstream to State Highway 51, then north on State Highway 51 to the Snake River, the point of beginning. ()

02. Unit 47. Those portions of OWYHEE and TWIN FALLS COUNTIES within the following boundary: beginning at Rogerson on U.S. 93, then southwest on Rogerson-Three Creek-Jarbidge Road to the Idaho-Nevada State line, then east along the state line to U.S. 93, then north on U.S. 93 to the point of beginning. ()

03. Unit 48. That portion of BLAINE COUNTY within the following boundary: beginning at Ketchum, then south on State Highway 75 to U.S. 20, then west on U.S. 20 to the County Line Road, then north on County Line Road, to and then northeast on Camp Creek Road, to and then northeast on Croy Creek Road to Kelly Gulch Creek, then up Kelly Gulch Creek to the Big Wood River-Camas Creek-South Fork of the Boise River watershed divide, then north, east, and south around the headwaters of the Big Wood River to Trail Creek Road, then southwest on Trail Creek Road to Ketchum, the point of beginning. ()

04. Unit 49. That portion of BLAINE COUNTY with the following boundary: beginning at Ketchum,

then south on State Highway 75 to U.S. 20, then east on U.S. 20 to milepost 221.2, which is the watershed divide between the Copper Creek and Cottonwood Creek watershed, and then north along the watershed divide to, and then north along the watershed divide between the Little Wood and Big Lost Rivers, to and then north along the divide to the watershed divide between the Big Wood and Big Lost Rivers, then along the divide to the Trail Creek Road, then southwest on Trail Creek Road to the point of beginning. ()

05. Unit 50. Those portions of BLAINE, BUTTE, and CUSTER COUNTIES within the Big Lost River drainage north of U.S. 20-26 and State Highway 33, and the area east of the watershed divide between Copper Creek and Cottonwood Creek (intersecting U.S. 20-26 at milepost 221.2) and north of U.S. 20-26. ()

210. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 51-55.

01. Unit 51. Those portions of BUTTE, CUSTER, and LEMHI COUNTIES within the Little Lost River drainage north and west of State Highway 33. ()

02. Unit 52. Those portions of BLAINE, CAMAS, GOODING, AND LINCOLN COUNTIES within the following boundary: beginning at Gooding, then north on State Highway 46 to U.S. 20, then east on U.S. 20 to Carey, then southwest on U.S. 93 to Shoshone, then west on U.S. 26 to the point of beginning. ()

03. Unit 52A. Those portions of BLAINE, BUTTE, LINCOLN, and MINIDOKA COUNTIES within the following boundary: beginning at Shoshone, then north and east on U.S. 93 to Arco-Minidoka Road (approximately two (2) miles SW of Arco), then south on Arco-Minidoka Road to the East Minidoka Road (approximately two (2) miles east of Minidoka), then northwest on East Minidoka Road to Minidoka, then northwest on State Highway 24 to the point of beginning. ()

04. Unit 53. Those portions of BLAINE, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA, POWER, and TWIN FALLS COUNTIES within the following boundary: beginning at Twin Falls, then west and north on U.S. 30 to the Snake River, then down the Snake River to where it intersects with Interstate-84 at the King Hill Bridge (milepost 128.1), then east and South on Interstate 84 to Bliss (exit 141), then east on U.S. 26 to Shoshone, then southeast on State Highway 24 to Minidoka, then east on the East Minidoka Road approximately one (1) mile to the Minidoka-Blaine County line, then south along the Minidoka-Blaine County line to the Minidoka National Wildlife Refuge, then southeast along the refuge boundary to the Cassia-Power County line, then south along the Cassia-Power County line to Interstate 86 near Raft River, then west on Interstate 86 to, and then southeast on Interstate 84 to Yale Road, then southwest on Yale Road to State Highway 81, then west on State Highway 81 to U.S. Highway 30 (Burley), then west on U.S. 30 to Twin Falls, the point of beginning. ()

05. Unit 54. Those portions of CASSIA and TWIN FALLS COUNTIES within the following boundary: beginning at Burley, then west on U.S. 30 to U.S. 93 west of Twin Falls, then south on U.S. 93 to the Idaho-Nevada State line, then east along the state line to Oakley-Goose Creek Road, then north on Oakley-Goose Creek Road to Oakley, then north on State Highway 27 to the point of beginning. ()

06. Unit 55. That portion of CASSIA COUNTY within the following boundary: beginning at Burley, then south on State Highway 27 to Oakley, then south on the Oakley-Goose Creek Road to the Idaho-Utah State line, then east on the state line to the Strevell-Malta Road, then north on Strevell-Malta Road to Malta and State Highway 81, then northwest on State Highway 81 to the point of beginning. ()

211. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 56-60A.

01. Unit 56. Those portions of CASSIA, ONEIDA, and POWER COUNTIES within the following boundary: beginning at the Yale Road-Interstate 84 junction, then northwest on Interstate 84 to Interstate 86, then east on Interstate 86 to State Highway 37, then south on State Highway 37 to Holbrook, then south on Holbrook-Stone Road to the Idaho-Utah State line, then west on the state line to Interstate 84, then northwest on Interstate 84 to the point of beginning. ()

02. Unit 57. Those portions of CASSIA and ONEIDA COUNTIES within the following boundary: beginning at the junction of State Highway 81 and the Yale Road, then south on State Highway 81 to Malta, then south on the Strevell-Malta Road to the Idaho-Utah State line, then east to Interstate 84, then northwest on Interstate

84 to the junction of the Yale road, then west on the Yale Road to State Highway 81, the point of beginning. ()

03. Unit 58. Those portions of BUTTE, CLARK, JEFFERSON, and LEMHI COUNTIES within the Birch Creek drainage northwest of State Highway 22. ()

04. Unit 59. That portion of CLARK COUNTY within the following boundary: beginning at Dubois, then north on Interstate 15 to the Idaho-Montana State line, then west along the state line to Bannock Pass (Clark County), then south on Medicine Lodge Road to State Highway 22, then east on State Highway 22 to the point of beginning. ()

05. Unit 59A. Those portions of CLARK, JEFFERSON, and LEMHI COUNTIES within the following boundary: beginning at Bannock Pass (Clark County) on the Idaho-Montana State line, then west along the state line to the watershed divide between Birch and Crooked Creeks, then south along the divide through Reno Point to State Highway 22, then east on State Highway 22 to Medicine Lodge Road, then north on Medicine Lodge Road to the point of beginning. ()

06. Unit 60. Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at Ashton, then north on U.S. 191-20 to the old (south) Shotgun Valley Road, then west on Shotgun Valley Road to Idmon, then south on the Rexburg-Kilgore Road (Red Road) to and then east on Split Butte Road, to and then south on Sand Creek Road, to and then east on old Yellowstone Highway to U.S. 191-20, then north on U.S. 191-20 to the point of beginning. ()

07. Unit 60A. Those portions of CLARK, FREMONT, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at the junction of Old Highway 91 and Interstate 15 (at Spencer), then east to and then east on Spencer-Kilgore Road to Idmon, then south on Rexburg-Kilgore Road (Red Road) to Split Butte Road to, and then north on, Crooked (Red Creek Sand Bed) Road to and then south Sand Creek Road, then east on Sand Creek Road and then southerly on Sand Creek Road to and then east on, on old Yellowstone Highway (Business Route U.S. 191-20), to and then south on U.S. 191-20 to, and then west on, State Highway 33 to Sage Junction, then north on Interstate 15 to the point of beginning. ()

212. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 61-65.

01. Unit 61. Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at the junction of Old Highway 91 and Interstate 15 (at Spencer), then east to and then east on Spencer-Kilgore Road to Idmon, then east on old (south) Shotgun Valley Road to U.S. 191, then south on U.S. 191 to State Highway 47, then southeast on State Highway 47 to North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on Pineview-Island Park Road to Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then north along the Yellowstone Park boundary to the Idaho-Montana State line, then west to Monida Pass, then south on Interstate 15 to the point of beginning. ()

02. Unit 62. Those portions of FREMONT, MADISON, and TETON COUNTIES within the following boundary: beginning at Leigh Creek Road on the Idaho-Wyoming State line, north along the state line to the Yellowstone Park boundary, then northwest along the Yellowstone Park boundary to Robinson Creek, then downstream to State Highway 47, then southwest on State Highway 47 to Ashton, then south on U.S. 191 to State Highway 33, then east on State Highway 33 to Leigh Creek Road east of Tetonia, then east on Leigh Creek Road to the point of beginning. ()

03. Unit 62A. That portion of FREMONT COUNTY within the following boundary: beginning at Ashton, then north on U.S. 191 to State Highway 47, then south on State Highway 47 to North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on the Pineview-Island Park Road to the Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then south along the park boundary to Robinson Creek, then downstream to State Highway 47, then southwest on State Highway 47 to the point of beginning. ()

04. Unit 63. Those portions of BINGHAM, BONNEVILLE, BUTTE, CLARK, and JEFFERSON COUNTIES within the following boundary: beginning at Blackfoot then north on Interstate 15 to Dubois, then southwest on State Highway 22 to U.S. 20-26, then southeast on U.S. 26 to Interstate 15 at Blackfoot, the point of beginning. ()

05. Unit 63A. Those portions of BONNEVILLE, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at Idaho Falls, then east on U.S. 26 to the spot directly above the Heise measuring cable (about one point five (1.5) miles upstream from Heise Hot Springs), then north across the South Fork of the Snake River to Heise-Archer-Lyman Road (Snake River Road), then northwest on Heise-Archer-Lyman Road to U.S. 191, then north on U.S. 191 to Rexburg, then west on State Highway 33 to Interstate 15 (Sage Junction), then south on Interstate 15 to Idaho Falls, then east on Broadway Street to the point of beginning. ()

06. Unit 64. Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning at the junction of State Highway 33 and U.S. 191 at Sugar City, then south on U.S. 191 to Lyman-Archer-Heise Road (Snake River Road), then southeast on Lyman-Archer-Heise Road to Kelly Canyon-Tablerock Road, then east on Kelly Canyon-Tablerock Road to Hawley Gulch Road (Forest Service Road 218), then east on Hawley Gulch Road to Moody Swamp Road (Forest Service Road 226), then northeast on Moody Swamp Road to the head of Hilton Creek, then east along the watershed divide between Big Burns and Canyon Creeks to Garns Mountain, then north along the watershed divide between Canyon Creek and Teton River to Grandview Point, then north down Milk Creek Road to State Highway 33, then west on State Highway 33 to the point of beginning. ()

07. Unit 65. Those portions of BONNEVILLE, MADISON, and TETON COUNTIES within the following boundary: beginning on Leigh Creek Road at the Idaho-Wyoming State line east of Tetonia, west to State Highway 33, then west on State Highway 33 to Milk Creek Road, then south on Milk Creek Road to Grandview Point, then south along the watershed divide between Canyon Creek and Teton River to Garns Mountain, then southeast along the watershed divide between Pine Creek and Teton River over Red Mountain to Pine Creek Pass, then east on State Highway 31 to Victor, then southeast on State Highway 33 to the state line, then north to the point of beginning. ()

213. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 66-70.

01. Unit 66. Those portions of BINGHAM and BONNEVILLE COUNTIES within the following boundary: beginning at the Idaho-Wyoming State line on the South Fork of the Snake River, then downstream to the Swan Valley bridge on U.S. 26, then northwest on U.S. 26 to the watershed divide between Granite and Garden Creeks, then southwest along the divide and the divides between Garden-Antelope Creeks, Antelope-Pritchard Creeks and Fall-Tex Creeks to Fall Creek Road (Forest Service Road 077), then west on Fall Creek Road to Skyline Ridge Road (Forest Service Road 077), then south on Skyline Ridge Road to Brockman Guard Station, then down Brockman Creek to Grays Lake Outlet, then upstream along the outlet to Bone-Grays Lake Road, then east on Bone-Grays Lake Road through Herman to McCoy Creek Road (Forest Service Road 087), then east on McCoy Creek Road to the Idaho-Wyoming State line, then north to the point of beginning. ()

02. Unit 66A. Those portions of BONNEVILLE and CARIBOU COUNTIES within the following boundary: beginning on McCoy Creek Road (Forest Service Road 087) at the Idaho-Wyoming State line, west on McCoy Creek Road through Herman to Bone-Grays Lake Road, then west on Bone-Grays Lake Road to West Side Road west of Grays Lake, then south on West Side Road to State Highway 34, then east on State Highway 34 to the state line, then north along the state line to the point of beginning. ()

03. Unit 67. Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning on State Highway 33 at the Idaho-Wyoming State line, then northwest to Victor, then southwest on State Highway 31 to Pine Creek Pass, then northwest along the watershed divide between Pine Creek and Teton River over Red Mountain to Garns Mountain, then west along the watershed divide between Big Burns and Canyon Creeks to Moody Swamp Road (Forest Service Road 226) at Hilton Creek, then west on Moody Swamp Road to Hawley Gulch Road (Forest Service Road 218), then west on Hawley Gulch Road and Kelly Canyon Road to South Fork Snake River Road, then upstream to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then due south across the river to the mean high water line on the south shore of the South Fork Snake River, then upstream along the mean high water line to the divide between Garden and Granite

Creeks in Conant Valley, then south up the divide to U.S. 26, then southeast on U.S. 26 to the Swan Valley bridge, then up the South Fork Snake River to the Idaho-Wyoming State line, then north on the state line to the point of beginning. ()

04. Unit 68. Those portions of BINGHAM, BLAINE, BUTTE, CASSIA, MINIDOKA, and POWER COUNTIES within the following boundary: beginning at Arco, then southeast on U.S. 26 to Blackfoot, then southwest on State Highway 39 to American Falls, then southwest on Interstate 86 to the Cassia-Power County line east of Raft River, then north along the Cassia-Power county line to the north bank of the Snake River, then northwest along the Minidoka National Wildlife Refuge northern boundary to the Minidoka-Blaine County line, then north along the Minidoka-Blaine County line to East Minidoka Road, then east on East Minidoka Road approximately one (1) mile to Arco-Minidoka Road, then north on Minidoka-Arco Road to U.S. 93 approximately two (2) miles southwest of Arco, then northeast approximately two (2) miles on U.S. 93 to the point of beginning. ()

05. Unit 68A. Those portions of BANNOCK, BINGHAM, BONNEVILLE, and POWER COUNTIES within the following boundary: beginning at American Falls, then northeast on State Highway 39 to U.S. 26 near Blackfoot, then east on U.S. 26 to Interstate 15, then north on Interstate 15 to Idaho Falls, then east on Broadway Street to U.S. 91 (Old Yellowstone Highway), then south on U.S. 91 to Interstate 15, then south on Interstate 15 to Interstate 86, then southwest on Interstate 86 to the point of beginning. ()

06. Unit 69. Those portions of BINGHAM, BONNEVILLE, and CARIBOU COUNTIES within the following boundary: beginning at Idaho Falls, then south on U.S. 91 to Blackfoot, then south on Interstate 15 to the Fort Hall interchange, then east on Fort Hall-Government Dam Road to the Blackfoot River below the Government Dam, then along the north and east shore of the Blackfoot River and Reservoir to State Highway 34, then north on State Highway 34 to West Side Road, then north on West Side Road west of Grays Lake to Bone-Grays Lake Road, then east on Bone-Grays Lake Road to Grays Lake Outlet, then downstream along the outlet to Brockman Creek, then up Brockman Creek to the Brockman Guard Station, then northwest on Skyline Ridge Road (Forest Service Road 077) to Fall Creek Road (Forest Service Road 077), then east on Fall Creek Road to the watershed divide between Fall and Tex Creeks, then north along the Fall Creek-Tex Creek, Antelope Creek-Pritchard Creek, Antelope Creek-Garden Creek and Garden Creek-Granite Creek watershed divides to the South Fork of the Snake River, then downstream along the mean high water line on the south shore of the South Fork to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then southwest to U.S. 26, then west on U.S. 26 to the point of beginning. ()

07. Unit 70. Those portions of BANNOCK and POWER COUNTIES within the following boundary: beginning at the junction of Interstate 86 and Interstate 15 near Pocatello, then west on Interstate 86 to Bannock Creek-Arbon Valley Highway, then south along Bannock Creek-Arbon Valley Highway to Mink Creek-Arbon Valley junction near Pauline, then northeast along Mink Creek Road to Rattlesnake Creek Road, then east along Rattlesnake Creek-Garden Gap-Arimo Road, then southeast on Rattlesnake Creek-Garden Gap-Arimo Road to Arimo, then north on Interstate 15 to the point of beginning. ()

214. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 71-75.

01. Unit 71. Those portions of BANNOCK, BINGHAM, and CARIBOU COUNTIES within the following boundary: beginning at Bancroft, then north on Bancroft-Chesterfield Road to Chesterfield Dam, then upstream on the Portneuf River to Government Dam-Fort Hall Road, then west to Fort Hall interchange, then south on Interstate 15 to U.S. 30, then east to Pebble-Bancroft county road (old U.S. 30N), then northeast on that road to the point of beginning. ()

02. Unit 72. Those portions of BINGHAM and CARIBOU COUNTIES within the following boundary: beginning at State Highway 34 on the Blackfoot River, then west along the east and north shore of the Blackfoot River and Reservoir to Government Dam Road, then west on Government Dam-Fort Hall Road to the Portneuf River, then downstream to Chesterfield Dam, then south on Chesterfield-Bancroft Road to Bancroft, then east on Pebble-Bancroft county road (old U.S. 30N) to U.S. 30N-State Highway 34, then northeast on State Highway 34 to the point of beginning. ()

03. Unit 73. Those portions of BANNOCK, FRANKLIN, POWER, and ONEIDA COUNTIES within the following boundary: beginning on U.S. 91 at the Idaho-Utah State line, then north to Arimo, then northwest on

Arimo-Garden Gap-Rattlesnake Road to Mink Creek Highway, then south along Mink Creek Highway to Arbon Valley Highway near Pauline, then south on Arbon Valley Highway to State Highway 37, then west to Holbrook, then south on Holbrook-Stone Road to the Idaho-Utah State line, then east along the state line to the point of beginning. ()

04. Unit 73A. Those portions of BANNOCK, ONEIDA, and POWER COUNTIES within the following boundary: beginning at Holbrook, then north on State Highway 37 to Interstate 86, then northeast on Interstate 86 to Bannock Creek-Arbon Valley Highway, then south on Bannock Creek-Arbon Valley Highway to State Highway 37, then west on State Highway 37 to the point of beginning. ()

05. Unit 74. Those portions of BANNOCK, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Preston, then north on U.S. 91 to Interstate 15, then north on Interstate 15 to U.S. 30N, then east on U.S. 30N to Pebble-Bancroft county road (old U.S. 30N), then northeast to State Highway 34, then south on State Highway 34 to the point of beginning. ()

06. Unit 75. Those portions of BEAR LAKE, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Montpelier, then northwest on U.S. 30 to State Highway 34, then south to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on Hot Springs-Strawberry Canyon Road to Strawberry Canyon-Emigration Canyon Road, then east on Strawberry Canyon-Emigration Canyon Road to Ovid, then east on U.S. 89 to the point of beginning. ()

215. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS – UNITS 76-78.

01. Unit 76. Those portions of BEAR LAKE and CARIBOU COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Montpelier, then north on U.S. 30 to Soda Springs, then northeast on State Highway 34 to the Idaho-Wyoming State line, then south on the Idaho-Wyoming State line to the Idaho-Utah State line, then west on the Idaho-Utah State line to the point of beginning. ()

02. Unit 77. That portion of FRANKLIN COUNTY within the following boundary: beginning at U.S. 91 on the Idaho-Utah State line, then north to Preston, then north on State Highway 34 to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on Hot Springs-Strawberry Canyon Road to Strawberry Canyon-Emigration Canyon Road, then south on Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415), then south on Franklin Basin Road to the Idaho-Utah State line, then west on the state line to the point of beginning. ()

03. Unit 78. Those portions of BEAR LAKE and FRANKLIN COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Ovid, then west on Emigration Canyon-Strawberry Canyon Road, then south on Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415), then south on Franklin Basin Road to the Idaho-Utah State line, then east on the state line to the point of beginning. ()

216. – 249. (RESERVED)

250. GAME MANAGEMENT ZONE DESCRIPTIONS.

- 01. Panhandle Zone.** All of Units 1, 2, 3, 4, 4A, 5, 6, 7, and 9. ()
- 02. Palouse Zone.** All of Units 8, 8A, and 11A. ()
- 03. Dworshak Zone.** All of Unit 10A. ()
- 04. Hells Canyon Zone.** All of Units 11, 13, and 18. ()
- 05. Lolo Zone.** All of Units 10 and 12. ()
- 06. Elk City Zone.** All of Units 14, 15, and 16. ()

- 07. **Selway Zone.** All of Units 16A, 17, 19, and 20. ()
 - 08. **Middle Fork Zone.** All of Units 20A, 26, and 27. ()
 - 09. **Salmon Zone.** All of Units 21, 21A, 28, and 36B. ()
 - 10. **Weiser River Zone.** All of Units 22, 32, and 32A. ()
 - 11. **McCall Zone.** All of Units 19A, 23, 24, and 25. ()
 - 12. **Lemhi Zone.** All of Units 29, 37, 37A, and 51. ()
 - 13. **Beaverhead Zone.** All of Units 30, 30A, 58, 59, and 59A. ()
 - 14. **Brownlee Zone.** All of Unit 31. ()
 - 15. **Sawtooth Zone.** All of Units 33, 34, 35, and 36. ()
 - 16. **Pioneer Zone.** All of Units 36A, 49, and 50. ()
 - 17. **Owyhee Zone.** All of Units 38, 40, 41, and 42. ()
 - 18. **South Hills Zone.** All of Units 46, 47, 54, 55, 56, and 57. ()
 - 19. **Boise River Zone.** All of Unit 39. ()
 - 20. **Smoky - Bennett Zone.** All of Units 43, 44, 45, 48, and 52. ()
 - 21. **Big Desert Zone.** All of Units 52A and 68. ()
 - 22. **Island Park Zone.** All of Units 60, 60A, 61, 62, and 62A. ()
 - 23. **Palisades Zone.** All of Units 64, 65, and 67. ()
 - 24. **Tex Creek Zone.** All of Units 66 and 69. ()
 - 25. **Bannock Zone.** All of Units 70, 71, 72, 73, 73A, and 74. ()
 - 26. **Bear River Zone.** All of Units 75, 77, and 78. ()
 - 27. **Diamond Creek Zone.** All of Units 66A and 76. ()
 - 28. **Snake River Zone.** All of Units 53, 63, 63A, and 68A. ()
251. – 299. (RESERVED)
- 300. GENERAL CLOSURES TO HUNTING AND TRAPPING.**
This section does not apply to taking of fish. No person may hunt, kill, trap or molest any game animal, game bird, furbearing animal, or unprotected and predatory wildlife in the following areas: ()
- 01. **National Parks and Monuments.** All National Parks and National Monuments, including National Historic Parks. ()
 - a. Exceptions to closure. ()
 - i. The portion of Craters of the Moon National Monument within the National Preserve that was added to the Monument in November 2000 is open to hunting. ()

ii. The portion of Hagerman Fossil Beds National Monument within an area of fifty (50) feet in elevation above the high-water level of the Snake River, as marked by yellow fiberglass markers, is open to hunting downslope to the river. ()

02. State Parks. All state parks. ()

a. Exceptions to closure. Billingsley Creek Unit of Thousand Springs State Park, Castle Rock State Park, and state park lands within the City of Rocks National Reserve are open to hunting. Farragut State Park is open to hunting by archery only. ()

b. Exceptions to closure for certain species. Consistent with the applicable Commission proclamation, Hells Gate State Park and Heyburn State park are open to waterfowl hunting. ()

03. Portions of Ada County. Within the area bounded by State Highway 21, Warm Springs Avenue, and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. ()

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

05. Other. Any other location for which a closure is established by Idaho Code, or Commission proclamation or order, or federal national wildlife refuge regulation or order. ()

301. – 399. (RESERVED)

400. OFFICIAL SHOOTING HOURS.

No person may shoot at game birds, American crow, or game animals outside of official shooting hours. ()

01. Migratory Game Birds and Wild Turkey. Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunrise until sunset. ()

02. Big Game Animals, Upland Game Animals, Upland Game Birds, and American Crow. Official shooting hours for big game animals, upland game animals, upland game birds except for wild turkey, and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of an Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ()

401. – 499. (RESERVED)

500. WOUNDING, RETRIEVING, AND POSSESSION.

No person hunting may wound or kill any big game animal, upland game animal, game bird, or furbearing animal without making a reasonable effort to retrieve it and reduce it to possession. Every such animal wounded by hunting and reduced to possession must be killed immediately, such that it becomes part of that person's daily bag and possession limit. ()

501. – 999. (RESERVED)

13.01.08 – RULES GOVERNING TAKING OF BIG GAME ANIMALS

000. LEGAL AUTHORITY.

Sections 36-104(b), 36-201, 36-405, 36-408, 36-409, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning taking of big game animals. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals." These rules govern the taking of big game animals. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Established Roadway. Any road established, built, maintained, approved or designated by any governmental entity or private landowner for travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. ()

02. Front Quarters, Hind Quarter, Loins, and Tenderloins. As applied in Section 36-1202, Idaho Code, for edible portions of big game animals, front quarters of big game animals include the meat surrounding the ball joint as far down as the knees, hindquarters include the meat surrounding the ball joint as far down as the hock, and the loins and tenderloins are the meat along the backbone. ()

03. Full-sized Automobile. Any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. ()

04. Hunter. A person engaged in the activity of hunting, as defined in Section 36-202, Idaho Code. ()

05. Motorized Vehicle. As defined in Section 36-202, Idaho Code. ()

011. -- 199. (RESERVED)

200. BAG AND POSSESSION LIMITS.

No person may take more than one (1) deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, or gray wolf during a calendar year except: ()

01. Depredation Hunts. One (1) additional deer, elk, pronghorn, black bear, or gray wolf may be taken by persons holding a depredation hunt tag for that hunt, except where the depredation hunt precedes or follows a controlled hunt in the area, persons who drew that controlled hunt may be selected to participate in the depredation hunt in accordance with Section 800. Such persons must follow the weapon restrictions that apply to the controlled hunt they drew, and participation in the depredation hunt does not allow them to take a second animal. ()

02. Extra Tag Hunts. In extra tag hunts, one (1) additional deer, elk or pronghorn may be taken by persons holding tags for those hunts. ()

03. Limits on Take -- Deer, Elk, Pronghorn, Mountain Lion, Black Bear, Gray Wolf. In no event may any person take more deer, elk, pronghorn, mountain lion, black bear, or gray wolf in a calendar year than the number of tags the person legally possesses for each species. ()

201. -- 249. (RESERVED)

250. TAGS AND PERMITS.

No person may take big game animals without having in possession the appropriate license, tags, and permits. ()

01. Use of Controlled Hunt Tags. ()

a. Controlled hunt tags, including controlled depredation hunt tags and controlled hunt extra tags, issued for big game animals may be used only for take of the animal in the hunt area specified by Commission proclamation or Department order for the controlled hunt for which the tag is issued. ()

02. Use of General Season Tags. General season tags, including extra general season tags, issued for big game animals may be used during any open general season, including any general special weapon season, ONLY as follows: ()

a. Only for take of the animal specified on the tag, with a Regular Deer tag being valid for mule deer or white-tailed deer; and ()

b. Only in the hunt area for which the tags are issued, as designated by Commission proclamation. ()

c. And for elk, Elk A Tags may be used only during a general season, including any general special weapon season, designated by Commission proclamation as an Elk A season, and Elk B Tags may be used only during any general season, including any general special weapon season designated by Commission proclamation as an Elk B season. ()

03. Statewide Hunt Area. If a general season tag, including any extra general season tag, for a big game animal does not specify a hunt area, the tag may be used statewide, unless Commission proclamation or Department order specifies an area where such tag use is prohibited or otherwise limited in its use. ()

04. Additional Use of Nonresident Deer and Elk Tags. A hunter may use an unfilled nonresident elk or deer tag, to take instead a black bear, mountain lion, or gray wolf, during the open season corresponding to the elk or deer tag hunt area or unit when the season for the animal taken is also open. ()

251. ARCHERY AND MUZZLELOADER PERMITS.

No person may hunt in a season designated by Commission proclamation as Archery Only or Muzzleloader Only without the appropriate archery or muzzleloader permit for the relevant season validated on their license. ()

252. DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.

When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same calendar year for the same species is not eligible to buy a tag for that limited hunt. ()

253. -- 254. (RESERVED)

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. ()

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 will apply to each uniquely numbered controlled hunt and to the controlled hunts for each species. Outfitter allocated hunts are exempt from the limitation of this Subsection. ()

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. ()

c. For each species, the total number of outfitter allocated controlled hunt tags will 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 255.01.a., the resulting net number will 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. ()

d. In general hunts, the Commission may limit by proclamation the number of tags available for nonresident hunters in a zone or big game hunting unit to no less than ten percent (10%) of the average hunter

participation estimated for that zone or unit during the previous five (5) year period. If the Commission adopts tag limits in a zone or big game hunt unit for non-residents under this Subsection 01.d., without limiting residents, the provisions of IDAPA 13.01.04.505.02, “Rules Governing Licensing,” applicable to controlled hunts with limited nonresident tags and unlimited resident tags will apply to deer and elk tag allocation instead of the provisions of IDAPA 13.01.04.505.01. ()

e. Governor’s Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose will be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. ()

256. (RESERVED)

257. ELIGIBILITY FOR CONTROLLED HUNT APPLICATION.

A person must possess an Idaho hunting license valid for taking game animals to apply for any controlled hunt for big game species. ()

01. Bighorn Sheep. ()

a. Any person whose name was drawn on a controlled hunt for any bighorn sheep is not eligible to 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. ()

b. Any person who has killed a California bighorn ram is not eligible to apply for a California bighorn ram controlled hunt tag; and any person who has killed a Rocky Mountain bighorn ram is not eligible to apply for a Rocky Mountain bighorn ram controlled hunt tag, 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; and 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. ()

c. Any person who kills a bighorn ewe is not eligible to apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the person 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 is not eligible to apply for any bighorn ram the same year. ()

02. Mountain Goat. ()

a. Any person whose name was drawn on a controlled hunt for mountain goat is not eligible to 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. ()

b. Any person who has killed a mountain goat since 1977 is not eligible to apply for a mountain goat tag. ()

03. Moose. ()

a. Any person whose name was drawn on a controlled hunt for moose is not eligible to 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. ()

b. Any person who has killed an antlered moose in Idaho is not eligible to apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho is not eligible to apply for a tag for antlerless moose except that any person may apply for tags remaining unsold after the controlled hunt draw. ()

04. Antlered-Only Deer, Antlered-Only Elk, and Pronghorn. Any person whose name was drawn on a controlled hunt for antlered-only deer, antlered-only elk, or any pronghorn (including either sex, and doe and fawn) is not eligible in the following one (1) year to apply for any controlled hunt for the respective species drawn

(antlered-only deer, antlered-only elk, or any pronghorn). ()

i. Exceptions. A person drawn in the previous year remains eligible to apply for controlled hunts in the second application period, controlled hunts with an unlimited number of tags, or Landowner Appreciation Program hunts. Such person is also eligible to purchase a leftover tag or Governor’s Wildlife Partnership Tag. ()

05. Grizzly Bear. No person who has killed a grizzly bear in Idaho may apply for a grizzly bear tag. ()

06. Black Bear. Any nonresident applying for a controlled black bear hunt who wishes to use hounds must separately apply for a Hound Hunter Permit, subject to applicable limitations of IDAPA 13.01.15.200.04, “Rules Governing the Use of Dogs.” ()

07. Landowner Permission Hunts. Any person applying for a landowner permission hunt must have a permission slip including the name, address, and signature of a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. ()

08. Youth Only Hunts. Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older, or a person with a disabled license, may apply during a second application period for youth-only controlled hunts or purchase leftover youth-only controlled hunt tags on a first come, first served basis. ()

09. Outfitter Allocated Hunts. Any person must have a written agreement with an outfitter to submit an application for an outfitter allocated controlled hunt. ()

10. Multiple Applications. ()

a. Any person applying for a bighorn sheep, mountain goat, grizzly bear, or moose controlled hunt is not eligible to 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 the second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk, and pronghorn controlled hunt permit sales. ()

b. Any person may apply for both a controlled hunt tag and a controlled hunt extra tag for the same big game species. ()

258. CONTROLLED HUNT APPLICATIONS

01. Applications. Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, via the Internet or telephone, 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 lacks information or fees 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 canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. ()

a. Spring black bear, spring grizzly bear -- Application period - January 15 - February 15. ()

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

c. Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for first drawing -- May

- 1-June 5. ()
- d.** Moose, bighorn sheep, and mountain goat -- Application period for second drawing, if applicable - June 15-25. ()
- e.** Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for second drawing -- August 5-15. ()
- 02. Applicant Requirements.** Applicants must comply with the following requirements: ()
- 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. ()
- b.** Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. ()
- c.** Several applications may be submitted 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. ()
- d.** Fees must be submitted with each application. A single payment may be submitted to cover fees for all applications. 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 controlled hunt applied for. The tag fees are not to be submitted for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, grizzly bear, 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. ()
- 03. Group Application.** ()
- a.** A “group application” for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) persons applying for the same controlled hunt on the same application. All applicants must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. ()
- b.** A “group application” for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) persons applying for the same controlled hunt on the same application. Both applicants must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. ()
- c.** If a group application exceeds the number of tags available in a hunt, that group application will not be selected for that hunt. ()
- 04. Unlimited Controlled Hunts.** Unlimited controlled hunts identified by proclamation as “first-choice only” may be applied for only as the applicant’s first choice controlled hunt. ()
- 05. Landowner Permission Controlled Hunts.** Landowner permission hunt tags will be sold first-come, first-served basis at the Department’s Headquarters or regional offices beginning the first business day on or after July 15. ()
- 06. Sale of Remaining Tags.** Any controlled hunt tags, except unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any license 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 tags 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 will not apply. Controlled hunt applicants with a tag already in possession must return their tag to a Department office to be exchanged for the

appropriate controlled hunt tag, except where the Commission has authorized by proclamation possession of the additional tag. ()

- a. Spring Bear - April 1. ()
- b. Moose, Bighorn Sheep, and Mountain Goat - July 10. ()
- c. Deer, Elk, Pronghorn, and Fall Bear - August 25. ()

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. ()

08. 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. ()

259. DEADLINE FOR CLAIMING TAGS AND 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 no later than August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags, except unlimited controlled hunt tags, left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. ()

260. USE OF CONTROLLED HUNT TAGS.

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

- a. A controlled hunt area with an “X” suffix is an extra tag hunt. ()
- 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 person 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. ()

02. Deer. Any person who draws a controlled hunt tag for deer is not eligible to hunt in any other deer hunt--archery, muzzleloader, or general; except: ()

- a. The person may choose not to purchase the controlled hunt tag by the date set by Section 259 of these rules for the first deer drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()
- b. If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()
- c. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag. ()
- d. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. ()

03. Elk. Any person who draws a controlled hunt tag for elk is not eligible to hunt in any other elk hunt--archery, muzzleloader, or general; except: ()

- a. The person may choose not to purchase the controlled hunt tag by the date set by Commission rule

for the first elk drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()

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

c. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag. ()

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

04. Pronghorn. Any person who draws a pronghorn controlled hunt tag is not eligible to hunt in any other pronghorn hunt; except: ()

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

b. If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()

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

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

05. Black Bear. ()

a. Any person who draws a spring controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or return an unused general season bear tag in exchange for the controlled hunt bear tag. ()

b. Any person who draws a fall controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or return an unused general season bear tag in exchange for the controlled hunt bear tag. ()

261. SPECIAL CONTROLLED HUNTS.

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

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

b. The Special Controlled Hunt application will be marketed by the Department. The Department will issue these tags to eligible persons selected by an impartial random draw process. The successful applicants will receive the tag necessary to hunt the appropriate species. ()

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

- 03. General Rules.** ()
- a.** Any individual, resident or nonresident, may purchase and submit applications without limit. ()
 - b.** Special controlled hunt applications may be entered in the name of individuals other than the purchaser. ()
 - c.** Each successful applicant must have or be eligible to obtain a valid Idaho hunting license. ()
 - d.** Each tag will be issued to the individual named on the drawn application that meets license eligibility requirements and cannot be transferred. ()
 - e.** An individual may be drawn for only one (1) special controlled hunt tag for each species. ()
 - f.** Each special controlled hunt tag is valid for the designated species and allows the person to hunt in any open hunt, general or controlled, for the designated species in the applicable year's season. ()
 - g.** The special controlled hunt tag will be in addition to any other tag the person is eligible to obtain. ()
 - h.** Any applicant, including those who harvest an animal on a special controlled hunt tag, will be eligible to apply for any controlled hunt for the same species in the same year or subsequent years. ()
 - i.** In the event a license, tag, or permit is issued based on erroneous information, all documents issued based on the erroneous information will be invalidated by the Department and may not be used. The Department will notify the individual at his last known place of residence of the invalidation of the license, tag or permit. ()
- 04. Application Fees.** Applications may be sold for individual species (Super Hunt) or grouped for combined species (Super Hunt Combo). The application fees will be set by Commission Order under Section 36-415, Idaho Code, or will be the same as the controlled hunt fee set in Section 36-416, Idaho Code. ()
- 05. Drawing Dates.** There will be two (2) drawings. All drawings will be held at the Department's offices in Boise, Idaho. The first drawing winners will be notified by June 10, and the second drawing winners will be notified by August 15 each year. The Commission may order a different drawing day in case of business emergency, holiday, or non-business days. ()
- 06. Department Marketed Applications.** ()
- a.** Individual applications for special controlled hunts shall be made on a form prescribed by the Department or submitted electronically at any Department Office or license vendor, via Internet or telephone. ()
 - b.** Applications received at the Licenses Section, Headquarters Office, Idaho Department of Fish and Game, PO Box 25, Boise, Idaho 83707-0025, or submitted electronically, by no later than 11:59 pm Mountain time May 31 of the current calendar year will be eligible for the first drawing held in June; and those received after May 31 and by no later than 11:59 pm Mountain time, August 10, of the current calendar year for the second drawing. Applications received after August 10 will be eligible for the drawing held in June of the following year. ()
 - c.** All applications entered into the first drawing are not eligible for and will not be entered into the second drawing. ()
 - d.** Any individual application that is unreadable, has multiple or no species box checked, is incomplete, or lacks the information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. ()

e. Should the winner be ineligible, deceased, or incapacitated to hunt, the first alternate drawn will be declared the winner. Should the first alternate be ineligible, deceased or incapacitated to hunt, the second alternate drawn will be declared the winner. Should the second alternate be ineligible, deceased or incapacitated to hunt, that special controlled hunt tag will be null and void and will not be issued to any person. ()

262. -- 269. (RESERVED)

270. MANDATORY HUNTER ORIENTATION.

Anyone drawing a controlled archery-only hunt tag with mandatory hunter orientation as denoted in the season proclamation will receive orientation information that includes hunt boundaries, legal restrictions, and hunter ethics. Tag holders must sign and return an affidavit that they have reviewed and understand the orientation to receive a Certificate of Completion, which must be carried by the hunter during the hunt. Holders of "Certificates of Completion" from previous hunts do not have to repeat this orientation and will be provided with updated Certificates of Completion to participate in the hunt. ()

271. -- 299. (RESERVED)

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

01. Big Game Animals of Either Sex. Big game animals of either sex may be taken, except the following may not be taken: ()

- a. Mountain Goat. Females accompanied by young. ()
- b. Black Bear. Females accompanied by young. ()
- c. Mountain Lion. Spotted young or females accompanied by young. ()
- d. Grizzly Bear. Adult grizzly bears accompanied by young, or young accompanied by adult grizzly bear(s). ()

02. Seasons Restricted to Antlered or Male Animals Only. ()

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

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

c. Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season open for three-point or larger deer only. ()

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

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

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

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

h. Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any

season open for antlered moose only. ()

03. Seasons Restricted to Antlerless or Female Animals Only. ()

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

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

c. Pronghorn. Only pronghorn without a black “cheek patch” or horns less than three (3) inches long may be taken during doe and fawn only pronghorn seasons. ()

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

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

301. -- 319. (RESERVED)

320. TAG VALIDATION AND ATTACHMENT.

01. Tag. Immediately after any deer, elk, pronghorn, moose, bighorn sheep, mountain goat, mountain lion, black bear, grizzly bear, or gray wolf is killed, the appropriate big game animal tag must be validated and securely attached to the animal. ()

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

b. Attachment of Tag. ()

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

ii. Mountain lion, black bear, grizzly bear, and gray wolf: To the hide until the mandatory check is complied with. ()

321. -- 349. (RESERVED)

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

01. Evidence of Sex. Evidence of sex must be left naturally attached to the carcass of any big game animal until the carcass reaches the final place of storage or consumption or a commercial meat processing facility as follows: ()

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

b. In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left

naturally attached to the carcass or to a hind quarter; and both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit. ()

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

d. The entire head of antlerless male elk, moose, deer, or pronghorn, or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles for males or udder or vulva for females) must be left naturally attached to the carcass or to a hind quarter. ()

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

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

03. Other. *Proclamation or emergency hunt order may designate seasons and areas in which portions of a carcass must be presented to the Department within a specified timeframe; or waive an evidence requirement of this section.* ()

351. – 403. (RESERVED)

404. SPECIAL WEAPON SEASONS.

The Commission may designate by proclamation Special Weapon seasons, such as Archery Only, Muzzleloader Only, or Short-range Weapons Only, in which restrictions to method of take apply in addition to those set forth in Section 410. ()

405. SPECIAL WEAPON SEASONS – ARCHERY.

01. Archery Only Season. During a season designated by Commission proclamation as an Archery Only season, it is unlawful to take a big game animal: ()

- a.** With any firearm, crossbow, or implement other than a longbow, compound bow, or recurve bow. ()
- b.** With any device attached to the bow that holds a bow at partial or full draw. ()
- c.** With any bow or crossbow equipped with magnifying sights. ()

02. Traditional Archery Only Season. During a season identified by Commission proclamation as Traditional Archery Only, it is unlawful to take any big game animal: ()

- a.** With any firearm, crossbow, or implement other than a longbow or recurve bow. ()
- b.** With an arrow not constructed of wood or fletched with non-natural material. ()
- c.** With any bow equipped with sights. ()

406. SPECIAL WEAPON SEASONS – MUZZLELOADER.

01. Muzzleloader Only Season. During a season designated by Commission proclamation as a Muzzleloader Only season, it is unlawful to take a big game animal with any firearm, including muzzleloading pistols, or implement other than a muzzleloading rifle or musket that complies with each of the following: ()

- a. Is at least forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. ()
 - b. Is capable of being loaded only from the muzzle. ()
 - c. Is equipped only with open or peep sights. ()
 - d. Is loaded only with loose black powder including synthetic black powder. ()
 - e. Is equipped with no more than two (2) barrels. ()
 - f. Is loaded only with a projectile with a diameter within one hundredth (.01) of an inch of the bore diameter. ()
 - g. Is equipped only with flint, musket cap, or percussion cap. 209 primers are prohibited. ()
 - h. Is equipped with an exposed ignition system. ()
 - i. Is loaded only with a patched round ball or conical non-jacketed projectile comprised wholly of lead or lead alloy. ()
- 02. Pelletized Powder.** It is unlawful to use pelletized powder in a Muzzleloader Only season. ()
- 03. Sabot.** It is unlawful to use a sabot in a Muzzleloader Only season. ()

407. SPECIAL WEAPON SEASONS – SHORT-RANGE WEAPONS.

- 01. Short-range Weapon Only Season.** During a season designated by Commission proclamation as a Short-Range Weapon Only season, it is unlawful to use any weapon other than the following: ()
- a. Any shotgun using any slug or double-aught (#00) or larger buckshot. ()
 - b. Any muzzleloader that is at least forty-five (0.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ()
 - c. Any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches. ()
 - d. Any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. ()
 - e. Any handgun using straight wall centerfire cartridges not originally developed for rifles. ()
 - f. Any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles at least thirty-five (0.35) caliber for deer and pronghorn antelope or at least forty-five (0.45) caliber for elk and moose. ()

408. -- 409. (RESERVED)

410. UNLAWFUL METHODS OF TAKE – GENERAL.

No person may take big game animals as set forth in this section. ()

01. Firearms. ()

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

- b.** With any shotgun using any shot smaller than double-aught (#00) buck. ()
- c.** With any rimfire rifle, rimfire handgun or any muzzleloading handgun, except for mountain lion and trapped gray wolf. ()
- d.** With a fully automatic firearm. ()
- e.** With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope; except scopes containing battery powered or tritium lighted reticles are allowed. ()
- 02. Bows, Crossbows, Arrows, Bolts, Airguns, Chemicals or Explosives.** ()
- a.** With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. ()
- b.** With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. ()
- c.** With any chemicals or explosives attached to the arrow or bolt. ()
- d.** With arrows or bolts having expanding broadheads. ()
- e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. ()
- f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. ()
- g.** With any bow capable of shooting more than one (1) arrow at a time. ()
- h.** With any compound bow with more than eighty-five percent (85%) let-off. ()
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. ()
- j.** With an arrow less than twenty-four (24) inches or a crossbow bolt less than twelve (12) inches in length from the broadhead to the nock inclusive. ()
- k.** With an arrow wherein the broadhead does not precede the shaft and nock. ()
- l.** With any crossbow pistol. ()
- m.** With any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles less than thirty-five (0.35) caliber for deer, pronghorn antelope, mountain lion, or gray wolf, or less than forty-five (0.45) caliber for elk, moose, bighorn sheep, mountain goat, or black or grizzly bear. ()
- 03. Muzzleloaders.** ()
- a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ()
- b.** With any electronic device attached to, or incorporated in, the muzzleloader. ()

- 04. Other.** ()
- a.** With electronic calls except for the hunting of mountain lions, black bears, and wolves in seasons set by proclamation. ()
- b.** With any bait for hunting, including grain, salt in any form (liquid or solid), or any other substance (not to include synthetic liquid scent) to constitute an attraction or enticement, except in accordance with IDAPA 13.01.17, “Rules Governing the Use of Bait for Hunting Big Game Animals.” ()
- c.** With dogs, except for mountain lion or black bear in accordance with IDAPA 13.01.15, “Rules Governing the Use of Dogs.” ()
- d.** With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment or airgun; except in accordance with IDAPA 13.01.16, “Rules Governing Trapping of Wildlife and Taking of Furbearing Animals.” ()
- e.** Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule does not apply to domestic cervids. ()
- f.** With radio telemetry or other electronic tracking devices used as an aid to locate big game animals. This rule does not affect the use of telemetry equipment on hounds or other sporting dogs. ()

411. MOTORIZED HUNTING RULE.

The use of motorized vehicles by hunters as an aid to hunting big game is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. ()

01. Use Restriction. In designated units from August 30 through December 31, hunters may only use motorized vehicles on established roadways that are open to motorized traffic and capable of travel by full-sized automobiles. ()

02. Exceptions. This use restriction rule does not apply to the following permissible motorized vehicle uses by hunters off of an established roadway: ()

a. Holders of a valid Disabled Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. ()

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. ()

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters may not hunt while packing camping equipment. ()

d. Private landowners on their private land, their authorized agents, and persons with written landowner permission are excepted from the Motorized Hunting Rule use restriction. ()

412. DESIGNATED MOTORIZED HUNTING RULE UNITS.

The motorized hunting use restriction applies to units 29, 30, 30A, 32, 32A, 36A, 37, 37A, 45, 47, 49, 50, 51, 52, 52A, 53, 56, 58, 59, 59A, 66, 66A, 69, 70, 72, 73, 75, 76, 77, and 78. ()

413. EXCEPTIONS FOR METHODS OF TAKE AND SHOOTING HOURS FOR GRAY WOLF.

01. Exceptions for Dispatch of Trapped Wolf. A lawfully trapped gray wolf may be dispatched at

any hour with any rifle or handgun in exception to IDAPA 13.01.08.400 and 410, “Rules Governing Taking of Big Game Animals,” without additional permit from the Director. ()

02. Exceptions for Methods of Take. The Commission may set seasons by proclamation for units in which the hunting or trapping of gray wolf is exempt from method of take restrictions for game animals contained in Section 36-1101, Idaho Code, or Sections 410 or 412 of these rules, where such restrictions do not apply to other wild canines. ()

03. Permits Involving Waiver of Official Shooting Hours. Where the Commission sets seasons pursuant to Section 413.02 of these rules, no person may hunt gray wolf by use of artificial light or otherwise outside of official shooting hours set by IDAPA 13.01.07.400, Rules Governing Taking of Wildlife, unless: ()

a. On public land, that person has a valid permit from the Director and complies with any permit conditions. The Director may deny a person’s application for such permit, limit the time or area for hunting, or impose other conditions for good cause, such as public safety or protection of other wildlife or property; or ()

b. On private land, that person is the owner of that land or has written authorization from the landowner or landowner’s agent. ()

414. -- 418. (RESERVED)

419. RETURN OF TAGS BY UNSUCCESSFUL HUNTERS.

Hunters who are not successful in killing a bighorn sheep, mountain goat, grizzly bear, or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. ()

420. MANDATORY CHECK AND REPORT REQUIREMENTS.

Any person killing black bear, moose, bighorn sheep, mountain goat, gray wolf, or mountain lion in a unit with no quota, must, within ten (10) days of the date of kill, or any person killing mountain lion in a unit with a quota, or a grizzly bear, must, within five (5) days of the date of kill, comply with the mandatory check and report requirements by: ()

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

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

a. Black Bear: Skull and portion of the hide with evidence of sex attached to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. ()

b. Grizzly Bear: Skull and portion of the hide with evidence of sex attached to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. ()

c. Mountain Lion: Skull and portion of the hide with evidence of sex attached to be presented to a conservation officer or regional office to have the hide marked. ()

d. Gray Wolf: Skull and portion of the hide with evidence of sex attached to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. ()

e. Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. ()

f. Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be ()

presented to a regional office. ()

g. Mountain Goat: Horns to be presented to a conservation officer or regional office. ()

03. Possession of Raw Pelts of Black Bear, Grizzly Bear, Mountain lion, and Gray Wolf. No person may have in possession, except during the respective time period after lawful harvest allowed for mandatory check in Section 420 of these rules (five (5) or ten (10) days), depending on species), any raw black bear, mountain lion, grizzly bear, or gray wolf pelt without an official state export tag attached, unless that person possesses a fur buyer or taxidermist license or appropriate import documentation. ()

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

421. MANDATORY PRONGHORN, DEER, AND ELK REPORT REQUIREMENTS.

01. Mandatory Report. Any hunter that obtains a pronghorn, deer, or elk tag must submit to the Department an accurately completed Mandatory Report for the respective species on a form prescribed by the Department, within ten (10) days of killing such animal, or if the hunter does not kill such animal, within ten (10) days of the closing date of the appropriate season. ()

02. Failure to Report. Failure to submit the pronghorn, deer, or elk Mandatory Report as required in this section will render the person ineligible to obtain any license until a late Mandatory Report permit is submitted with the Department. ()

422. MANDATORY TELEPHONE REPORT.

In addition to other check and reporting requirements, any hunter killing a grizzly bear must report the harvest within twenty-four (24) hours by calling the Grizzly Bear Reporting Number, a toll-free telephone number published in the grizzly bear season and rules brochure available at Department offices and on the Department website. ()

423. -- 499. (RESERVED)

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

In addition to the closures specified in IDAPA 13.01.07.300, "Rules Governing Taking of Wildlife." ()

01. Mountain Lions and Gray Wolves. No person may hunt or pursue mountain lion or gray wolf within one-half (1/2) mile of any active Department big game feeding site. ()

02. Black Bear, Grizzly Bear, and Gray Wolves. No person may hunt or pursue black bear, grizzly bear, or gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. ()

501. -- 799. (RESERVED)

800. EMERGENCY DEPREDATION HUNTS.

01. Eligibility. ()

a. Only Idaho residents with a valid Idaho hunting or combination license are eligible to apply to participate in emergency depredation hunts. ()

b. Persons submitting applications for emergency depredation hunts are eligible to apply for controlled hunts or may hunt in the general season. ()

02. Applications. ()

a. A person may submit no more than (1) application per year for each species--deer, elk, pronghorn,

black bear, or gray wolf. ()

b. An individual or a group may apply. A group is defined as two (2) hunters applying for the same depredation hunt on the same application. If an individual submits application for more than one (1) species, he does not have to apply in the same group or area for each application ()

c. Any form not properly completed will be ineligible for selection. ()

d. Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag will be considered an applicant for any depredation hunt for that species which is: ()

i. Held prior to the antlerless or doe/fawn, or black bear controlled hunt; and ()

ii. Is in the same area as the depredation. ()

e. Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag may also apply for a depredation hunt in any region. ()

f. A list of depredation hunt applications received will be maintained for the time period July 1 to June 30. Applications are valid only for the time period for which they are submitted. ()

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

801. -- 999. (RESERVED)

13.01.09 – RULES GOVERNING TAKING OF GAME BIRDS AND UPLAND GAME ANIMALS

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-1101, and 36-1102, Idaho Code, authorize the Commission to adopt rules concerning taking of game birds and upland game animals. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.09, “Rules Governing Taking of Game Birds and Upland Game Animals.” These rules govern taking of game birds and upland game animals. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife,” defines migratory game birds, American crow, upland game animals, and upland game birds. Definitions as used in these rules: ()

01. Accompanied. Close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. ()

02. Waterfowl. The combination of ducks, geese, and swans, under the migratory game bird classification in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ()

011. – 099. (RESERVED)

100. GAME BIRD TAGS.

01. Game Tags. No person may hunt game birds anywhere within the state, except licensed shooting preserves, without having in possession the appropriate game tag as required by Section 36-409, Idaho Code. ()

02. General and Controlled Hunt Tags. The Commission may authorize general or controlled hunts by proclamation. ()

a. A general hunt game tag is valid in any general hunt for the calendar year. ()

b. A controlled hunt tag is valid only for the controlled hunt for which the tag was drawn. For turkey only, a controlled hunt tag is also valid in any general hunt for the calendar year. ()

03. Game Bird Tag Validation and Attachment. Any person who kills a game bird for which a game tag is required under Section 36-409(c), Idaho Code, must immediately validate the appropriate tag and securely attach the validated tag to the carcass. Tag validation means completely removing the two (2) triangles on the tag corresponding to the day and month of the kill date. The validated tag must remain attached to the carcass during transit to the place of final storage or final consumption. ()

101. – 109. (RESERVED)

110. CONTROLLED HUNTS.

01. Eligibility. Holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts, subject to the following restrictions: ()

a. Landowner-permission controlled hunt application eligibility is limited to persons who have a signed permission slip, which includes the landowner’s name and address, from a landowner who owns more than seventy-nine (79) acres in the hunt area. ()

b. Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the controlled hunt may continue to participate through the end of the youth-only controlled hunt. ()

c. A person sixty-five (65) years of age or older, *or a person* with a disabled license, may *purchase* leftover youth-only controlled hunt tags *on a first-come, first-served basis*. ()

02. Applications. Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, or an alternate date specified by Commission proclamation when these dates are impractical. ()

a. Duplicate license numbers will not be accepted. Applications from Holders of a Duplicate License (Type 501) will be processed only if they include original license numbers. ()

b. Only one (1) application per person or group will be accepted. Additional applications will result in all applicants being declared ineligible. ()

c. A single payment may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. ()

d. A “group application” is defined as two (2) hunters applying for the same controlled hunt on the same application. ()

e. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. ()

f. In the event a tag is issued based on erroneous information, the tag will be invalidated and the person will remain on the drawn list. ()

03. Drawing Information. Single or group applications not drawn for first choice hunts will automatically be entered into a second choice drawing if tags remain available in that hunt. ()

04. Successful Applicant. Any successful controlled hunt applicant may choose to buy the controlled hunt tag or return an unused general season tag for the species in exchange for the controlled hunt tag. ()

05. Nonresident Limit. In any controlled hunt, not more than ten percent (10%) of the tags will be issued to nonresidents. ()

111. – 149. (RESERVED)

150. MIGRATORY GAME BIRD PERMIT.

No person may hunt migratory game birds anywhere within the state, without having in possession the appropriate hunting license with validation for the Migratory Game Bird Harvest Information Program and tag. ()

151. SHARP-TAILED GROUSE PERMIT.

No person may hunt sharp-tailed grouse anywhere within the state, without having in possession the appropriate hunting license with validation for sharp-tailed grouse, except on a licensed shooting preserve. ()

152. UPLAND GAME BIRD PERMIT (DEPARTMENT-STOCKED BIRDS).

01. Upland Game Bird Permit. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, or at other locations where the Department stocks pheasants, as identified by Commission proclamation, must have a valid Upland Game Bird Permit in possession. ()

02. Permit Limit. Each Upland Game Bird Permit has a limit of six (6) roosters (cocks). Multiple permits may be purchased. ()

03. Permit Validation. Any person harvesting a pheasant where a Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. ()

153. – 179. (RESERVED)

180. YOUTH AND OTHER SPECIAL HUNTS.

01. Youth and Veteran/Active Duty Waterfowl Season. The youth waterfowl season is open only to licensed hunters with Migratory Bird validation who are eight (8) to seventeen (17) years of age, and who are accompanied in the field at all times by a licensed hunter eighteen (18) years of age or older. The Veteran/Active Duty waterfowl season is open only to licensed hunters with Migratory Bird validation who are veterans (as defined in Section 65-203, Idaho Code, but without restriction as to Idaho residency) or members of the Armed Forces on active duty (which does not include members of the National Guard and Reserves performing drills or training), and who carry proof of eligibility on their person, such as an official military or veteran identification card; DD214 form; or a state-issued driver's license or identification card with veteran's designation. ()

02. Youth General Hunts for Turkey. Youth-only general hunts for turkey are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. ()

03. Youth Pheasant Season. The youth pheasant season is open only to licensed hunters ten (10) to seventeen (17) years of age. ()

181. – 189. (RESERVED)

190. NONRESIDENT PARTICIPATION IN PHEASANT SEASONS.

The Commission may set by proclamation a later season start date, of no more than five (5) days, for nonresident participation in pheasant seasons. ()

191. – 199. (RESERVED)

200. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION.

No person may possess, transport, or ship any game bird or Eurasian-collared dove between the place where taken and the personal abode of the possessor OR between the place where taken and a commercial processing or storage facility unless: ()

01. Wild Turkey. The beard or leg of wild turkey is left naturally attached to the carcass. ()

02. All Other Game Birds and Eurasian-Collared Doves. One (1) fully-feathered wing or the head is left naturally attached to the carcass. ()

201. –249. (RESERVED)

250. MANDATORY CHECK AND REPORT.

01. Swan. Any hunter killing a swan must, within three (3) days of the date of kill, present the swan carcass (for measurement and identification) to a conservation officer, regional office or check station, and complete a harvest report. A person may authorize another person to comply with the check and report if that person possesses sufficient information to complete the report. ()

251. –299. (RESERVED)

300. UPLAND GAME BIRD METHODS OF TAKE.

01. Upland Game Birds. No person may take upland game birds: ()

a. With a trap, snare, net, or firearm. ()

i. EXCEPT upland game birds may be taken with a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, or muzzleloading shotgun; or ()

- ii. EXCEPT, forest grouse only may be taken with a firearm. ()
- b. From any watercraft. ()
- c. By the use or aid of any electronic call. ()
- d. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. ()
- e. When hunting on locations where an Upland Game Bird permit is required, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ()
- 02. Wild Turkey.** In addition to the methods listed above, no person may take wild turkey: ()
 - a. With lead shot exceeding BB size. ()
 - b. With steel shot exceeding T size. ()
 - c. By the use of dogs, except during fall hunts. ()
 - d. With any airgun using pre-charged pneumatic power to propel a projectile (including shot and arrows) with unignited compressed air or gas and projectiles less than thirty (.30) caliber. ()

301. MIGRATORY BIRD METHODS OF TAKE.

As provided by Section 36-1102, Idaho Code, taking of migratory birds is subject to the provisions of the federal migratory bird treaty act and federal regulations (found at 50 CFR Part 20). ()

01. Waterfowl. No person may take waterfowl, or coot while in possession of shot other than nontoxic shot federally approved for waterfowl hunting. No person may take waterfowl with shot larger than two tenths (.20) inches in diameter (size T). ()

02. Mourning Doves. Common Snipe, and Sandhill Cranes. No person may take mourning doves, common snipe, or Sandhill Cranes while in possession of shot larger than two tenths (.20) inches in diameter (size T). ()

03. American Crow. No person may take American crow with a trap, snare, net, rifle, pistol or a shotgun using shells exceeding three and one-half (3-1/2) inches maximum length. American crow are exempt from waste provisions under Section 36-1202, Idaho Code. ()

302 – 349. (RESERVED)

350. UPLAND GAME ANIMAL METHODS OF TAKE.

No person may take upland game animals: ()

01. Devices. With a trap, snare, net or shotgun using shotgun shells exceeding three and one-half (3 ½) inches in length. ()

02. Electronic Call. By the use or aid of any electronic call. ()

351 – 399. (RESERVED)

400. AREAS CLOSED TO HUNTING OF GAME BIRDS.

01. General. In addition to those areas closed under IDAPA 13.01.07.300, “Rules Governing Taking of Wildlife,” the following area is closed to the hunting, killing, or molesting of any game bird: 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). ()

02. Migratory Game Birds. In addition to the areas listed above as closed to hunting of game birds, the following areas are closed to hunting, killing, or molesting migratory game birds other than mourning dove: ()

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. ()

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. ()

c. Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. ()

d. 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. ()

03. Geese. In addition to the areas listed above as closed to hunting of game birds and migratory game birds, the following areas are closed to the hunting, killing, or molesting of any species of geese: ()

a. Canyon County in the area enclosed by the following boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure extends 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 at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road (Nampa), 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 the point of beginning. ()

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 along the south bank to a point perpendicular to 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 five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) (east of the Hagerman 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 2900 South Road, then west on 2900 South Road to 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, the point of beginning. ()

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. ()

401. GAME PRESERVES OPEN TO THE HUNTING OF MIGRATORY GAME BIRDS.
The David Thompson Preserve in Bonner County is open to the hunting of migratory game birds. ()

402. – 999. (RESERVED)

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

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, and 36-2201-2205, Idaho Code, authorize the Commission to adopt rules concerning the importation, possession, release, sale, or salvage of wildlife in the state of Idaho. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.10, “Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife.” These rules govern the commercial and non-commercial importation, possession, release, sale, or salvage of wildlife. These rules do not apply to bullfrog, fish or crustacean, the importation, possession, release, sale or salvage of which are governed by IDAPA 13.01.11, “Rules Governing Fish,” and IDAPA 13.01.12, “Rules Governing Commercial Fishing.” ()

002. – 009. (RESERVED)

010. DEFINITIONS.

IDAPA 13.01.06, “Classification and Protection of Wildlife,” defines game animals, big game animals, game birds, furbearing animals and unprotected wildlife. Section 36-201, Idaho Code, defines predatory wildlife. As used in this chapter, “wildlife” does not include any bullfrog, fish, or crustacean, for which requirements for import, possession, transport, release, and sale are addressed in IDAPA 13.01.11, “Rules Governing Fish” and 13.01.12 “Rules Governing Commercial Fishing.” ()

01. Commercial Wildlife Farm. Any facility where the operator obtains, possesses, or propagates big game animals, for any commercial purpose. ()

02. Private Park. Any facility where the operator obtains, possesses, or propagates big game animals for personal pleasure and not for any commercial purpose. ()

03. Bona Fide Pet Store. A legitimate retail store with a set location and regular business hours. ()

04. Big Game Animal. As classified in IDAPA 13.01.06, “Classification and Protection of Wildlife,” excluding domestic cervids as defined and regulated by Title 25, Chapter 37, Idaho Code. ()

05. Agricultural or Domestic Animals. Animals or their eggs normally considered to be of agricultural or domestic types currently common to Idaho, not including wildlife as defined by Section 36-202, Idaho Code (such as animals listed in IDAPA 13.01.06, “Rules Governing the Classification and Protection of Wildlife.”) ()

06. Commercial Wildlife Facility. Any facility where the operator obtains, possesses, or propagates wildlife for any commercial purpose, including exhibition, education, entertainment, or sale. A commercial wildlife farm is included in this definition. ()

07. Not Permanently Located Within the State of Idaho. A traveling circus, menagerie, or trained act of wild animals that is not located within the state of Idaho more than two (2) months out of any calendar year. ()

08. Traveling Circus, Menagerie, or Trained Act of Wild Animals. Any mobile display or exhibit of wildlife maintained for instructional, educational, entertainment, or other commercial purposes. ()

09. Publicly Owned Zoo or Wildlife Exhibit. Any facility exhibiting wildlife owned by any municipal, county, state, or federal agency. ()

011. – 099. (RESERVED)

100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, POSSESSION, RELEASE, AND SALE OF LIVE WILDLIFE.

No person may import into, export from, sell, or transport, cause to be transported, possess (hold in captivity), propagate, or release within the state of Idaho any living wildlife, including eggs thereof, without having first obtained a permit from the Department. ()

01. Exemptions for Import, Export, Transport, Possession or Sale. No permit is needed from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): ()

- a. Agricultural or domestic animals. ()
- b. Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. ()
- c. Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. ()
- d. Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). ()
- e. Domestic Game birds produced in captivity and lawfully obtained, as shown by proof maintained and presented in accordance with Section 36-709, Idaho Code. ()
- f. Birds of prey, provided actions comply with IDAPA 13.01.14, “Rules Governing Falconry.” ()

02. Exemptions for Unprotected and Predatory Wildlife. ()

a. Wildlife classified as Unprotected Wildlife and Predatory Wildlife that are lawfully taken by a person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may be sold, exported, transported, or possessed, without additional permit from the Department, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. The Idaho Department of Agriculture may restrict the possession, sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code. ()

b. Lawfully taken native unprotected or predatory wildlife may be released on private lands in the county of origin without a Department permit in accordance with Section 36-502, Idaho Code and with written landowner consent in possession while such wildlife is in transit to the release site. ()

03. Exemption for Native Reptiles and Amphibians. A person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may capture alive, or hold in captivity and possess, up to four (4) individuals per species of Idaho native reptiles or amphibians at the same time, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. ()

04. Restriction on Permit Issuance. The Department will not issue any permit for import, export, transport, release, possession, or sale of live wildlife or eggs thereof, if the wildlife or eggs thereof would pose a threat to the state of Idaho, including threat of disease, genetic contamination or displacement of or competition with existing species. Because of the threat of chronic wasting disease, the Department will not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture, including mule deer, white-tailed deer, moose, and wild-origin elk. ()

101. IMPORT OR TRANSPORT PERMIT ISSUANCE.

01. Application. Application for a permit to import or transport wildlife will be on a form prescribed by the Department. The applicant must possess a valid commercial or private wildlife facility license or individual captive wildlife permit or make concurrent application for such facility license or individual animal possession permit. ()

02. Inspection and Examination. Upon Department request, the applicant must provide a valid Certificate of Veterinary Inspection from the state of origin for each animal imported or transported. ()

03. Additional Requirements. The Department may impose test and certification requirements related to genetic issues or diseases of concern for any animal to be imported or transported. ()

102. POSSESSION OF UNLAWFUL IMPORT.

No person may possess any wildlife, progeny or eggs thereof, whose import into this state was unlawful. ()

103. – 149. (RESERVED)

150. WILDLIFE IN TRANSIT.

All required licenses, permits, and certificates must accompany live captive wildlife while in transit. ()

151. – 199. (RESERVED)

200. CAPTIVE WILDLIFE.

01. General. No person may possess, hold in captivity, or propagate any wildlife, except those animals exempted under Section 100 of these rules, without obtaining a captive wildlife permit for each individual animal from the Department. ()

02. Compliance with Other Agency Requirements. No person may possess, hold in captivity, or propagate any wildlife without complying with relevant city or county ordinances, including any zoning and planning commission approval, and any Idaho or U.S. Department of Agriculture requirements. ()

03. Marking Big Game. All big game animals shall be uniquely marked with a Department-approved marking system. ()

04. Applications. Application for license will be on a form prescribed by the Department. ()

05. Inspections and Records. As a condition to any facility license or individual captive animal permit, the Department will be able to access for inspection at any reasonable time all records, all wildlife, and the facilities where the wildlife are kept, with records maintained as specified in Section 36-709(c), Idaho Code. ()

201. DISEASE OF CAPTIVE WILDLIFE.

The Department Wildlife Veterinarian and the Idaho Department of Agriculture Administrator of the Division of Animal Industries will mutually determine the diseases and parasites of concern and the mechanisms and procedures for control of diseases and parasites in captive wildlife within the state of Idaho. Such mechanisms and procedures include but are not limited to examination, testing, quarantine, and slaughter or destruction, at the owner's expense, of individual animals or herds that are infected with or affected by diseases or parasites that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of the state of Idaho. Such disease and parasite control measures will be included in and enforced by regulations of the Division of Animal Industries of the Department of Agriculture. ()

202. – 299. (RESERVED)

300. RECOVERY, POSSESSION, AND SALE OF WILDLIFE PARTS.

01. Wildlife Legally Killed. ()

a. The possession, sale, and purchase of wildlife or parts of wildlife legally killed is lawful, provided it is in compliance with these rules and Title 36, Idaho Code. ()

i. No person may purchase, barter, or sell the edible flesh of wildlife classified as big game animals, upland game animals, game birds, migratory birds, or rattlesnakes taken from the wild. ()

ii. The annual sale by holders of a valid Idaho hunting, trapping or combination hunting and fishing license of no more than six (6) skins of legally taken rattlesnakes is lawful. ()

b. A written statement showing the taker's name, address, license and tag numbers, date and location

of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Department within ten (10) days after such sale. A Department Form CE-50, Statement of Sale/Purchase of Wildlife Parts, may be used in lieu of a sales statement. ()

c. Persons possessing a taxidermist or fur buyer license shall keep a record of any wildlife received for mounting or preservation, and of any purchase of furbearers, black bear part or raw skin, and mountain lion part or raw skin, with said record to be kept for two (2) years from the respective date of receipt or purchase. Records may be written or retained on media other than paper, provided that the media comply with standards set forth in Section 9-328, Idaho Code; copies of sales statements complying with Subsection 300.01.b. are adequate records. ()

02. Animals Found Dead. Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but only under the conditions specified and only if the wildlife has not been unlawfully killed. Natural causes do not include any man-caused mortality. Accidental death includes accidental vehicle-collision caused mortality. ()

a. Horns of Bighorn Sheep. ()

i. Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed, provided such horns are presented to a Department office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. No person may sell, barter, purchase, or transfer to another person any horn recovered from a bighorn sheep that has died from natural causes without a permit issued by the Department. The insertion of a pin is not a certification that the animal was legally taken or possessed. ()

ii. No person may alter, deface, or remove a pin placed in a bighorn sheep horn by the Department. No person may possess the horn(s) of a bighorn sheep that bears an altered, defaced, or counterfeit Idaho pin or from which the Idaho pin has been removed. ()

b. Antlers, hides, bones, and horns of deer, elk, moose, pronghorn and mountain goat, parts of bear and mountain lion and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold, provided that reporting of bear and mountain lion parts is in accordance with reporting under Subsection 300.01 of this rule. ()

c. Parts, including meat, of big game animals, upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be recovered and possessed, provided that such taking is not in violation of state, federal, county, or city law, ordinance, rule, or regulation, and provided that: ()

i. Notification to the Department is made within twenty-four (24) hours of salvage; and ()

ii. Written authorization is obtained from the Department within seventy-two (72) hours of recovery; and ()

iii. Mandatory check and report requirements are complied with for any bighorn sheep, black bear, mountain lion, mountain goat, moose, gray wolf, bobcat, and river otter, as described in IDAPA 13.01.08.420 and 13.01.16.500. ()

d. Parts, excluding meat, of big game animals (except bighorn sheep), upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be purchased, bartered, or sold, where sale is not specifically prohibited by federal statute or regulation or state statute, when accompanied by written authorization from the Department as described in IDAPA 13.01.10.300.02.c. No person may purchase, barter, or sell bighorn sheep accidentally killed as a result of vehicle-collision. ()

03. Wildlife Taken in Other States. Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such possession or sale is lawful in Idaho, in the state, province, or

country where taken, and under federal law. ()

301. POSSESSION, IMPORTATION, AND TRANSPORTATION OF CERVID CARCASSES OR PARTS FROM AREAS WITH CHRONIC WASTING DISEASE (CWD) UNLAWFUL.

01. Designation of CWD Management Zone. *The Commission may designate a CWD Management Zone where wildlife is subject to increased risk of acquiring CWD based on the presence of CWD-infected animals and information on wildlife movement. The Director may designate a CWD Management Zone on a temporary basis, for a period not to exceed ninety (90) days and subject to Commission review.* ()

02. Prohibitions. It is unlawful to: ()

a. Import into Idaho the carcass or any part of a deer, elk, or moose from another state, province of Canada, or country (other than Canada) with any documented case of CWD; ()

b. Transport the carcass or any part of a deer, elk, or moose out of any CWD Management Zone to any portion of the state that is not a designated CWD Management Zone; or ()

c. Possess the carcass or any part of a deer, elk, or moose that: has been imported from another state, province or country (other than Canada) with a documented case of CWD; or transported out of any CWD Management Zone to any part of the state that is not a designated CWD Management Zone. ()

03. Exceptions. This section does not apply to: ()

a. *Domestic cervids regulated under Chapter 37, Title 25, Idaho Code;* ()

b. Meat that is cut and wrapped; ()

c. Quarters or deboned meat that does not include brain or spinal tissue; ()

d. Edible organs, *excluding* brains; ()

e. Hides without heads; ()

f. Upper canine teeth (ivories); ()

g. Finished taxidermy; ()

h. Dried antlers; ()

i. Cleaned and dried skulls or skull caps; ()

j. *Skull caps that do not include brain or spinal tissue; or* ()

k. *A head or tissue from a CWD Management Zone, provided it is presented to the Department for sampling purposes, with the Department to keep possession for appropriate tissue disposal.* ()

04. Disposal of Carcasses or Parts in Violation. *The Department may seize carcasses or parts imported, transported, or possessed in violation of this section, with a person in violation of this section responsible for handling and disposal costs, as authorized under Chapters 34 and 53, Title 19, Idaho Code.* ()

302. – 399. (RESERVED)

400. PRIVATE PARKS AND COMMERCIAL WILDLIFE FACILITIES.

01. General. No person may operate or maintain a private park or commercial wildlife facility without obtaining the appropriate license for each facility and the individual captive animals from the Department. ()

02. Compliance with Other Agency Requirements. No person may operate a private park or commercial wildlife facility without complying with relevant city or county ordinances, including any zoning and planning commission approval, and any Idaho or U.S. Department of Agriculture requirements. ()

03. License Display. A commercial wildlife license is to be displayed at the licensed facility in plain view at all times. ()

04. Applications. Application for permits or licenses to possess wildlife will be on a form prescribed by the Department, with separate application to be made for each facility and for any animal(s) imported after a facility is licensed. The Department will only consider an application that includes: ()

a. The name and address of the applicant. ()

b. Proof of compliance with city/county zoning ordinance or zoning permit application. ()

c. The name and address of the owner(s) of the wildlife if not the applicant. ()

d. The location of the proposed facility, including a legal description of the land and the approximate space devoted to the facility. ()

e. The name and address of the owner of the property if not the applicant. ()

f. The number and kinds of wildlife being or to be kept. ()

g. The date upon which each animal is to be obtained. ()

h. The source, including address and telephone number, from which each animal was, or is to be, obtained, and health certificate for all animals addressing diseases of concern. If already in possession, the type of permit or license under which each animal is possessed. ()

i. Specifications of pens and shelters furnished for each kind of animal. ()

j. Specifications of the guard fence or other security measures to prevent escape or protect the public from injury by the animals. ()

05. Inspections. As a condition to any facility license, the licensee will make available for inspection all records, all wildlife, and the facilities covered by the license at any reasonable time upon request of the Department. ()

06. Evidence of Legal Possession. Records shall include evidence of legal possession of all wildlife kept at the facility or under the licenses, including licenses, permits, receipts, invoices, bills of lading, or other satisfactory evidence of ownership. The records shall also identify all animals born at the facility, exported from the facility, or transported within the state. ()

07. Dead Wildlife. Record of inspection by a licensed veterinarian shall be kept for all wildlife which die on the premises, and a copy forwarded to the Department Wildlife Laboratory within ten (10) days of the death of the animal. ()

08. Cages or Enclosures. All wildlife held in captivity in a wildlife facility shall be confined at all times in cages or enclosures of such structure or type of construction that it will be impossible for such animals to escape, and that meet the following minimum specifications: ()

a. For big game animals, including bear and mountain lion, the enclosure will: ()

i. Have a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal

digging through the floor to escape; ()

ii. Have a chain link fence of at least eight (8) feet in height with barbed wire overhang; ()

iii. Have a chain link cage top; ()

iv. Have any other Department-approved configuration such as a pit that will preclude escape. ()

b. For all animals, cages or enclosures will be of sufficient size to give the animal or bird confined ample space for exercise and to avoid being overcrowded. ()

i. The length of the cage or enclosure will be a minimum of four (4) times the body length (tip of nose to base of tail) of the animal being kept, reptiles excepted. ()

ii. The width will be at least three-fourths (3/4) of the cage length. ()

iii. For the second animal housed in cage, floor space will be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space will be increased fifteen percent (15%). Cages with tops will be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions that might injure or impair the animal will be allowed within the cages. ()

c. For all animals, cages or enclosures will be constructed to prevent entrance by other animals and prevent harm to or by the general public. Cages, fencing, and guardrails will be kept in good repair at all times; and gates will be securely fastened and locked. ()

d. Cages or enclosure for birds and smaller animals will be provided with a den, nest box or other suitable housing containing adequate bedding material for the comfort of the species held. A suitable shelter or shield will be provided for big game and other larger animals for protection from inclement weather and from the sun. At least one (1) wall of the enclosure will be constructed so as to provide a windbreak for the animal confined. ()

e. For all venomous reptiles, enclosures will have safety glass and cages will have small enough mesh to prevent the animal's escape and double walls sufficient to prevent penetration of fangs to the outside; and all cages and enclosures will be kept locked. ()

f. Cages or enclosures will be kept dry if containing terrestrial animals and with adequate water if containing aquatic animals. Where natural climate of the species being held differs from the climate of the area where the wildlife facility is located, provisions will be made to adjust holding conditions, as nearly as possible, to natural habitat. ()

g. Cages or enclosures will be kept in a clean and sanitary condition consistent with good animal husbandry. ()

09. Sale of Animal Meat or Parts. ()

a. A commercial wildlife facility licensee may sell or otherwise dispose of the carcass, parts, or by-products of a properly identified big game animal taken from a commercial wildlife facility only upon preparing an invoice or bill of sale as specified by the Department and attaching a copy of it to the lot shipment, carcass, or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or by-products of the animal, the same may be transported to the transferee named on the invoice or bill of sale. ()

b. The licensee may sell commercial wildlife facility animals for meat upon compliance with all applicable health laws, USDA, and Idaho Department of Agriculture regulations. ()

401. – 410. (RESERVED)

411. HUMANE TREATMENT OF CAPTIVE WILDLIFE

01. Humane Treatment. All captive wildlife must be handled in a humane manner and in a manner to prevent parasites, sickness, or disease, including but not limited to the following actions: ()

a. Any captive wildlife afflicted with parasites or disease is immediately given professional medical attention or destroyed in a humane manner. Any infected or injured animal infected is removed from public display. ()

b. Any captive wildlife is fed on a regular schedule. Food is adequate and varied and so far as possible, consistent with food ordinarily eaten by such animals. Food is of good quality and stores of same are kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. ()

i. The public is not allowed to feed any captive wildlife. Proper signs are conspicuously posted on cages or enclosures advising the public to refrain from feeding or annoying the birds or animals. ()

c. Fresh or running water for drinking purposes is available in cages or enclosures at all times, and is kept clean and in a sanitary condition. ()

d. Any animals with a propensity to fight or which are otherwise incompatible are kept segregated. ()

e. At no time is any wildlife held for public display or exhibition chained or otherwise tethered to any stake, post, tree, building, or other anchorage, except for raptors as provided by IDAPA 13.01.14, “Rules Governing Falconry.” ()

02. Documentation. At least once a year and otherwise on demand, the owner or possessor of any captive wildlife held under Department permit must provide to the Department a certificate from a licensed veterinarian, on a form as prescribed by the Department, stating the physical condition or health of each animal in captivity. The permittee must maintain a complete record of illness, treatment and disposition for each permitted animal and make such record available to the Department upon request. ()

412. RESPONSIBILITY OF POSSESSOR OF CAPTIVE WILDLIFE.

Any person possessing live wildlife in captivity shall be responsible for the care of the wildlife in possession and the protection of the public, and liable for the expense of capture or destruction of any escaped wildlife, including any costs incurred by the Department. The Department makes no representation concerning public safety of any licensed captive wildlife or facility. ()

413. – 499. (RESERVED)

500. SHOOTING PRESERVE RULES.

01. Shooting Preserves. No person may operate a shooting preserve without a permit from the Department. ()

02. Applications. Application for a shooting preserve license will be on a form prescribed by the Department. ()

03. License Vendorship. No person may operate a shooting preserve unless the operator has a vendorship contract with the Department and maintains a supply of shooting preserve hunting licenses for issuance to clients of the preserve. ()

04. Species Permitted. Only those species of upland game birds specified on the permit may be held or released on the shooting preserve. ()

05. Disease Free Birds. No person may ship upland game birds into Idaho for release on a shooting

preserve unless they are certified free from disease as evidenced by a written statement by a licensed veterinarian. ()

06. Holding Facilities. The provisions of Subsection 400.08 of these rules pertaining to bird enclosures apply to all rearing pens, holding pens, and other rearing or holding facilities. ()

07. Habitat Requirements. No shooting preserve permit will be issued except upon verification by the Department that the proposed area has suitable habitat to provide food and cover for birds released for hunting purposes. The Department will provide technical advice to the applicant in developing proper habitat needs for the various species permitted under the shooting preserve license. ()

08. Inspection. As a condition to any shooting preserve permit, the Department will have reasonable access to the premises of any authorized shooting preserve for the purpose of inspecting rearing, holding, and storage facilities, licenses, hunters' bag limits, and records pertaining to the operation of said shooting preserve. ()

501. – 599. (RESERVED)

600. CAPTIVE WOLVES.

01. Definitions – Primary Wolf Characteristics. ()

- a.** Eyes shine greenish orange; ()
- b.** Ears rounded and smaller in proportion to those of the coyote; ()
- c.** Snout is broad with nose pad wider than one (1) inch; ()
- d.** Legs are long, an adult would stand at approximately twenty-six (26) to thirty-two (32) inches at the shoulder; ()
- e.** Length is four and one-half (4.5) to six (6) feet from the tip of the nose to the tip of the tail; ()
- f.** An adult weighs at least eighty (80) pounds; ()
- g.** Tail is carried high or straight out when running; ()
- h.** Fur is long and coarse, varies from white to black but is generally grayish in coloration resembling the coyote. The underparts are not as white and the legs and feet are not as red as those of the coyote. ()

02. License and Tattoos. No person may possess a live wolf or other canine exhibiting primary wolf characteristics without proper identification (tattoo) and a license from the Department, to be obtained within three (3) days of commencing possession of a live wolf or other canine exhibiting primary wolf characteristics. Application for license will be on a form prescribed by the Department. ()

a. Proper tattoo consists of placement of a three (3) digit number, as assigned by the Department, on the right flank or inside of the right ear by a qualified veterinarian. Animals do not require tattooing until the age of six (6) months. The applicant will provide written confirmation of tattooing from the veterinarian. ()

b. Each wolf license is valid from January 1 through December 31, and renewal is needed each year to continue to possess the animal. ()

601. – 699. (RESERVED)

700. VIOLATION GROUNDS FOR LICENSING ACTION AND ANIMAL REMOVAL.

The Department may give written notice of violation(s) to any person, with a permit or license under this chapter, who is violation of Chapter 7 of Title 36, Idaho Code or these rules, and that person will then have ten (10) days to

correct such violation(s). If at the end of that time the violation is not corrected, the Department may revoke any existing permit or license and may refuse to issue any future permit. Such revocation or refusal to issue a future permit may be in addition to any criminal charges or civil action that may be filed. All animals held under said license or permit so revoked or held without appropriate license or permit will be removed at owner's expense, with disposition as determined by the Department. ()

701. – 999. (RESERVED)

13.01.11 – RULES GOVERNING FISH

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-406A, 36-407, 36-410, 36-701, 36-706, 36-901, 36-902, 36-1001, Idaho Code, authorize the Commission to adopt rules concerning fishing, methods of take, seasons, limits, and fishing contests. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.11, “Rules Governing Fish.” These rules establish the methods of take, seasons, and possession limits for all non-commercial fishing and govern fishing contests. ()

002. – 009. (RESERVED)

010. DEFINITIONS – FISH.

01. Chinook Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam), and the Boise River drainage. ()

02. Coho Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus kisutch* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and Clearwater River drainage (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam). ()

03. Game Fish. As classified in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ()

04. Hybrid Fish. The offspring of two different species or subspecies of fish. ()

05. Jack Salmon. Anadromous (ocean run) salmon of a size set by Commission proclamation. ()

06. Invasive Fish Species. Bullfrog, fish and crustacea species designated invasive species by state authority (IDAPA 02.06.09 “Rules Governing Invasive Species of the Idaho Department of Agriculture”). ()

07. Sockeye Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus nerka* in the Snake River drainage below Hells Canyon Dam and the Salmon River drainage. ()

08. Steelhead. Any rainbow trout longer than twenty (20) inches in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage (excluding that portion above Dworshak Dam); and any rainbow trout longer than twenty (20) inches in length with the adipose fin clipped (as evidenced by a healed scar) in the Snake River drainage from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River drainage from its mouth upstream to Barber Dam. ()

09. Trout. Trout, including brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow (other than steelhead), splake, sunapee, tiger; trout hybrids; and landlocked (not ocean runs) forms of chinook, coho, atlantic and kokanee (blueback) salmon. ()

10. Unprotected Fish. Bullfrog and all fish species not classified in a protected category (game fish, protected nongame, threatened or endangered species) in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ()

011. DEFINITIONS – CONDUCT OF FISHING.

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

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

03. Bag Limit. The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day, construed in accordance with Sections 36-202 and 36-410, Idaho Code. ()

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. ()

- 05. **Barbless Hook.** A fish hook without barbs or on which all barbs have been bent completely closed. ()
- 06. **Catch-and-Release.** Effort, by permitted methods, to catch fish, provided that any fish so caught is released immediately back to the water. ()
- 07. **Confluence of a Stream or River.** The point where two (2) rivers or streams come together. ()
- 08. **Diversion.** A man-made structure designed to change the direction of flowing water in a stream. ()
- 09. **Diversion Pond.** A man-made pond holding water taken from a stream or reservoir, which pond may be connected to the stream or reservoir by an open ditch or pipe. ()
- 10. **Drainage.** All water flowing into a common river or stream system, either above or below ground, due to area geography. ()
- 11. **Electric Motors Only.** For fishing waters listed in proclamation as “electric motors only,” no gas (internal combustion) motors may be used, although they may be attached to the boat. ()
- 12. **Fish Trap.** Any man-made structure designed to capture fish. ()
- 13. **Fish Weir.** Any man-made structure placed in a water body to delay or divert migrating fish. ()
- 14. **Flat Water.** Water where there is no observable direction of flow. ()
- 15. **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. ()
- 16. **Fly Fishing.** Fishing with a fly rod, fly reel, fly line, and artificial fly. ()
- 17. **General Fishing Season.** The season and bag limits as determined by proclamation on a Regional basis. ()
- 18. **Harvest.** Reduce a fish to possession. ()
- 19. **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 identified. ()
- 20. **Ice Fishing.** Fishing through an opening broken or cut through the ice. ()
- 21. **Length.** The length between the tip of the nose or jaw and the tip of the tail fin. ()
- 22. **Limit is 0 (Zero).** Fishing is allowed, provided the fish is released after landing and not reduced to possession. ()
- 23. **Motor.** Includes electric and internal combustion motors. ()
- 24. **Mouth of River or Stream.** The place where a river or stream enters a larger body of water. ()

25. **No Motors.** For fishing waters listed in proclamation as “no motors,” no person may fish from a boat with a motor attached. ()
26. **Possession Limit.** As defined in Section 36-202, Idaho Code. ()
27. **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. ()
28. **Season Limit.** The maximum number of fish that may be lawfully harvested in any declared season. ()
29. **Section.** An area of a river, stream, or reservoir between specific boundary locations. ()
30. **Single-Point Hook.** A bent wire device, for catching fish, with one (1) shank and one (1) point. ()
31. **Sliding Sinker.** A method of attaching a sinker to a device that slides freely on the main line. ()
32. **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. ()
33. **Special Rule Waters.** Any water with a gear, season, or bag limit rule that is listed in proclamation and different from the general fishing season. ()
34. **Tributary.** A stream flowing into a larger stream or lake. ()
35. **Unattended Line.** A line not under the immediate surveillance by the angler. ()
36. **Upstream.** Moving from a lower elevation towards a higher elevation point in the same stream. ()
37. **Watercraft.** Those devices designed as a means of transportation on water. ()

012. DEFINITIONS – FISHING CONTESTS.

01. **Fishing Contest.** Any organized fishing event that: ()
- a. Has a live-fish weigh-in; or ()
- b. Awards cash or prizes of one thousand dollars (\$1,000) or more based on number, size, or species of fish captured; or ()
- c. Is expected to draw or have more than twenty (20) participants. ()
02. **Catch-and-Release Contest.** Any fishing contest with specific procedures to keep target fish species alive and healthy and to release all fish caught back into the contest water on the same day. ()
03. **Harvest Contest.** Any fishing contest that allows participants to harvest fish. ()

013. – 100. (RESERVED)

101. RELEASE OF FISH WHILE FISHING.

Any fish caught in Idaho waters that is unlawful to possess must be immediately released back to the water. ()

102. STURGEON.

No person may remove sturgeon from the water, and it is unlawful to possess sturgeon. ()

103. (RESERVED)

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

01. Restrictions. No person may have in the field or in transit any trout, tiger muskie, or bass from which the head or tail has been removed unless: ()

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; and ()

c. The fish is processed or packaged in a manner that the number of fish harvested can be readily determined and the processed fish is not transported by boat. ()

02. Transport or Gift. No person may 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. ()

105. PURCHASE, BARTER, OR SALE OF FISH.

No person may purchase, barter, or sell the edible flesh of fish, crayfish, or bullfrog harvested from the wild, except as provided in Section 36-501, Idaho Code, and Title 36, Chapter 8, Idaho Code, and rules promulgated pursuant thereto. ()

106. LIVE FISH – POSSESSION, TRANSPORT, IMPORT, AND RELEASE.

01. Permit. No person may possess, transport, cause to be transported, import, or release any live fish, crayfish, or bullfrog, or viable eggs thereof, without having first obtained a permit from the Director. ()

02. Marking Fish in Possession. No person may mark fish by any means, including with a tag, by removing fins or injuring with intent to leave a scar, without first obtaining a Scientific Collecting Permit from the Department. ()

03. Import Inspection and Examination Requirements. All live fish imported into or transported within Idaho must be certified free from disease, as evidenced by a Certificate of Veterinary Inspection by a licensed veterinarian, (b) CFR Title 50 certification, (c) American Fisheries Society certified fish health inspector's certification, or (d) other certification by an individual designated by the Director of the Department of Agriculture. ()

04. Unpermitted Fish Species Released. Any fish species unpermitted for import, possession, transport or release that is released by or escapes from an owner or operator shall be captured or destroyed by the owner, or by the Department at the owner's expense. ()

107. LIVE FISH AND EGGS – EXCEPTIONS.

No permit is required to: ()

01. Fish. Keep fish that can legally be reduced to possession (except for anadromous salmon and steelhead), alive and in possession in a live well, net, or on a stringer while at the body of water from which they were taken. ()

02. Same Location. Release fish at the same time and place where captured. ()

03. Aquarium Fish. Possess ornamental or tropical aquarium fish of varieties commonly accepted for

interstate shipment (not to include invasive species). ()

04. Private Ponds or Commercial Fish Facility. Possess fish from a private pond or commercial fish facility when accompanied by sales receipt and written permission from the director, as provided in Chapter 7, Title 36, Idaho Code or from the Department of Agriculture as provided in Chapter 46, Title 22, Idaho Code. ()

05. Transport Between Commercial Fish Facilities. Transport fish between commercial fish facilities licensed under Chapter 7, Title 36 and Chapter 46, Title 22, Idaho Code. ()

06. Fish Eggs. Possess, sell, purchase or transport nonviable fish eggs used for bait or personal consumption. ()

108. – 199. (RESERVED)

200. FISHING METHODS AND GEAR.

01. General Restrictions. Unless modified by rule (such as the exceptions in the following subsections), order, or proclamation, it is unlawful to: ()

- a. Fish in any waters of Idaho with more than one (1) handline or pole with a line attached. ()
- b. Leave a line unattended. ()
- c. Have more than five (5) hooks attached per line. ()
- d. Fish by archery, spearfishing, snagging, hands, trapping, seining, or netting. ()
- e. Use live fish, leeches, frogs, salamanders, waterdogs, or shrimp as bait. ()
- f. Land any fish with a gaff hook. ()

02. Molesting Fish. It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. ()

03. Hook and Line Exceptions. The holder of a valid two (2) pole permit may use two (2) poles during a general fishing season. A person may use no more than (5) lines while ice fishing. ()

04. Archery and Spear Fishing Exceptions. Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of unprotected fish, provided there is an open season for game fish. ()

05. Gaff Hook Exceptions. It is permitted to use a gaff hook through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species, or when landing unprotected fish species taken with archery equipment, provided the angler does not intend to release fish so caught. ()

06. Snagging Exceptions. Snagging of unprotected fish species is permitted. ()

07. Trapping and Seining Exceptions. It is lawful to take unprotected fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, provided there is an open season for game fish, and provided the following conditions are met: ()

- a. The seine or net does not exceed ten (10) feet in length or width, and the seine has three-eighths (3/8) inch square or smaller mesh; and the minnow or crayfish trap does not exceed two (2) feet in length, width or height. If the trap is of irregular dimension, but its volume does not exceed the volume of an eight (8) cubic foot trap, it is lawful to use. ()

- b. Nets and seines are not left unattended. ()
- c. Traps are checked at least every forty-eight (48) hours. ()
- d. All game fish and protected nongame fish incidentally taken while trapping or seining are immediately released alive. ()
- e. All traps have a tag attached bearing the owner's name and address or license number. ()
- 08. Use of Bait Exceptions.** Live crayfish and bullfrog may be used for bait if caught on the body of water being fished. ()
- 09. Use of Hands Exceptions.** It is permitted to take bullfrog and crayfish with the hands. ()
- 10. Barbed Hook Restrictions.** It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead or salmon with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. ()
- 11. Sinker for Sturgeon.** When fishing for sturgeon, a person must use a sliding sinker and a lighter test line to attach the weight to the main line (the line attached to the reel). ()
- 12. Fishing Shelters.** Any enclosure or shelter left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. ()

201. – 344. (RESERVED)

345. FISHING IN BOUNDARY WATERS.

- 01. Bear Lake.** The holder of a valid Idaho or Utah fishing license may fish all of Bear Lake, subject to the rules or regulations of the state in which they are fishing, including any closure. ()
- 02. Snake River Between Idaho and Oregon or Washington.** The holder of a valid Idaho fishing license may fish the Snake River where it forms the boundary between Idaho and the states of Oregon or Washington, subject to the fish and game laws of Idaho. An Idaho license does not authorize the holder to fish from the shoreline, sloughs, or tributaries on the Oregon or Washington side. An Oregon or Washington license holder has the same rights and restrictions with reference to the Idaho side. ()
- 03. Limit for One License Only.** Any angler who fishes on the Snake River or any other water forming an Idaho boundary is entitled to have in possession only the limit allowed by one (1) license regardless of the number of licenses he may possess. ()

346. FISH SALVAGE.

No person may salvage fish from public waters without specific authorization of the Commission, Director, or Regional Supervisor. Authorization for salvage may allow holders of valid fishing licenses to harvest fish without regard to usual possession limits and may allow snagging, spearing, archery, dipnet, seines, or with the hands. ()

347. – 399. (RESERVED)

400. STEELHEAD AND ANADROMOUS SALMON LICENSES, TAGS, AND PERMITS.

- 01. Licenses.** Any person fishing for steelhead or anadromous salmon, except those expressly exempt, must have in possession a valid fishing license. ()
- 02. Permits.** No person may fish for, or reduce to possession, steelhead or anadromous salmon without a valid steelhead or salmon permit in possession for the targeted species. ()

401. – 402. (RESERVED)

403. PERMIT VALIDATION.

For each steelhead or adult anadromous salmon hooked, landed, and reduced to possession, the angler hooking the fish must immediately validate her permit by notching the permit and entering in ink the appropriate month, day and river location (listed by Commission proclamation). ()

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

01. Provisions for Processing and Transporting Steelhead and Anadromous Salmon. No person may have in the field or in transit a hatchery-produced steelhead or anadromous salmon processed by removing the head and tail unless the following conditions are met: ()

a. 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 adipose fin; and ()

b. The fish is packaged in a manner that the number of fish harvested can be readily determined. ()

02. Restrictions on Processing and Transporting Steelhead and Anadromous Salmon. No person may process steelhead or anadromous salmon until he is ashore and done fishing for the day. No person may transport processed steelhead or anadromous salmon via boat. No jack salmon may be processed while in the field or in transit. Each processed steelhead or anadromous salmon counts towards an angler's possession limit while in the field or in transit. ()

405. STEELHEAD AND ANADROMOUS SALMON METHODS OF TAKE.

01. Hooks. It is unlawful to use any hook larger than five-eighths (5/8) inch, measured from the point of the hook to the shank. Steelhead and anadromous 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. Steelhead and anadromous salmon may be taken with barbed hooks in the Boise River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ()

02. Snagging. No person may kill or retain in possession any steelhead or anadromous salmon hooked other than in the mouth or jaw. ()

03. Legal Catch. Any steelhead or anadromous salmon caught must be released or, provided it is legal to possess, killed immediately after it is landed. ()

04. Cease Fishing. Once an angler has attained his bag, possession or season limit on those waters with steelhead or anadromous salmon limits, he must cease fishing for steelhead or anadromous salmon, including catch-and-release fishing. ()

05. Keeping Marked Fish. Only steelhead or anadromous salmon marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages. Anadromous salmon with an intact adipose fin may be retained as authorized by Commission proclamation. ()

06. Fish Counted in Limit. Each fish that is hooked, landed, and reduced to possession counts towards the limit of the person hooking the fish. ()

07. Special Limits. No person may fish in waters having special limits while possessing fish of that species in excess of the special limit. ()

406. – 407. (RESERVED)

408. STEELHEAD PURCHASE REPORT.

01. Filing Purchase Report. Any person holding a wholesale or retail steelhead trout buyer's license must report all sales and purchases of steelhead on an Idaho Steelhead Purchase Report to the Administration Bureau of the Idaho Department of Fish and Game, Boise, Idaho, on or before December 31 of each year. ()

02. Inaccurate Reporting. Failure to provide complete and accurate information on the report or failure to file the report on or before December 31 is grounds for revocation of the wholesale or retail license. ()

409. – 699. (RESERVED)

700. FISHING CONTESTS – PERMIT REQUIREMENT AND APPLICATION.

01. Permit Requirement. No person or other entity may conduct or participate in a fishing contest without having first obtained a fishing contest permit from the Department. Events organized wholly for youth under the age of fourteen (14) do not require a fishing contest permit. ()

02. Permit Application. Application for fishing contest permits must be made on a form prescribed by the Department. An application must be submitted at least thirty (30) days prior to a catch-and-release contest and ninety (90) days prior to a harvest contest. ()

701. FISHING CONTESTS PERMIT ISSUANCE.

01. General. The issuance of a fishing permit is at the Department's discretion. Among the factors the Department will consider are: ()

- a. Impacts of the contest on fish populations. ()
- b. Compatibility of the contest with fish population management and fishery goals. ()
- c. Potential conflict with other recreational users. ()
- d. Potential conflict with other permitted contests. ()

02. Limit on Contest. The Department will not issue a permit for a harvest contest for wild native trout or sturgeon in rivers or streams. The Director may issue a permit for a catch-and-release contest for these species if he determines there will be no harm to that fishery resource in the particular water where the contest is to take place: ()

03. Conditions. The Department has discretion to specify conditions in the permit to minimize adverse impacts on fish populations, management programs and goals, other recreational users, or other permitted contests, including: ()

- a. The time of start and check-in; ()
- b. Limitations on the area where participants may fish; ()
- c. For catch-and-release contests, the method and location of release of fish; ()
- d. For harvest contests, more restrictive bag or size limits than would otherwise apply. ()

702. FISHING CONTESTS – REQUIREMENTS.

01. Rules. Any fishing contest participant must comply with seasons, limits, and rules pertaining to the taking of fish and any additional conditions of the fishing contest permit. ()

02. Culling. No fishing contest participant may release back to the water (cull) any fish that is not capable of swimming free. A participant in a catch-and release contest may have one (1) daily bag limit of the target species in possession while continuing to fish for the contest target species; if the participant catches another target fish, the participant must immediately release the last fish caught or immediately exchange it for another target fish in possession. ()

703. FISHING CONTEST REPORTS.

Each fishing contest sponsor shall, within thirty (30) days after the last day of a fishing contest, submit a written report to the Fisheries Bureau at the Department's main office on the form prescribed by the Department. ()

704. – 999. (RESERVED)

13.01.12 – RULES GOVERNING COMMERCIAL FISHING

000. LEGAL AUTHORITY.

Sections 36-104 and 36-804, Idaho Code, authorize the Commission to adopt rules concerning commercial fishing.

()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.12, “Rules Governing Commercial Fishing.” These rules establish the criteria for commercial fishing in Idaho.

()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Commercial Fishing. Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale.

()

02. Commercial Fish and Crustacea Species.

()

a. Lake trout – *Salvelinus namaycush*.

()

b. Lake whitefish – *Coregonus clupeaformis*.

()

c. Crayfish – species of the genus *Pacifastacus*.

()

d. Bullfrog – *Rana catesbeiana/Lithobates catesbeianus*.

()

e. Unprotected fish species from the families of *Cyprinidae* (Minnows) and *Catostomidae* (Suckers) (species not classified as game fish or protected nongame species under 13.01.06, IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife).”

()

011. – 099. (RESERVED)

100. LICENSES, TAGS, AND PERMITS.

01. Licenses. No person may set, operate, lift or fish with commercial gear unless he has a valid commercial fishing license or is assisting in the presence of such licensee. Any person assisting the holder of a commercial fishing license engaged in commercial fishing with the use of conventional rod and reel must have either a commercial or recreational fishing license.

()

02. Tags. No person may set, operate, lift or fish commercial gear unless such gear has attached thereto a valid commercial gear tag from the Department, except that no tag needs to be attached to conventional rod and reel fishing tackle used for commercial fishing.

()

03. Permits. The Director may issue permits authorizing the holder to:

()

a. Commercially fish for crustacea not listed as commercial species.

()

b. Commercially fish in waters other than those listed in Section 700.

()

c. Such permits will be valid for a period not to exceed one (1) year.

()

04. Revocation of Licenses and Permits. The Director is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or permit for violation of Title 36, Idaho Code by the licensee or persons acting under the licensee’s direction and control.

()

101. – 199. (RESERVED)

200. RELEASE OF NON-TARGET FISH AND CRUSTACEA.

Any person capturing with commercial gear any species of fish or crustacea not a commercial species or listed on a special permit shall immediately release the fish or crustacea unharmed back to the water.

()

01. Female Crayfish. Any person capturing any female crayfish carrying eggs or young shall release

the crayfish unharmed back to the water at the time the crayfish are sorted. ()

02. Special Permit. No person may have in possession any species of fish or crustacea other than a commercial species or a species listed on a special permit issued by the Director pursuant to Subsection 100.03 at the time they are engaging in commercial fishing activities. ()

201. – 299. (RESERVED)

300. POSSESSION AND TRANSPORTATION OF LIVE FISH OR CRUSTACEA.

01. Live Fish. No person may transport live fish without a permit from the Department. ()

02. Live Crustacea. Commercial fishers may possess and transport live commercial species of crustacea between the water areas where harvested and the point of sale or holding. Live crustacea may be held only in the waters where harvested, in ponds for which a private pond permit listing crayfish has been issued or in licensed commercial facilities. ()

301. – 399. (RESERVED)

400. SIZE LIMITS.

01. Fish. Commercial fish species of any size may be taken commercially. ()

02. Crustacea. ()

a. Only crustacea three and five-eighths (3 5/8) inches (ninety-two (92) mm) or greater in length from the tip of the nose (acumen) to the tip of the tail (telson), measured in a straight line ventral side up, may be taken commercially. ()

b. Crustacea shall be sorted and any undersize crustacea returned to the water at the place of capture immediately following the emptying of any single trap or a trap line. However, an allowable sorting error percentage of undersized crustacea, not to exceed five percent (5%), is allowed in any load or lot. The percentage of undersized crustacea will be the mean of combined counts of samples measured and counted from various portions of the load or lot. Samples will be taken in containers of not less than one (1) gallon size approximately full of crayfish, with at least three (3) such samples taken from any load or lot. ()

401. – 499. (RESERVED)

500. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA.

No person may commercially harvest fish or crustacea except as follows: ()

01. Seine Nets. With a seine net that is either: ()

a. Under constant attendance by the licensee or someone working under the supervision of the licensee; or ()

b. If being used to hold fish, clearly marked with buoys that are at least twelve (12) inches in diameter. ()

02. Traps. For crayfish and minnow only, with a trap not exceeding three feet in any dimension, and provided all crayfish and minnow traps are lifted and emptied of catch at least once every ninety-six (96) hours, except during periods of weather that pose a threat to human life, health, or safety. ()

03. Experimental Gear. Experimental commercial gear specifically approved by the Director under such conditions as the Director may deem appropriate. ()

04. By Hand. For crayfish only. ()

- 05. Trawl Nets.** Only as specifically approved by the Director. ()
- 06. Conventional Rod and Reel Fishing Tackle.** Only rod and reel methods approved for sportfishing, as described in IDAPA 13.01.11, "Rules Governing Fish," except that the holder of a commercial license may use more than two (2) lines while commercially fishing. ()
- 07. Gill Nets.** Only as specially approved by the Director under such conditions as he may deem appropriate, with approval subject to modification or termination if catch of game fish species is excessive, and provided: ()
- a.** All gill nets and lines within ten (10) feet of the surface are clearly marked with a minimum of six (6) inch diameter buoys every fifty (50) feet; and ()
- b.** All gill nets are lifted and emptied of catch at least once every eighteen (18) hours except during periods of weather that pose a threat to human life, health, or safety. ()
- 501. UNTAGGED GEAR.**
Untagged gear, as well as any seine net or trap left unattended more than ninety-six (96) hours is considered unlawful or abandoned and may be confiscated by Department personnel. ()
- 502. – 599. (RESERVED)**
- 600. SEASONS.**
- 01. Commercial Fish.** Year-round. ()
- 02. Commercial Crustacea.** April 1 through October 31 of each year. ()
- 601. – 699. (RESERVED)**
- 700. COMMERCIAL FISHING AREAS.**
Commercial harvest is allowed only in the following areas: ()
- 01. For Seine Nets.** Seine nets with a mesh greater than one and one half (1 1/2") square may be used ONLY in the following waters, except as specifically approved by the Director for other waters: ()
- a.** Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. ()
- b.** Ashton Reservoir. ()
- c.** Palisades Reservoir. ()
- d.** Lake Lowell. ()
- e.** Black Canyon Reservoir. ()
- f.** Blackfoot Reservoir. ()
- g.** Mud Lake. ()
- h.** Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ()
- 02. Minnow Traps.** Minnow traps for commercial fish may be used only in the following areas, except as specifically approved by the Director for other waters. ()

- a. Snake River excluding main stem impoundments from Weiser upstream to the confluence of the North and South Forks. ()
- b. Ashton Reservoir. ()
- c. Palisades Reservoir. ()
- d. Black Canyon Reservoir. ()
- e. Blackfoot Reservoir. ()
- f. Mud Lake. ()
- g. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ()

03. Crayfish Traps. Crayfish traps for commercial crustacea may be used only in the following areas, except as specifically approved by the Director: ()

- a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. ()
- b. Black Canyon Reservoir. ()
- c. Blackfoot Reservoir. ()
- d. Mud Lake. ()
- e. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ()

04. Rod and Reel for Lake Trout Only. ()

- a. Lake Pend Oreille. ()

05. Gill Nets. Gill nets for commercial fish may only be approved by the Director where commercial nongame species are likely to exceed eighty percent (80%) of the fish biomass. ()

701. COMMERCIAL FISHING RESTRICTIONS.

01. Operation Limitations. No commercial gear may be set, operated, or lifted within one hundred (100) yards of any public boat ramp or dock. ()

02. Storage Limitation. No commercial gear, boats, or other equipment or materials used in conjunction with a commercial fishing operation may be stored or left unattended at any public fishing access area in any manner that restricts angling or angler access. ()

702. – 799. (RESERVED)

800. INSPECTIONS AND REPORTING REQUIREMENTS.

- 01. Inspections.** Department personnel may inspect: ()
 - a. Commercial gear at any time the gear is being used. ()
 - b. Catches and catch records at any time. ()

02. Reporting Requirements. All licensees shall submit a monthly report on a form prescribed by the Department, with all requested information including daily landings and effort, such that it is received by the Department not later than the fifteenth day of the month following the fishing activities. ()

801. – 999. (RESERVED)

13.01.14 – RULES GOVERNING FALCONRY

000. LEGAL AUTHORITY.

Sections 36-104 (b), 36-409, and 36-1102, Idaho Code, authorize the Commission to adopt rules concerning falconry in the state of Idaho. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.14, “Rules Governing Falconry.” These rules establish a falconry program in the state of Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Calendar Year. January 1 through December 31, to apply to any reference to the use of the terms twelve-month (12) period, annual, or year within this rule and federal regulations. ()

02. Captive-Bred. Any raptor raised in captivity from eggs laid by captive raptors. ()

03. Falconry. Capturing, possessing, caring for, transporting, training, and using raptors to hunt wild or artificially propagated birds and animals as a recreational sport, not to include any propagation, breeding or commercial use. ()

04. Federal. United States Code of Federal Regulations -- CFR Title 50 Parts 21 & 22 -- administered by the United States Department of Interior and U.S. Fish and Wildlife Service. ()

05. Form 3-186A. A Migratory Bird Acquisition and Disposition Report required by the United States Fish and Wildlife Service and the Department to track and record possession and status of raptors. ()

06. New U.S. Resident. Any person who has legally moved into the United States or a recognized U.S. Territory to reside and who may or may not have obtained U.S. citizenship. ()

07. Non-Resident. Any person who has not met the criteria to become an Idaho resident as stated in 36-202(s), Idaho Code, and possesses resident status and privileges from another U.S. state, territory or tribe. ()

08. Raptor. Any bird of prey classified under the Families Falconidae, Strigidae, Accipitridae, and hybrids thereof. ()

09. Resident. Any person meeting the residency requirements set forth in 36-202 (s), Idaho Code. ()

10. Territory. Recognized territories of the United States. ()

11. Tribe. Any United States recognized Native American or territorial tribe, its members and federal lands designated as reservations administered under a sovereign tribal government. ()

12. Transfer. To convey, deliver, loan, gift, give, barter, sell or move a raptor, raptor parts or any permit from one person, place or situation to another. ()

13. Visitor. Any person not legally residing in the United States or a recognized territory, and who is temporarily in the U.S. as a visitor. ()

14. Wild-Caught. Any raptor captured, removed or originating from the wild. Wild-caught raptors maintain wild-caught status throughout their life span in regard to capture, possession and transfer restrictions. ()

011. -- 099. (RESERVED)

100. PERMITS, POSSESSION, IMPORTATION, AND SALE.

01. Migratory Bird Treaty Act and Regulations. As provided by Section 36-1102, Idaho Code, no person may hunt, take, or have in possession any migratory birds, including raptors, except as provided by federal

regulations made pursuant to the federal migratory bird treaty act (including 50 CFR, Parts 21 & 22) and in accordance with related rules and proclamations promulgated by the Commission. ()

02. Falconry Permit. Except as otherwise provided by this rule, an Idaho Falconry Permit (at a fee set forth under 36-416, Idaho Code) is required before any person may possess, capture, transport, import, export or purchase any raptor for the purpose of falconry. ()

03. Raptor Captive Breeding Permit. Except as otherwise provided by this rule, an Idaho Raptor Captive Breeding Permit (at a fee set forth under 36-416, Idaho Code) and a Federal Raptor Propagation Permit is required before any person may take, possess, transport, import, export, purchase, barter, sell or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes. ()

04. Non-Residents, New U.S. Residents Permit Purchase. Non-Residents and New U.S. Residents may be issued Idaho Apprentice, General, Master Falconer, or Raptor Captive Breeding Permits without a waiting period upon permanently moving into the state of Idaho. ()

a. Non-Resident and New U.S. Resident applicants shall surrender to the Department any permit(s) issued by another state or country, and provide a written and signed statement verifying intent to become an Idaho resident. ()

b. Non-Resident applicants will be issued an equivalent Idaho class permit(s) to the permit(s) surrendered from the applicant's past resident state, territory or tribe. ()

c. New Residents to the U.S. will be required to pass the Department Apprentice Falconry Examination and provide documentation to support the class of permit applied for. The Department, based on applicant experience, will determine and assign the appropriate class of permit. ()

05. Non-Resident, New U.S. Resident Permit Purchase within Thirty Days. Non-Resident and New U.S. Resident falconers taking permanent residency in Idaho, shall, within thirty (30) consecutive days, purchase an Idaho Falconry Permit and a Raptor Captive Breeding Permit as required by Subsections 100.01 and 100.02 of this rule. ()

06. Expiration of Permits. Idaho Falconry Permits and Raptor Captive Breeding Permits are valid for three (3) years from date of issuance or renewal. ()

07. Permit Renewal. Permit issuance or renewal will be initiated with the completion and submission of a Department Falconry Application Form to the appropriate Department Regional Office accompanied by the appropriate fee(s) as set forth under 36-416, Idaho Code. ()

08. Transfer of Permits. Idaho Falconry and Raptor Captive Breeding Permits are not transferable to another person, but may be updated to a new in-state location. ()

09. Permit-Class Upgrades. ()

a. Falconry Permit-class upgrades (e.g., moving from Apprentice to General status) will be made at no cost to the applicant. Permit-class change requests shall be submitted to the appropriate Department Regional Office on a Department Falconry Permit Application Form with required documentation to verify that prerequisites for the permit-class upgrade have been satisfied. ()

b. Permit Exemption for Temporary Possession. Except as otherwise provided, Non-Residents, Visitors and New U.S. Residents possessing a valid federal, territory, tribe, another state or country's equivalent Falconry or Raptor Captive Breeding/Propagation Permit, and not utilizing or possessing any Idaho resident privilege, may temporarily import, possess and transport raptors listed under their Falconry or Captive Breeding/Propagation Permits for up to thirty (30) consecutive days without purchasing an Idaho Falconry or Raptor Captive Breeding Permit. ()

i. Visitors and New U.S. Residents shall comply with federal raptor importation and registration laws

and shall obtain a Department Wildlife Importation Permit before importing any raptor. ()

ii. Visitors and New U.S. Residents entering Idaho with a raptor(s) under an Idaho Wildlife Import Permit shall contact the nearest Department Regional Office to take the Idaho Falconry Examination. Only applicants correctly answering at least eighty percent (80%) of the test questions will be issued a Temporary Idaho Falconry Permit. Wildlife Import and Temporary Falconry Permits shall be carried at all times when possessing raptors. ()

iii. Exceptions to extend the thirty (30) day exemption period shall be at the Department's discretion and any temporary possession in excess of one hundred twenty (120) days shall require raptor housing in a falconry facility that has been approved by the Department under an existing Falconry or Captive Breeding Permit. ()

iv. Non-Residents, New U.S. Residents and Visitors in addition to possessing a valid Falconry or Captive Breeding/Propagation Permit from their home state, territory, tribe or country shall comply with all other Idaho and federal rules regulating hunting and the possession of wildlife to include possession of appropriate non-resident licenses, tags, permits, stamps and validations. ()

10. Unlawful Sale and Possession of Raptors. Except as otherwise provided by this rule, no person may sell, purchase, or barter any raptor or parts thereof, or possess raptors or parts that have been unlawfully obtained, sold, purchased or bartered. ()

a. Only live captive-bred raptors banded or micro-chipped in compliance with Subsection 400.01 of this rule may be sold, purchased or bartered between holders of valid state, federal, tribal, territory or another country's Falconry and Raptor Captive Breeding or Propagation Permit. ()

b. Holders of valid Idaho Raptor Captive Breeding Permits and federal Raptor Propagation Permits may only sell, purchase and barter raptor eggs and semen produced and originating from raptor propagation or captive breeding programs under valid permit. ()

101. -- 199. (RESERVED)

200. INSPECTION OF RAPTORS, FACILITIES, POSSESSION AND RECORDS.

01. Facilities Covered by Permits. All raptors, facilities, equipment and falconry records required in accordance with federal and Idaho rules are subject to reasonable business-hour inspection, any day of the week, in the presence of the applicant or permit holder. All raptors, equipment, and related records required by law shall be produced for inspection upon Department request. ()

02. Inspection Prior to Possession of Raptors. ()

a. Except as otherwise provided by Section 100 of this rule, no person may possess any raptor(s) under the issuance of an Idaho Falconry or Raptor Captive Breeding Permit, until holding facilities and equipment have been inspected and approved by the Department to verify that facilities and equipment meet federal and Idaho standards. ()

b. Facility inspections are required any time a permit holder moves his holding facilities to any physical address location that is not recorded on his current Falconry or Raptor Captive Breeding Permits. Facility location changes shall be reported to the Department within five (5) days. ()

03. Facilities Accepted. Either indoor, including a personal residence, or outdoor falconry facilities, or a combination of both meeting federal standards of care, are authorized. ()

201. -- 299. (RESERVED)

300. APPROVED SPECIES, WILD CAPTURE, LIMITS, PERMITS, HACKING, AND REHABILITATION.

01. Approved Raptor Species. Except as otherwise provided by this rule, any species of raptor defined under Section 010 of this rule is authorized for use in falconry or captive breeding. ()

02. Capture Permits. Raptors may only be captured from the wild by persons possessing a valid Idaho Falconry Permit, or a Non-resident federal, state, territory or tribal Falconry Permit. Non-residents must also possess an Idaho Bird of Prey Capture Permit. ()

03. Capture of Wild Raptors, Approved Species and Limitations. ()

a. Resident Falconers. Except as otherwise provided by this rule, residents possessing a valid Idaho Falconry Permit are authorized to capture no more than two (2) wild raptors, as their permit class authorizes, each calendar year. ()

i. Not more than one (1) Golden Eagle may be captured in any calendar year. ()

ii. Capture and possession of any raptor classified under federal or state law as threatened or endangered is unlawful without Department approval and a special permit. ()

iii. The issuance of an Idaho Eagle Falconry Permit is required to capture or possess Golden Eagles. ()

iv. Capture and possession of Bald Eagles is unlawful. ()

v. Capture and possession of wild Peregrines, as listing status allows, shall be restricted to a limited number of resident Peregrine Capture Permits. ()

vi. The Commission, pursuant to Section 36-105 (3), Idaho Code, may establish capture quotas, and a capture permit allocation system by proclamation. ()

b. Non-Resident Falconers. Non-resident falconers intending to capture any wild Idaho raptor shall comply with the following: ()

i. Apply to the Department Licensing Bureau in Boise for a Non-Resident Bird of Prey Capture Permit, issued on a calendar year basis, at a fee set forth under Section 36-416, Idaho Code. ()

ii. The Commission, pursuant to Section 36-105 (3), Idaho Code, will designate raptor species approved for capture, capture quotas, and a capture permit allocation system by proclamation. ()

iii. Non-residents will be limited to the purchase of only one (1) Bird of Prey Capture Permit per calendar year. ()

iv. Non-residents receiving a Bird of Prey Capture Permit shall be authorized to only capture and possess the species of raptor specified on their permit. ()

v. Non-resident Capture Permit holders, successful with the capture of a raptor shall, within seventy-two (72) hours of capture, have their Capture Permit validated by the Department at any Regional Office prior to transporting any captured raptor out of Idaho. ()

04. Approved Capture Dates - Resident and Non-Resident Falconers. ()

a. Immature raptors (birds less than one (1) year of age) are open to capture all year with no restrictions in regard to days of the week or times of capture. ()

b. Kestrels and Great-horned Owls may be captured as immature or adult birds (birds that are one (1) year of age or older). The take of adult birds is prohibited from March 1st through July 31st. ()

05. Capture Area Restrictions. ()

a. No person may capture or attempt to capture any raptor when such activity is unlawful under federal, state, tribal, county or city law or ordinance. ()

b. No person may possess any raptors taken in violation of any federal, state, tribal, county or city law. ()

06. Capture and Possession Limits. No person may exceed approved state and federal raptor possession and capture limits. ()

07. Raptor Hacking. Raptor hacking in compliance with federal rules, by holders of a valid Idaho Falconry or Rehabilitation Permits, is authorized. ()

08. Assisting with Raptor Rehabilitation. General or Master Class Falconers possessing a valid Idaho Falconry Permit may assist the Department and permitted raptor rehabilitators with the rehabilitation, conditioning and hacking of raptors, provided the taking of any raptor into possession for rehabilitative conditioning or training is coordinated and pre-approved by the appropriate Department Regional Office. ()

301. -- 399. (RESERVED)

400. RAPTOR BANDING, RADIO TRANSMITTERS, TRANSFERS, REPORTING, AND RELEASE.

01. Raptor Banding. Except as otherwise provided for temporary possession and housing under federal rule and Section 100 of this rule, falconers and captive breeders possessing raptors shall comply with all federal banding and micro-chipping regulations and comply with the following, with bands to be provided by the Department and micro-chips to be provided by the falconer: ()

a. Wild-caught Peregrines, Harris' Hawks, Gyrfalcons and Goshawks: banded with a black federal, non-reusable leg band or an approved micro-chip (ISO compliant at 134.2 kHz). ()

b. All Captive-bred raptors: banded with a seamless band within two (2) weeks of hatching. Federally approved micro-chips or yellow federal, non-reusable leg bands may be used to replace seamless bands that are broken or have become unreadable. ()

c. Raptors that suffer injury or develop health issues caused by leg bands, or routinely remove or damage bands: micro-chipped, or, based on unusual circumstances, a special written exemption to banding or micro-chipping. ()

d. Bands or micro-chips: attached or placed on all federally required wild-caught raptors within five (5) days of acquisition or capture. ()

02. Radio Transmitters. At least two (2) functioning radio transmitters shall be attached to any raptor hybrid, or any raptor not listed under CFR 50, Part 10.13, when being free flown. ()

03. Raptor Transfers. Resident falconers/captive breeders may not transfer any species of wild-caught raptor to a non-resident until the transfer is approved under an Idaho Wildlife Export Permit. ()

a. Idaho Wildlife Export Permits may be purchased at a fee set forth under Section 36-416, Idaho Code, by submitting an application to the Department Wildlife Health Lab. ()

b. With Department approval, wild-caught raptors, possessed less than two (2) years from date of capture, that have been injured and can no longer be flown for falconry purposes, as determined by a veterinarian or raptor rehabilitator, may be transferred to a Captive Breeding or Propagation Permit. ()

04. Release of Birds. No raptor may be permanently released into the wild without prior Department approval. ()

05. Reporting. A Form 3-186A shall be completed and electronically submitted into the United States Fish and Wildlife Service electronic records database, or a hard copy thereof, shall be completed and submitted to the appropriate Department Regional Office within five (5) days when any raptor is acquired, captured (including captures of already banded or telemetry equipped birds), re-captured, transferred, lost, escaped, stolen, released, banded, re-banded, micro-chipped, or deceased. ()

401. -- 599. (RESERVED)

600. TRAINING RAPTORS USING ARTIFICIALLY PROPAGATED GAME BIRDS.

01. Permit. A valid Idaho Falconry Training Permit is required before any person is authorized to possess, release, or use artificially propagated game birds for purposes of training raptors in the field. Training permits shall be issued at a fee set forth under Section 36-416, Idaho Code, currently a free permit, and are available to residents, non-residents and visitors, and all hunting license requirements apply. ()

02. Permits Valid. Permits are valid for two (2) years from date of issuance. ()

03. Establishing Limitations and Guidelines. In addition to the rules set forth, the Director is authorized to establish limitations and guidelines as to dates, locations, and conditions whereupon permits may be issued allowing the party or parties listed thereon to use, release and kill game birds obtained from a private domestic source for the purpose of field training raptors. ()

04. Raptor Field Training, Conditions of Use. Raptor field training with a valid Idaho Falconry Training Permit and the use of artificially propagated game birds is lawful when the following conditions are met: ()

a. The owner of the raptor(s) being trained possesses a valid Idaho Falconry Training Permit, or another state, country, territory or federal Falconry Permit. ()

b. An Idaho Falconry Training Permit and required falconry permit(s) are carried in the field and available for Department inspection at the training site. ()

c. Artificially propagated game birds used for training purposes are certified disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ()

d. Proof of lawful game bird origin is available for inspection. ()

e. Permit holder complies with all additional stipulations outlined on the permit at time of issuance. ()

601. -- 699. (RESERVED)

700. FALCONRY MEETS, PERMITS, NON-RESIDENTS, NEW U.S. RESIDENTS, AND VISITORS. Non-residents, new U.S. residents and visitors shall purchase and possess an Idaho Falconry Meet Permit, at a fee set forth under 36-416, Idaho Code, or an appropriate Non-Resident hunting license to fly or hunt any raptor as a participant in any sponsored falconry meet or contest. ()

701. -- 799. (RESERVED)

800. PENALTIES. Conviction of a violation of these rules may be grounds for revocation of an Idaho falconry permit or denial of any pending applications for an Idaho falconry permit. The revocation of any permit may be appealed in writing to the Director within thirty (30) days of such revocation. ()

801. -- 999. (RESERVED)

13.01.15 – RULES GOVERNING THE USE OF DOGS

000. LEGAL AUTHORITY.

Sections 36-104, 36-409, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the use of dogs in taking wildlife, use of game birds in field training, and related permitting. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.15, “Rules Governing the Use of Dogs.” These rules govern the use of dogs in taking wildlife and use of game birds in field training dogs in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife,” defines upland game animals, upland game birds, and migratory game birds. ()

01. Licensed Outfitter. An outfitter with a valid license issued under Title 36, Chapter 21, Idaho Code. ()

02. Licensed Guide. A guide with a valid license issued under Title 36, Chapter 21, Idaho Code. ()

03. Unarmed Observers. An unarmed person who is not the owner or controller of pursuit dogs and who accompanies a hunt without intent to take or harvest an animal. ()

04. Unqualified Idaho Resident. A person who has moved into Idaho, and by notarized affidavit proves intent to become a bona fide Idaho resident but who is not yet qualified to purchase a resident license. ()

011. -- 099. (RESERVED)

100. USE OF DOGS.

No person may use dogs for taking wildlife, except for the following wildlife under the following conditions: ()

01. Upland Game Animals, Upland Game Birds, and Migratory Game Birds. A dog may be used for training on or hunting upland game animals, game birds, and migratory game birds. ()

02. Black Bear, Mountain Lion, Bobcat, and Fox—Taking. Dogs may be used for taking black bear, mountain lion, bobcat, and fox in a take season open for the species, unless the Commission prohibits dog use in the area by proclamation. ()

03. Black Bear, Mountain Lion, Bobcat, and Fox—Training/Pursuit Only. Dogs may be used for training and pursuit only (no harvest) of black bear, mountain lion, bobcat, and fox in a dog training season open for the species, unless the Commission prohibits dog use in the area by proclamation. A big game tag valid for the calendar year that has been filled is still valid for training/pursuit only of the species. ()

04. Blood Trailing of Big Game. The use of one (1) blood-trailing dog controlled by leash during hunting hours and within seventy-two (72) hours of hitting a big game animal is allowed to track animals and aid in recovery. ()

05. Unprotected and Predatory Wildlife. A dog may be used for training on or taking unprotected and predatory wildlife. ()

101. -- 199. (RESERVED)

200. HOUND HUNTER PERMIT.

01. Hound Hunter Permits. ()

a. The following persons must have a valid hunting license and Hound Hunter Permit in possession when any dog is being used to hunt, including training or pursuit only, black bear, mountain lion, bobcat, and fox: ()

- i. Anyone who owns the dog. ()
- ii. Anyone having control of the dog if owned by another person. ()
- iii. Anyone that harvests an animal over dogs, except clients of licensed outfitters. ()
- b.** A permit is not transferable EXCEPT, a licensed outfitter may convey the authority of his Hound Hunter Permit to a nonresident licensed guide operating for him, provided the nonresident guide has a copy of the outfitter's Hound Hunter Permit in possession. ()
- c.** A permit is valid from January 1 through December 31 of each year. ()
- 02. Exceptions.** A person owning or using a dog only for blood trailing does not need a hound hunter permit. An unarmed observer does not need a hunting license or hound hunter permit. ()
- 03. Limit on Hound Hunter Permits for Nonresidents.** No more than seventy (70) nonresident hound hunter permits will be issued to nonresident hunters. Sales of nonresident Hound Hunter Permits to the following persons are exempt from this limit: ()
 - a.** A nonresident licensed outfitter or guide, provided the permit is not used for personal hunting. ()
 - b.** An unqualified Idaho resident. ()
 - c.** Persons who hound hunt solely in the Middle Fork Zone (Units 20A, 26, and 27). ()
 - d.** Persons who hound hunt solely in the Lolo Zone (Units 10 and 12). ()
 - e.** Persons who hound hunt solely within the Selway Zone (Units 16A, 17, 19, and 20), for which no more than forty (40) nonresident permits will be issued for Units 16A, 19, 20, and all of Unit 17, excluding Hunt Area 17-1, for which no more than six (6) nonresident permits will be issued. Hunt Area 17-1 is that portion of Unit 17 south of the following boundary: Beginning at the junction of the Unit 17 boundary and Forest Service Trail 24, then west along Forest Service Trail 24 to the Selway River, then north along the Selway River to Forest Service Trail 40, then southwest along Forest Service Trail 40 to Forest Service Trail 3, then along Forest Service Trail 3 to the Unit 17 boundary. ()
- 04. Nonresident Applications.** ()
 - a.** To be eligible for a controlled draw for limited nonresident permits, a nonresident must submit a legible, complete application for a hound hunter permit on the form prescribed by the Department such that it is received at the Department's main office by no later than December 1 of the year preceding the year in which the permit is to be valid. ()
 - b.** No person may submit more than one (1) application for a Hound Hunter Permit. ()
 - c.** Two nonresidents may apply for two (2) permits on the same application form. ()
 - d.** If nonresident tags are available after the application period, they will be available for purchase at any Department office on a first-come, first-served basis on or after December 10. ()
- 201. -- 299. (RESERVED)**
- 300. BIRD-DOG TRAINING AND FIELD TRIALS BY INDIVIDUALS USING ARTIFICIALLY PROPAGATED GAME BIRDS.**
 - 01. Bird-Dog Training.** No person may conduct bird-dog field training with the use of artificially

propagated game birds unless all of the following conditions are met: ()

a. The owner of any dog being field trained has a valid Bird-Dog Training Permit (obtainable at Department Offices), and has the permit available for inspection at the training site. ()

b. Artificially propagated game birds used for training purposes on Wildlife Management Areas are certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ()

c. The permittee is in compliance with permit terms. ()

02. Bird-Dog Field Trials. No person may conduct or own a dog participating in a bird-dog field trial using artificially propagated game birds unless all of the following conditions are met: ()

a. There is a valid Bird-Dog Field Trial Permit (obtainable at Department Offices) available for inspection at the field trial site. ()

b. Artificially propagated game birds used for training purposes are certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ()

c. Proof of lawful game-bird origin is available for inspection at the field trial site. ()

d. The permittee is in compliance with permit terms. ()

301. -- 999. (RESERVED)

13.01.16 – TRAPPING OF WILDLIFE AND TAKING OF FURBEARING ANIMALS

000. LEGAL AUTHORITY.

Sections 36-104(b) and 36-1101(a), Idaho Code, authorize the Commission to adopt rules concerning trapping of wildlife and taking of furbearing animals. ()

001. TITLE AND SCOPE.

The title for this chapter for citation is IDAPA 13.01.16, “Trapping of Wildlife and Taking of Furbearing Animals.” These rules govern the trapping of wildlife and taking of furbearing animals. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife” defines game animals, furbearing animals, and unprotected wildlife. Section 36-201, Idaho Code, defines predatory wildlife. ()

01. **Bait.** Any animal parts; except bleached bones or liquid scent. ()

02. **Sets.** ()

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

b. **Water Set.** Any trap or snare originally set in or on any body of water, which includes traps on floats in the water and those that are set with a minimum of one-third (1/3) of the trap submerged. Water set includes traps set on beaver dams, in bank holes and in the water at bank slides. ()

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

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

011. -- 099. (RESERVED)

100. IDENTIFICATION TAGS FOR TRAPS.

All traps or snares, except those used for pocket gophers, ground squirrels or other unprotected rodents, shall have attached to the snare or the chain of every trap, a metal tag bearing: ()

01. **Name and Address.** In legible English the name and current address of the trapper; or ()

02. **Number.** A six (6) digit number, to be obtained by the trapper from any Department office. ()

a. Any person assigned a six (6) digit number to mark his traps or snares must notify the Department in writing or in person at any Department Office within thirty (30) days of any change in address. ()

101. -- 149. (RESERVED)

150. CONTROLLED TRAPPING PERMITS.

01. **General.** No person may trap in a controlled trapping unit for the designated species without having a valid permit for that controlled trapping unit in possession. A permit issued based on erroneous information will be invalidated by the Department. The Department will notify the individual of the invalidation, and that person will not be eligible for a controlled trapping permit that year or in a succeeding year to which a waiting period applies. ()

02. **Eligibility.** Any person possessing a valid Idaho trapping license is eligible to apply for a controlled trapping unit permit. ()

03. **Applications.** Applications for controlled trapping permits will be made on a form prescribed by the Department. The Department will only consider applications received at the Headquarters Office of the

Department or postmarked not later than September 15 of each year. Any application that is unreadable, has incomplete or incorrect trapping license numbers, or lacks mandatory information or fee will be declared void and will not be entered in the drawing. All applications will be considered final and cannot be resubmitted after correction. ()

a. No person may submit more than one (1) application per species for a controlled trapping permit. ()

b. No group applications will be accepted. ()

04. Controlled Trapping Permit Drawing. ()

a. Applications not drawn for the first choice unit will automatically be entered into a second choice drawing, provided the second choice applied for has not been filled. ()

b. If an insufficient number of “first choice” applications are received for a unit, remaining permits will be filled from applications listing the unit as a second choice. ()

c. Any permits left unfilled after the second choice drawing may be issued on a first-come-first-served basis. ()

05. Successful Applicants. Successful applicants will be notified by mail and must contact the person listed on the notice by October 14 to obtain the permit. The permittee, upon agreeing to follow trapping instructions for the unit, will be issued a permit. ()

06. Revocation of Permits. Any permittee who does not comply with Title 36, Idaho Code, administrative rules, or trapping unit instructions may have his permit revoked. ()

07. Alternative Permittee. Any revoked permit may be issued to an alternate, selected at the time of the drawing. If there is no alternate, or the alternate fails to comply with Subsection 150.05 above, the permit may be issued to the first eligible trapper answering a notification of vacant trapping Unit as approved by the Regional Supervisor. ()

151. -- 199. (RESERVED)

200. TRAPS.

01. Checking Traps. ()

a. No person may place snares or traps for gray wolf, furbearing animals, predatory or unprotected wildlife, except pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. ()

b. Trappers acting as government employees or contractors are exempt from this rule. ()

02. Removing Trapped Animals of Another. No person may remove wildlife from the trap or snare of another except licensed trappers with written permission from the owner. ()

03. Release of Non-Target Catches. ()

a. All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed or is in excess of the trapper’s limit. ()

b. Any trapper who catches a non-target species that is dead shall: ()

i. Promptly record the date and species of animal caught and include this information in the mandatory furtaker harvest report. ()

- ii. Remove the animal from the trap and take it into possession. ()
- iii. Notify the Department through the local Conservation Officer or Department office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. ()
- c. The Department will reimburse trappers ten dollars (\$10) for each bobcat, lynx, wolverine, otter, or fisher caught accidentally and turned in. ()

201. -- 399. (RESERVED)

400. FURBEARING ANIMALS – METHODS OF TAKE.

No person may take beaver, muskrat, mink, marten, or otter by any method other than trapping. No person may use dogs for the taking of furbearing animals, except in accordance with IDAPA 13.01.15, "Rules Governing the Use of Dogs." ()

401. -- 449. (RESERVED)

450. LIMITS ON TRAPPING.

- 01. Game Animals.** No person may trap for game birds or game animals, except gray wolf. ()
- 02. Bait.** No person trapping for gray wolf, furbearing animals, or predatory or unprotected wildlife may use for bait or scent: ()
 - a. Any part of a game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; EXCEPT: ()
 - i. Trappers may use portions of game birds, game animals, and game fish that are not edible portions, as defined by Section 36-1202, Idaho Code, and may use parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife," Subsections 300.02.c. and 300.02.d., unless such use is prohibited in areas identified by Commission Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ()
 - ii. Trappers may place sets near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes do not include any man-caused mortality. ()
 - b. Live animals. ()
- 03. Limits on Sets.** No person trapping for gray wolf, furbearing animals, or predatory or unprotected wildlife may: ()
 - a. Use any set within thirty (30) feet of any visible bait. ()
 - b. Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ()
 - c. Place any ground sets on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. ()
 - d. Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ()
 - e. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area; except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. ()

- f. Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. ()
- g. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. ()
- h. Place or operate, except as a waterset, any body-gripping trap that has a maximum jaw opening, when set, of greater than seven and one-half (7 1/2) inches measured from the inside edges of the body-gripping portions of the jaws, within thirty (30) feet of any bait, lure, or other attractant. ()
- i. Place or operate, except as a waterset, any body-gripping trap that has a maximum jaw opening, when set, greater than six and one half (6 1/2) inches and less than seven and one-half (7 1/2) inches measured from the inside edges of the body-gripping portions of the jaws, unless: ()
 - i. The trap is in an enclosure and the trap trigger is recessed seven (7) inches or more from the top and front most portion of the open end of the enclosure; ()
 - ii. No bait, lure, or other attractant is placed within thirty (30) feet of the trap; or ()
 - iii. The trap is elevated at least three (3) feet above the surface of the ground or snowpack. ()

451. -- 454. (RESERVED)

455. GRAY WOLF TRAPPING.

- 01. **Limits on Sets.** No person trapping for gray wolf may: ()
 - a. Use any set, EXCEPT a ground set. ()
 - b. Trap for any gray wolf within one-half (1/2) mile of any active Department big game feeding site. ()
 - c. Trap for gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. ()
 - d. Place or set any ground set snare without two (2) diverters in an area identified by Commission Proclamation as requiring their use (based on levels of non-target catch of animals whose capture may be avoided by diverter use). ()

456. -- 499. (RESERVED)

500. MANDATORY CHECK AND REPORT – PELT TAGS.

- 01. **Mandatory Check and Report.** Any person taking river otter, bobcat, or gray wolf must comply with the mandatory check, report and pelt tag requirements by: ()
 - a. Bobcat: Present the pelt to any Department office or official check point to obtain the appropriate pelt tag and complete a harvest report. ()
 - b. River otter: Present the pelt to the Department office in the region in which the animal was taken within seventy-two (72) hours of taking to obtain the appropriate pelt tag and complete a harvest report. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. ()
 - c. Gray wolf: Comply with mandatory check and report provisions in IDAPA 13.01.08.420, “Rules

Governing Taking of Big Game Animals.” ()

02. Pelt Tags. ()

a. No person may have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt without an official state export tag attached, unless that person has a fur buyer or taxidermist license or appropriate import documentation. ()

b. No person may have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho that does not have an official state export tag attached. ()

c. No person may sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt that does not have an official state export tag attached, unless that person has a fur buyer or taxidermist license or appropriate import documentation. ()

501. -- 599. (RESERVED)

600. TRAPPING ON GAME PRESERVES AND WILDLIFE MANAGEMENT AREAS.

01. Game Preserves and Wildlife Management Areas. All state game preserves and Department Wildlife Management Areas (WMAs) are open to the taking of furbearing animals during the open season declared for the areas in which they lie, provided that any person desiring to trap on a WMA must register in advance, either at WMA headquarters or at the Department regional office. ()

02. Restrictions. The Regional Supervisor where a wildlife management area (WMA) is located may establish limits on the number of trappers allowed on the WMA, a method of equitable allocation of trapping opportunity on a WMA, the number and types of sets allowed, and posting and reporting requirements. ()

601. – 699. (RESERVED)

700. COMMON SEASON BOUNDARIES FOR STREAMS AND RIVERS.

Whenever a stream or river forms a boundary between two (2) different trapping areas, the stream or river channel proper will open for trapping on the earlier opening date and close on the later closing date of the two (2) seasons involved. ()

701. – 799. (RESERVED)

800. TRAPPING REPORTS.

01. Trapping Report Completion. By July 31, all trappers shall fill out the mandatory furtaker (trapping) harvest report, including both target and non-target catch, for the trapping license year by submission via the Department website, in person at a Department office, or by mailing to Box 25, Boise, Idaho 83707. Any trapper failing to make such a report by July 31 will be refused a license to trap animals for the ensuing year until a late report is submitted. ()

02. Return of Reports and Permits. All permittees shall return their controlled trapping unit permits and controlled trapping reports to the person from whom they obtained their controlled trapping unit permits within ten (10) days of the close of the season for the controlled trapping unit. ()

801. -- 999. (RESERVED)

13.01.17 – RULES GOVERNING USE OF BAIT FOR HUNTING BIG GAME ANIMALS

000. LEGAL AUTHORITY.

Sections 36-104, 409, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the use of bait for hunting big game animals. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.17, “Rules Governing Use of Bait for Hunting Big Game Animals.” These rules govern use of bait for hunting big game animals. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Bait (Hunting). Bait for hunting purposes is any substance placed to attract big game animals, except synthetic liquid scent for deer, elk, or moose. ()

02. Established Roadway. A roadway open to the general public for motorized traffic and capable of being traveled by full-sized automobiles. ()

011. -- 099. (RESERVED)

100. USE OF BAIT FOR HUNTING BIG GAME.

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. ()

01. Time. ()

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. ()

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 season. ()

02. Location. ()

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). ()

b. No bait site may be located within two hundred (200) yards from any maintained trail or any established roadway; except in the Panhandle and Clearwater Regions, no bait site may be located within two hundred (200) feet from any maintained trail or any established roadway. ()

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

03. Types. ()

a. No person may 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. ()

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

c. No person may use salt in any form (liquid or solid) for bait. ()

04. Containers. ()

a. No bait may be contained within paper, plastic, glass, metal, wood or other non-biodegradable 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. ()

- b.** No bait may be contained in any excavated hole greater than four (4) feet in diameter. ()
- 05. Establishment of Bait Sites.** ()

 - 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). ()
 - b.** All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. ()
- 101. -- 199. (RESERVED)**
- 200. BAITING PERMIT.**

 - 01. Baiting Permit.** ()

 - a.** Baiting permits are issued by mail or in person from Department offices beginning March 1 of each year. ()
 - b.** Baiting permits are valid for the calendar year in which they are issued. ()
 - 02. Use of Baiting Permit.** ()

 - a.** All persons placing bait must possess a baiting permit issued by the Department. ()
 - b.** Each hunter may possess only one (1) baiting permit each year and may maintain up to three (3) bait sites, except the number of bait sites maintained by outfitters will be that specified by the land management agency in the outfitter's operating plan. ()
 - c.** No person may hunt over an unlawful bait site. ()
 - d.** Guides and clients of outfitters are exempt from possessing a baiting permit, provided they have a copy of the outfitter's permit in their possession while placing bait or hunting over the outfitter's permitted bait site. ()
- 201. -- 999. (RESERVED)**

13.01.18 – RULES GOVERNING FEEDING OF PRONGHORN, ELK, AND DEER

000. LEGAL AUTHORITY.

Sections 36-104, 36-105 and 36-111, Idaho Code, authorize the Commission to adopt rules concerning feeding of pronghorn, elk, and deer. ()

001. TITLE AND SCOPE.

The title of this chapter is “Rules Governing Feeding of Pronghorn, Elk, and Deer.” These rules establish criteria for determining a feeding emergency, govern feeding operations, and prohibit private feeding within a designated CWD Management Zone. ()

002. -- 099. (RESERVED)

100. INTENT.

The Commission recognizes the importance of maintaining big game populations under natural conditions. Winter forage is the major limiting factor determining big game population size. To maintain these winter ranges, big game numbers are controlled through harvest. The Commission does not sanction widespread supplemental feeding programs. Additionally, supplemental feeding concentrates big game animals, making deer and elk susceptible to spreading or contracting Chronic Wasting Disease (CWD), as well as other diseases transmissible to livestock. The risk of disease transmission may factor into making a supplemental feeding decision. Big game harvests and weather vary from year to year throughout the state. In most years and areas, snow depths, temperatures, and animal body condition do not create adverse conditions for wintering animals. Unusual weather conditions, limited winter forage, or other circumstances may create critical periods of stress for animals or force them into areas involving public safety. The Commission is unable to manage big game populations for extreme weather. Therefore, emergency feeding of big game is appropriate under certain criteria. ()

101. (RESERVED)

102. EMERGENCY FEEDING CRITERIA.

01. Declaration of Feeding Emergency. A feeding emergency may be declared if one (1) or more of the following criteria are met: ()

- a. Actual or imminent threat of depredation to private property. ()
- b. Threat to public safety, including traffic hazards. ()
- c. Excessive mortality that would affect herd recovery. ()
- d. Limited or unavailable winter forage caused by fire or unusual weather. ()

02. Additional Guidelines. Regional Supervisors may develop additional guidelines on emergency feeding within the listed criteria based on risk of disease transmission, local conditions, and local public input. ()

103. FEED STOCKPILES.

The Department has identified certain locations for stockpiling emergency feed. It is impractical and cost prohibitive to purchase feed and transport it to these locations after snowfall. The Commission and Director declare that stockpile maintenance constitutes a feeding emergency and authorize the expenditure of funds for stockpile maintenance. ()

104. -- 199. (RESERVED)

200. PRIVATE FEEDING OF DEER AND ELK WITHIN DESIGNATED CWD MANAGEMENT ZONE.

01. Prohibition. It is unlawful to purposely or knowingly provide supplemental feed to deer and elk within any CWD Management Zone designated by the Commission, except supplemental or emergency feeding activities conducted or authorized by the Department. ()

02. Incidental Grazing. Incidental grazing by big game animals on private rangeland forage, standing agricultural crops, or agricultural crop residue left on the ground following typical harvest practices is not a violation of this section. ()

03. Incidental Feeding. Incidental feeding of big game animals during the normal practice of providing feed to livestock in the winter is not a violation of this section. ()

201. – 999. (RESERVED)

13.01.19 – RULES FOR SELECTING, OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

000. LEGAL AUTHORITY.

Sections 36-301 and 36-307, Idaho Code authorize the Commission to adopt rules governing issuance and sale of licenses and authorization and accountability of license vendors. ()

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.19, "Rules for Selecting, Operating, Discontinuing, and Suspending Vendors." These rules establish standards for license vendors and related administration. ()

002. -- 099. (RESERVED)

100. VENDOR CLASSIFICATION.

The Department classifies vendor applications into the following designations for record keeping, approval, and statistical purposes. ()

01. Class One. A sporting goods store carrying a complete line of hunting and fishing supplies and other sporting equipment, and open at least five (5) days a week year-round except for major holidays. ()

02. Class Two. A store with a section carrying a complete line of hunting and fishing supplies and other sporting equipment, and open at least five (5) days a week year-round except for major holidays. ()

03. Class Three. A store that specializes in a single aspect of hunting or fishing such as gun, archery or fly fishing shops. ()

04. Class Four. ()

a. Strategic. A business or government agency located in an area where the Department has determined there is a need for the public to have licenses available. This may be in areas where there is no or very limited license availability within a twenty-five (25) mile radius from established license vendors. ()

b. Exceptional Service. A business that can provide exceptional license availability in comparison to existing license vendors in the vicinity, such as a business open twenty-four (24) hours a day, seven (7) days a week that would not be classified as a class one, two, or three vendor. ()

05. Class Five. A business not open on a twelve (12) month basis such as a summer fishing resort that would otherwise qualify for any class one through four, which may include an outfitter or guide business with a permanent business location open to the public. ()

06. Class Six. All other businesses that provide no special or exceptional service to the Department or public. ()

101. APPLICATION.

01. Form. Applications will be on a form prescribed by the Department. ()

02. Department Review. ()

a. Application Review. The Department will evaluate and determine approval or denial of vendor applications quarterly, on or before March 1, June 1, September 1, and December 1. The Department will have thirty (30) calendar days after receipt of all necessary forms to review and investigate the application. The date received plus thirty (30) days will determine into which quarterly evaluation each vendor application will be considered. Applications from the same area will be compared to determine which will best meet vendorship needs in that area. Exceptions may be made by the Department when there are overriding needs for an immediate replacement of a license vendor in an area. This will primarily occur where there would be no vendor services available to the public within a twenty-five (25) mile radius. ()

b. Field Review. After the License Section has received the application form and all other required information from an applicant, they will contact the Regional Conservation Officer for a recommendation on the application. The Regional Conservation Officer will have ten (10) days to provide the License Section with a recommendation on the application. ()

03. Applicant. ()

a. Application. The Department will only consider license vendorship applications completed in their entirety and accompanied by an original copy of a current credit rating from a recognized credit bureau. The Department will only consider completed applications received by the License section no later than sixty (60) days after the date of the application transmittal letter. The Department may grant an applicant's request to extend this period for up to thirty (30) additional days. Any false or misleading response will void the application. ()

b. Approved Application. If the Department approves an application, the applicant will have sixty (60) days from the date of the applicant's approval letter to provide the Department with a signed vendorship contract, and any bond, deposit, or documentation the Department may require. Failure to meet this deadline will void the approval except for extenuating circumstances approved by the Department. ()

102. (RESERVED)

103. ACTIVE VENDOR CEILING.

The number of active vendors, including approved vendor applicants, is limited to four hundred seventy-five (475). ()

104. LICENSING SYSTEM.

01. License Issuance. A vendorship must issue licenses according to statutes, administrative rules, the vendorship contract, the License Vendor Manual, and Department instructions. ()

02. Deposit Schedule. Amounts collected from the sale and issuance of licenses, along with the Department's share of the license issuance fee for each license will be deposited not less frequently than once every seven (7) calendar days in a bank account prescribed by the License Vendor. ()

03. Reporting Time Period. The accounting and reporting time period is a calendar week (Sunday through Saturday). ()

105. -- 109. (RESERVED)

110. OUT-OF-STATE VENDORS.

In general, an out-of-state location will not be approved to sell licenses unless it is located in close proximity (within fifty (50) miles) to the Idaho border or deemed to have a compelling benefit for the Department. ()

111. VENDOR LOCATION NOT MOVABLE.

No vendorship may be relocated to another area (address) without advanced written consent from the Department. ()

112. TYPES OF LICENSES SOLD BY VENDOR.

The Department will determine what licenses each vendor may issue. ()

113. -- 119. (RESERVED)

120. CONTRACT AGREEMENT VIOLATIONS.

01. Notices of Contract Violations. The Department will issue notices of contract violations whenever a vendor fails to make deposits, submit reports, or send in voided or canceled licenses on time, or issue licenses as instructed. ()

02. Intent to Suspend. Prior to suspending a vendor, a written notice of intent to suspend will be sent to the vendor, except where the Department determines that an emergency or a risk to the public is created by the vendor's conduct or where the vendor has failed to pay for any fund deficiency within the prescribed time, in which cases the Department may terminate the vendor's agreement immediately. The vendor will have fifteen (15) days in which to submit a written dispute to the Department. ()

121. TERMINATION OR SUSPENSION OF VENDOR.

- 01. Grounds.** The Department may terminate or suspend a license vendor on the following grounds: ()
- a.** Failure to have sufficient funds for the electronic funds transfer (EFT) to the Department more than once during any twelve (12) month period. ()
 - b.** Failure to make good any fund deficiency to the Department within three (3) days of notification. ()
 - c.** Failure to follow any procedures specified by the Department for selling or reporting sales. ()
 - d.** Failure to comply with any terms of the contract agreement or failure to maintain the original criteria used in determining vendor eligibility. ()
 - e.** Fraud or deception in the vendor application. ()
 - f.** Negligence in obtaining proof of residence or completion of the application portion of the license could constitute grounds for suspension of a vendorship. ()
- 02. Immediate Termination/Suspension.** ()
- a.** A vendorship will be terminated immediately upon the following grounds: ()
 - i.** Notice from the bonding company that the vendor’s bond has been canceled. ()
 - ii.** Inactivity for a year. ()
 - iii.** Receipt of two (2) suspensions in any three (3) year period. ()
 - iv.** Sale of the business that is the vendorship. ()
 - b.** A vendorship will be suspended immediately and may be terminated immediately upon the following grounds: ()
 - i.** Violation of Fish and Game laws or rules. ()
 - ii.** Violation in the issuance of a license or in performance as a vendor. ()
 - iii.** Alteration of any license. ()
 - iv.** Three contract violations within any twelve- (12) month period. The vendorship will be suspended for up to one (1) year following such a third violation. ()
- 03. Terminations – Minimum Sales.** ()
- a.** Incorporated City. When a vendor located within an incorporated city fails to sell at least three hundred (300) licenses during the first year of operation, or sell at least six hundred twenty-five (625) licenses during the second and subsequent years, termination will be at the end of the calendar year. ()
 - b.** All Other Areas. All other vendors who fail to sell at least one hundred twenty-five (125) licenses during the first year of operation, or at least two hundred twenty-five (225) licenses during the second and subsequent year, will be terminated at the end of the calendar year. ()
 - c.** A vendorship not selling the minimum number of licenses will not be terminated if the Department

determines the service is necessary. ()

04. Application After Termination. An application after termination for reason of inactivity, sale of the business, or nonpayment of license fees will be processed as a new application. The Department will not consider an application for a vendorship terminated for nonpayment of license fees until the applicant makes payment in full of all outstanding fees, including interest charged at the legal rate for judgments. ()

122. -- 129. (RESERVED)

130. ISSUING LICENSES AND TAGS.

01. Identification. A vendor will confirm proper identification and proof of residence as defined in IDAPA 13.01.04, “Rules Governing Licensing,” for every individual before issuing a resident license. Nonresident licenses and daily fishing licenses do not require identification. ()

02. Social Security Numbers. A vendor will enter into the licensing system the digits of social security number for any person who purchases a license, as specified for compliance with Section 73-122, Idaho Code, while protecting that number as confidential information and preventing its use for other purposes or release to any third party. ()

131. -- 149. (RESERVED)

150. PUBLIC MONIES.

All monies collected by a vendor are public monies of the state of Idaho and the state has a prior claim upon these monies over all creditors, assignees, or other claimants. ()

151. VOIDED AND CANCELLED LICENSES.

No correction, alteration, or erasure may be made to an issued license. In case of error to an issued license, the vendor will cancel the license via the license terminal through the cancel function and return the original voided license and cancellation receipt to the Department at the week’s end, to be postmarked on or before the following Wednesday. If the original license is not received when due, the vendor may be charged for the value of the license. ()

152. LOSS OF DOCUMENTS AND FEES.

A vendor is responsible for all lost documents and blank license stock, regardless of the reason for loss, and will keep all documents and blank license stock in a safe and secure place, preferably in a fireproof box or vault. The vendor will immediately notify the Department of any loss and submit a detailed report of the loss. ()

153. INSPECTION AND AUDIT.

License records are subject to inspection and audit at all times by an authorized employee or agent of the Department or the State Controller’s Office. ()

154. TRANSFER AND SALE OF DOCUMENTS ISSUED TO VENDORS.

A vendor may only transfer blank license stock to a location not listed on the original application or to another license vendor with advance written permission from the Department. ()

155. RETURN OF EQUIPMENT, LICENSE STOCK, FORMS, AND SUPPLIES.

A vendor will return any equipment and unused blank license stock, forms, and supplies to the Department immediately upon termination or request by the Department. ()

156. INTERNET SERVICE PROVIDER (ISP).

Each License Vendor will provide their own Internet Service Provider (ISP), at Vendor’s cost, for the computerized license system. The ISP can be dial-up or any type of high-speed. ()

157. -- 199. (RESERVED)

200. CONTRACT TO TAKE LICENSE APPLICATIONS BY TELEPHONE OR OTHER ELECTRONIC METHODS.

The Department may contract with one (1) or more suppliers to take applications for licenses by telephone or other electronic methods, provided license issuance complies with this chapter and any contract provisions. Any such contract will provide for the deposit of any license fees collected by the supplier to be deposited with the State Treasurer within twenty-four (24) hours of effective receipt of the monies. The supplier may collect a fee in addition to the license fee, which may be retained by the supplier. This contract between the Department and supplier will establish the fee. ()

201. – 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

DOCKET NO. 20-0000-2100

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the Idaho State Board of Land Commissioners and is now pending review by the 2022 Idaho State Legislature for final approval. The pending rule becomes final and effective upon 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, or 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 38-115, 38-132, 38-402, 58-104, 58-105, and 67-5201 et seq., 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 pending rule adopts and publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 20, Rules of the Idaho Department of Lands:

IDAPA 20

- 20.01.01, *Rules of Practice and Procedure Before the State Board of Land Commissioners*; and
- 20.04.01, *Rules Pertaining to Forest Fire Protection*.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rulemaking was published in the October 20, 2021, Special Edition of the Idaho Administrative Bulletin, [Vol. 21-10SE, pages 3023-3054](#). These rule chapters are necessary to protect Idaho's natural resources and the public health, safety, and welfare of the citizens of Idaho.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rule chapters being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Scott Phillips at (208) 334-0294.

Dated this 22nd day of December, 2021.

Dustin Miller
Director
Idaho Department of Lands
300 N. 6th St, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0242
Fax: (208) 334-3698
rulemaking@idl.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE OMNIBUS 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 38-115, 38-132, 38-402, 58-104, 58-105, and 67-5201 et seq., Idaho Code.

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

Tuesday, November 2, 2021 – 10:00 a.m. (MT)
Idaho Department of Lands Boise Staff Office Garnet Conference Room 300 N. 6th Street, Suite 103 Boise, ID 83702
To attend by Zoom: https://idl.zoom.us/j/83993307507?pwd=VFhIdlFJRHo0d1NLWHVDMlVJUXF3dz09
To attend by telephone call: 1 (253) 215-8782 Meeting ID: 839 9330 7507, Passcode: 589938

If you plan to attend the hearing in person, please contact the undersigned for information about current safety protocols for public gatherings. Because protocols in place at the time of the hearing may limit participation in person, individuals are encouraged to participate online or by phone.

The hearing site 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 proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 20, Rules of the Idaho Department of Lands:

IDAPA 20

- 20.01.01, *Rules of Practice and Procedure Before the State Board of Land Commissioners*; and
- 20.04.01, *Rules Pertaining to Forest Fire Protection*.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Scott Phillips at (208) 334-0294.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

THE FOLLOWING IS THE TEXT OF OMNIBUS PENDING DOCKET NO. 20-0000-2100

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.01.01 – RULES OF PRACTICE AND PROCEDURE BEFORE THE STATE BOARD OF LAND COMMISSIONERS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 58-104 and 67-5206(5)(b), Idaho Code. ()

001. TITLE AND SCOPE.

This chapter is titled IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.” These rules govern the practice and procedure in contested cases before the Board and the Idaho Department of Lands. These rules do not govern practice and procedure during regular or special meetings of the Board. Furthermore, these rules are not intended to create the substantive right to a contested case hearing; any right to a contested case hearing must be established by other provision of law. ()

002. DEFINITIONS.

As used in this chapter: ()

01. **Agency.** The state board of land commissioners and the Idaho department of lands. ()
02. **Agency Action.** Agency action means:
 - a. The whole or part of a rule or order; ()
 - b. The failure to issue a rule or order; or ()
 - c. An agency’s performance of, or failure to perform, any duty placed on it by law. ()
03. **Agency Head.** The state board of land commissioners and the board secretary, the director of the Idaho department of lands. ()
04. **Board.** The State Board of Land Commissioners. ()
05. **Contested Case.** A proceeding which results in the issuance of an order. ()
06. **Document.** Any proclamation, executive order, notice, rule or statement of policy of an agency. ()
07. **License.** The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. ()
08. **Order.** An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. ()
09. **Party.** Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. ()
10. **Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. ()

003. FILING OF DOCUMENTS -- NUMBER OF COPIES.

01. **Where to File.** In general, all documents in contested cases may be filed with the Board Secretary/ Department of Lands Director at the address set forth at www.idl.idaho.gov if no other officer is designated for the particular proceeding. When a specific officer is designated to receive documents in a particular proceeding, documents may be filed with the designated officer as set forth in the order appointing a hearing officer. ()

02. **Number of Copies.** An original and five (5) legible copies of all documents shall be filed with the Board in all contested cases wherein a hearing officer has not been appointed by the Board. If a hearing officer has been appointed to hear a contested case, then one (1) original and one (1) legible copy of all documents shall be filed

with the hearing officer. ()

004. -- 049. (RESERVED)

050. PROCEEDINGS GOVERNED.

01. Contested Case. Sections 100 through 780 govern procedure before the Board in contested cases, unless otherwise provided by statute, rule, notice or order of the Board. ()

02. Other Specified Procedures. Where another statute or rule requires specific procedures in a contested case before the Board, such other procedures will preempt these rules to the extent that these rules conflict with the other procedures. To the extent the other statute or rule does not address any matter of practice and procedure set forth in these rules, however, these rules shall govern. ()

03. Rules Not Applicable to Board Meetings. These rules do not govern practice and procedure before regular or special board meetings. Board meetings are conducted informally and are not contested case hearings. A person who is dissatisfied with any decision of the Board may apply to appear before and be heard by the Board. Such appearances are informal and minutes will be taken and recorded the same as for regular Board meetings, unless application is made for a contested case hearing. A contested case hearing is available only where authorized by statute. See Subsection 104.02. ()

04. Rules Not Applicable to Proceedings or Public Hearings. These rules do not govern proceedings in any public comment hearing that the Board may direct for the purpose of taking public comment on any matter. ()

051. REFERENCE TO AGENCY.

Reference to the agency in these rules includes the Board and its Secretary, the Director of the Department of Lands, the hearing officer appointed by the agency, or the presiding officer, as context requires. Reference to the agency head means to the Board and its Secretary, the Director of the Department of Lands, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders. ()

052. LIBERAL CONSTRUCTION.

The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. Unless required by statute, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. ()

053. COMMUNICATIONS WITH AGENCY.

All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the Board's Secretary/Director of the Department of Lands, or such officer appointed by the Board. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed. ()

054. IDENTIFICATION OF COMMUNICATIONS.

Parties' communications addressing or pertaining to a given proceeding must be written under that proceeding's case caption and case number. General communications by other persons should refer to case captions, case numbers, permit or license numbers, or the like, if this information is known. ()

055. SERVICE BY AGENCY.

Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, summonses, complaints, and orders issued by the agency may serve these documents by certified mail, return receipt requested, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a state employee or state agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated

by these rules or by the agency. ()

056. COMPUTATION OF TIME.

Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not Saturday, Sunday or a legal holiday. ()

057. FEES AND REMITTANCES.

Fees and remittances to the agency must be paid by money order, bank draft or check payable to agency. Remittances in currency or coin are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. ()

058. -- 099. (RESERVED)

100. INFORMAL PROCEEDINGS DEFINED.

Informal proceedings are proceedings in contested cases authorized by statute, rule or order of the agency to be conducted using informal procedures, i.e., procedures without a record to be preserved for later agency or judicial review, without the necessity of representation according to Section 202, without formal designation of parties, without the necessity of hearing examiners or other presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, an agency may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a contested case. ()

101. INFORMAL PROCEDURE.

Statute authorizes and these rules encourage the use of informal proceedings to settle or determine contested cases. Unless prohibited by statute, the agency may provide for the use of informal procedure at any stage of a contested case. Informal procedure may include individual contacts by or with the agency staff asking for information, advice or assistance from the agency staff, or proposing informal resolution of formal disputes under the law administered by the agency. Informal procedures may be conducted in writing, by telephone or television, or in person. ()

102. FURTHER PROCEEDINGS.

If statute provides that informal procedures shall be followed with no opportunity for further formal administrative review, then no opportunity for later formal administrative proceedings must be offered following informal proceedings. Otherwise, except as provided in Section 103, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the agency, if such person is entitled to a contested case hearing, at which time the parties may fully develop the record before the agency. ()

103. INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES.

Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceeding are conducted without prejudice to the right of the parties to present the matter formally to the agency. Settlement offers made in the course of informal proceedings are confidential. ()

104. FORMAL PROCEEDINGS.

01. Initiation of Proceedings. Formal proceedings, which are governed by rules of procedure other than Sections 100 through 103, must be initiated by a document (generally a notice, order or complaint if initiated by the agency) or another pleading listed in Sections 220 through 260 if initiated by another person. Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Sections 210 through 280. Formal proceedings can be initiated by the same document that initiates informal proceedings. ()

02. Right to Contested Case, Board Discretion. Formal proceedings may be initiated by a party only where such party is given the statutory right to a contested case hearing. The Board may, in its discretion, direct that a contested case hearing be held in a contested case, or on any matter. The Board may, in its discretion, deny any request for a contested case hearing on any matter that is not a contested case. ()

105. -- 149. (RESERVED)

150. PARTIES TO CONTESTED CASES LISTED.

Parties to contested cases before the agency are called applicants or claimants or appellants, petitioners, complainants, respondents, protestants, or intervenors. On reconsideration or appeal within the agency parties are called by their original titles listed in the previous sentence. ()

151. APPLICANTS/CLAIMANTS/APPELLANTS.

Persons who seek any right, license, award or authority from the agency are called “applicants” or “claimants” or “appellants.” ()

152. PETITIONERS.

Persons not applicants who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case (other than an application or complaint), or to otherwise take action that will result in the issuance of an order or rule, are called “petitioners.” ()

153. COMPLAINANTS.

Persons who charge other person(s) with any act or omission are called “complainants.” In any proceeding in which the agency itself charges a person with an act or omission, the agency is called “complainant.” ()

154. RESPONDENTS.

Persons against whom complaints are filed or about whom investigations are initiated are called “respondents.” ()

155. PROTESTANTS.

Persons who oppose an application or claim or appeal and who have a statutory right to contest the right, license, award or authority sought by an applicant or claimant or appellant are called “protestants.” ()

156. INTERVENORS.

Persons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Sections 350 through 354 are called “intervenors.” ()

157. RIGHTS OF PARTIES AND OF AGENCY STAFF.

Subject to Sections 558, 560, and 600, all parties and agency staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. ()

158. PERSONS DEFINED -- PERSONS NOT PARTIES -- INTERESTED PERSONS.

The term “person” includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in the administrative proceeding. Persons other than the persons named in Sections 151 through 156 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In kinds of proceedings in which persons other than the applicant or claimant or appellant, petitioner, complainant, or respondent would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called “Interested Persons.” Interested persons may become protestants, intervenors or public witnesses. The agency must serve notice of such proceedings on all interested persons. ()

159. -- 199. (RESERVED)

200. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES.

The initial pleading of each party at the formal stage of a contested case (be it an application or claim or appeal, petition, complaint, protest, motion, or answer) must name the party’s representative(s) for service and state the representative’s (s’) address(es) for purposes of receipt of all official documents. Service of documents on the named representative (s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party’s representative, the person signing the pleading will be considered the party’s representative. ()

201. TAKING OF APPEARANCES -- PARTICIPATION BY AGENCY STAFF.

The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff (other than a recommended order or preliminary order prepared by a hearing officer) will be considered or used in reaching a decision, at the timely request of any party the agency staff must appear at any hearing and participate in the same manner as a party. ()

202. REPRESENTATION OF PARTIES AT HEARING.

01. Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: ()

a. Natural person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, family member, or next friend. ()

b. A partnership may be represented by a partner, duly authorized employee, or attorney. ()

c. A corporation may be represented by an officer, duly authorized employee, or attorney. ()

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. ()

02. Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. ()

203. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS.

From the time a party files its initial pleading in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties' representatives designated pursuant to Section 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the agency. ()

204. WITHDRAWAL OF PARTIES.

Any party may withdraw from a proceeding in writing or at hearing. ()

205. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE.

A party's representative may be changed and a new representative may be substituted by notice to the agency and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the agency must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties. ()

206. CONDUCT REQUIRED.

Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. ()

207. -- 209. (RESERVED)

210. PLEADINGS LISTED -- MISCELLANEOUS.

Pleadings in contested cases are called applications or claims or appeals, petitions, complaints, protests, motions, answers, and consent agreements. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Section 200, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with Sections 300 through 303. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one

(1) pleading. ()

211. -- 219. (RESERVED)

220. APPLICATIONS/CLAIMS/APPEALS -- DEFINED -- FORM AND CONTENTS.

All pleadings requesting a right, license, award or authority from the agency are called “applications” or “claims” or “appeals.” Applications or claims or appeals must: ()

01. Facts. Fully state the facts upon which they are based. ()

02. Refer to Provisions. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based. ()

03. Other. State the right, license, award, or authority sought. ()

221. -- 229. (RESERVED)

230. PETITIONS -- DEFINED -- FORM AND CONTENTS.

01. Pleadings Defined. All pleadings requesting the following are called “petitions”: ()

a. Modification, amendment or stay of existing orders or rules; ()

b. Clarification, declaration or construction of the law administered by the agency or of a party’s rights or obligations under law administered by the agency; ()

c. The initiation of a contested case not an application, claim or complaint or otherwise taking action that will lead to the issuance of an order or a rule; ()

d. Rehearing; or ()

e. Intervention. ()

02. Petitions. Petitions must: ()

a. Fully state the facts upon which they are based; ()

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; ()

c. State the relief desired; and ()

d. State the name of the person petitioned against (the respondent), if any. ()

231. -- 239. (RESERVED)

240. COMPLAINTS -- DEFINED -- FORM AND CONTENTS.

01. Defined. All pleadings charging other person(s) with acts or omissions under law administered by the agency are called “complaints.” ()

02. Form and Contents. Complaints must: ()

a. Be in writing; ()

b. Fully state the acts or things done or omitted to be done by the persons complained against by reciting the facts constituting the acts or omissions and the dates when they occurred; ()

- c. Refer to statutes, rules, orders or other controlling law involved; ()
- d. State the relief desired; and ()
- e. State the name of the person complained against (the respondent). ()

241. -- 249. (RESERVED)

250. PROTESTS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.

- 01. Defined.** All pleadings opposing an application or claim or appeal as a matter of right are called “protests.” ()
- 02. Form and Contents, Time for Filing.** Protests must: ()
 - a.** Fully state the facts upon which they are based, including the protestant’s claim of right to oppose the application or claim; ()
 - b.** Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; and ()
 - c.** State any proposed limitation (or the denial) of any right, license, award or authority sought in the application. ()

251. -- 259. (RESERVED)

260. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.

- 01. Defined.** All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called “motions.” ()
- 02. Form and Contents.** Motions must: ()
 - a.** Fully state the facts upon they are based; ()
 - b.** Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and ()
 - c.** State the relief sought. ()
- 03. Other.** If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit an application or claim or appeal, complaint, petition, or protest must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be filed at any time upon compliance with Section 565. ()

261. -- 269. (RESERVED)

270. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.

All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, protests, or motions are called “answers.” ()

- 01. Answers to Pleadings Other Than Motions.** Answers to applications, claims, or appeals, complaints, petitions, or protests must be filed and served on all parties of record within twenty-one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty-one (21) days. When an answer is not timely filed under this rule, the

presiding officer may issue a notice of default against the respondent pursuant to Section 700. Answers to applications or claims, complaints, petitions, or protests must admit or deny each material allegation of the applications or claims, complaint, petition or protest. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. ()

02. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The presiding officer may act upon a prehearing motion under Section 565. ()

271. -- 279. (RESERVED)

280. CONSENT AGREEMENTS -- DEFINED -- FORM AND CONTENTS.

Agreements between the agency or agency staff and another person(s) in which one or more person(s) agree to engage in certain conduct mandated by statute, rule, order, case decision, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, case decision, or other provision of law, are called "consent agreements." Consent agreements are intended to require compliance with existing law. ()

01. Requirements. Consent agreements must: ()

a. Recite the parties to the agreement; and ()

b. Fully state the conduct proscribed or prescribed by the consent agreement. ()

02. Additional. In addition, consent agreements may: ()

a. Recite the consequences of failure to abide by the consent agreement; ()

b. Provide for payment of civil or administrative penalties authorized by law; ()

c. Provide for loss of rights, licenses, awards or authority; ()

d. Provide for other consequences as agreed to by the parties; and ()

e. Provide that the parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. ()

281. -- 299. (RESERVED)

300. FILING DOCUMENTS WITH THE AGENCY -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX).

An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX) if the agency's individual rule of practice lists a FAX number for that agency. Whenever any document is filed by FAX, if possible, originals must be delivered by overnight mail the next working day. ()

301. FORM OF PLEADINGS.

01. Pleadings. All pleadings submitted by a party and intended to be part of an agency record must: ()

a. Be submitted on white, eight and one-half by eleven inch (8 1/2" x 11") paper copied on one (1) side only; ()

b. State the case caption, case number and title of the document; ()

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and ()

d. Have at least one inch (1”) left and top margins. ()

02. Form. Documents complying with this rule will be in the following form:

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative for (Name of Party)

BEFORE THE AGENCY

(Title of Proceeding))
)
)
)

CASE NO.
(TITLE OF DOCUMENT)

()

302. SERVICE ON PARTIES AND OTHER PERSONS.

All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the officer designated by the agency to receive filings in the case. When a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. ()

303. PROOF OF SERVICE.

Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have this day of , served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names)).

(Signature)

()

304. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS.

Defective, insufficient or late pleadings may be returned or dismissed. ()

305. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS.

The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. ()

306. -- 349. (RESERVED)

350. ORDER GRANTING INTERVENTION NECESSARY.

Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. ()

351. FORM AND CONTENTS OF PETITIONS TO INTERVENE.

Petitions to intervene must comply with Sections 200 and 300 through 303. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. ()

352. TIMELY FILING OF PETITIONS TO INTERVENE.

Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. ()

353. GRANTING PETITIONS TO INTERVENE.

If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding. ()

354. ORDERS GRANTING INTERVENTION -- OPPOSITION.

No order granting a petition to intervene will be acted upon fewer than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. ()

355. PUBLIC WITNESSES.

Persons not parties and not called by a party who testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to Sections 558 and 560, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Section 530 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. ()

356. -- 399. (RESERVED)

400. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS.

Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule. ()

01. Form. The petition shall: ()

a. Identify the petitioner and state the petitioner's interest in the matter; ()

b. State the declaratory ruling that the petitioner seeks; and ()

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. ()

02. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. ()

401. NOTICE OF PETITION FOR DECLARATORY RULING.

Notice of petition for declaratory ruling may be issued in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. ()

402. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER.

01. Final Agency Action. The agency’s decision on a petition for declaratory ruling on the applicability of any statute, rule, or order administered by the agency is a final agency action decided by order. ()

02. Content. The order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: ()

a. This is a final agency action issuing a declaratory ruling. ()

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this declaratory ruling may appeal to district court by filing a petition in the District Court in the county in which: ()

i. A hearing was held; ()

ii. The declaratory ruling was issued; ()

iii. The party appealing resides; or ()

iv. The real property or personal property that was the subject of the declaratory ruling is attached. ()

c. This appeal must be filed within twenty-eight (28) days of the service date of this declaratory ruling. See Section 67-5273, Idaho Code. ()

403. -- 409. (RESERVED)

410. APPOINTMENT OF HEARING OFFICERS.

A hearing officer is a person other than the agency head appointed to hear contested cases on behalf of the agency. Unless otherwise provided by statute or rule, hearing officers may be employees of the agency or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. The appointment of a hearing officer is a public record available for inspection, examination and copying. ()

411. HEARING OFFICERS CONTRASTED WITH AGENCY HEAD.

Agency heads are not hearing officers, even if they are presiding at contested cases. The term “hearing officer” as used in these rules refers only to officers subordinate to the agency head. ()

412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.

Pursuant to Section 67-5252, Idaho Code, hearing officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may promptly petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation by a presiding officer. A hearing officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer’s determination. Disqualification of agency heads, if allowed, will be pursuant to Sections 74-704 and 67-5252(4), Idaho Code. ()

413. SCOPE OF AUTHORITY OF HEARING OFFICERS.

The scope of hearing officers' authority may be restricted in the appointment by the agency. ()

01. Scope of Authority. Unless the agency otherwise provides, hearing officers have the standard scope of authority, which is: ()

a. Authority to schedule cases assigned to the hearing officer, including authority to issue notices of prehearing conference and of hearing, as appropriate; ()

b. Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency; ()

c. Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and ()

d. Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and recommended findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer. ()

02. Limitation. The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope iii (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers can be given authority with regard to the agency's rules as provided in Section 416. ()

03. Final Decision by Board. All final decisions in contested cases will be made by the Board. A hearing officer will only issue recommended findings of fact, conclusions of law, and orders to the Board, and the Board will make the final decision to adopt, modify, or reject any or all of the proposed findings, conclusions, and order. ()

414. PRESIDING OFFICER(S).

One (1) or more members of the agency board, the agency director, or duly appointed hearing officers may preside at hearing as authorized by statute or rule. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer. ()

415. CHALLENGES TO STATUTES.

A hearing officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority has preempted a state statute or rule, and the hearing officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the hearing officer, then the hearing officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the hearing officer and decide the proceeding before the hearing officer in accordance with the precedent of the court or the preemptive action of the federal authority. ()

416. REVIEW OF RULES.

When an order is issued by the agency head in a contested case, the order may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. The agency head may delegate to a hearing officer the authority to recommend a decision on issues of whether a rule is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. ()

417. EX PARTE COMMUNICATIONS.

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be

reported by this rule. However, when a presiding officer has received a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. ()

418. -- 499. (RESERVED)

500. ALTERNATIVE RESOLUTION OF CONTESTED CASES.

The Idaho Legislature encourages informal means of alternative dispute resolution (ADR). For contested cases, the means of ADR include, but are not limited to, settlement negotiations, mediation, factfinding, minitrials, and arbitration, or any combination of them. These alternatives can frequently lead to more creative, efficient and sensible outcomes than may be attained under formal contested case procedures. An agency may use ADR for the resolution of issues in controversy in a contested case if the agency finds that such a proceeding is appropriate. Reasons why an agency may find that using ADR is not appropriate may include, but are not limited to, a finding that an authoritative resolution of the matter is needed for precedential value, that formal resolution of the matter is of special importance to avoid variation in individual decisions, that the matter significantly affects persons who are not parties to the proceeding, or that a formal proceeding is in the public interest. Nothing in this rule shall be interpreted to require the Board to utilize ADR procedures in a contested case, nor shall it require the Board to make any findings of fact, conclusions of law, or orders with respect to a decision concerning utilization of ADR procedures. A Board decision on utilization of ADR procedures is not reviewable. ()

501. NEUTRALS.

When ADR is used for all or a portion of a contested case, the agency may provide a neutral to assist the parties in resolving their disputed issues. The neutral may be an employee of the agency or of another state agency or any other individual who is acceptable to the parties to the proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. ()

502. CONFIDENTIALITY.

Communications in an ADR proceeding shall not be disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or is required by court order, statute or agency rule to be made public. ()

503. -- 509. (RESERVED)

510. PURPOSES OF PREHEARING CONFERENCES.

The presiding officer may by order or notice issued to all parties and to all interested persons as defined in Section 158 convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed), arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. ()

511. NOTICE OF PREHEARING CONFERENCE.

Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the prehearing conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference must contain the same information as notices of hearing with regard to an agency's obligations under the American with Disabilities Act. ()

512. RECORD OF CONFERENCE.

Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a presiding officer, according to order or notice. Agreements by the parties to the conference may be put on the record during formal conferences or may be reduced to writing and filed with the agency after formal or informal conferences. ()

513. ORDERS RESULTING FROM PREHEARING CONFERENCE.

The presiding officer may issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. ()

514. FACTS DISCLOSED NOT PART OF THE RECORD.

Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record. ()

515. -- 519. (RESERVED)

520. KINDS AND SCOPE OF DISCOVERY LISTED.

01. Kinds of Discovery. The kinds of discovery recognized and authorized by these rules in contested cases are: ()

- a. Depositions; ()
- b. Production requests or written interrogatories; ()
- c. Requests for admission; ()
- d. Subpoenas; and ()
- e. Statutory inspection, examination (including physical or mental examination), investigation, etc. ()

02. Rules of Civil Procedure. Unless otherwise provided by statute, rule, order or notice, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b)). ()

521. WHEN DISCOVERY AUTHORIZED.

No party before the agency is entitled to engage in discovery unless the party moves to compel discovery and the agency issues an order directing that the discovery be answered, or upon agreement of all parties to the discovery that discovery may be conducted. The presiding officer shall provide a schedule for discovery in the order compelling discovery, but the order compelling and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to compel discovery. ()

522. RIGHTS TO DISCOVERY RECIPROCAL.

All parties to a proceeding have a right of discovery of all other parties to a proceeding according to Section 521 and to the authorizing statutes and rules. The presiding officer may by order authorize or compel necessary discovery authorized by statute or rule. ()

523. DEPOSITIONS.

Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. ()

524. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION.

Production requests or written interrogatories and requests for admission may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. ()

525. SUBPOENAS.

The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. ()

526. STATUTORY INSPECTION, EXAMINATION, INVESTIGATION, ETC. -- CONTRASTED WITH OTHER DISCOVERY.

This rule recognizes, but does not enlarge or restrict, an agency's statutory right of inspection, examination (including mental or physical examination), investigation, etc. This statutory right of an agency is independent of and cumulative to any right of discovery in formal proceedings and may be exercised by the agency whether or not a person is party to a formal proceeding before the agency. Information obtained from statutory inspection, examination, investigation, etc., may be used in formal proceedings or for any other purpose, except as restricted by statute or rule. The rights of deposition, production request or written interrogatory, request for admission, and subpoena, can be used by parties only in connection with formal proceedings before the agency. ()

527. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION.

Answers to production requests or written interrogatories and to requests for admission shall be filed or served as provided by the order compelling discovery. Answers must conform to the requirements of the Idaho Rules of Civil Procedure. The order compelling discovery may provide that voluminous answers to requests need not be served so long as they are made available for inspection and copying under reasonable terms. ()

528. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS.

Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection under Section 527, and objections to discovery must be filed and served as provided in the order compelling discovery. ()

529. EXHIBIT NUMBERS.

The agency assigns exhibit numbers to each party. ()

530. PREPARED TESTIMONY AND EXHIBITS.

Order, notice or rule may require a party or parties to file before hearing and to serve on all other parties prepared expert testimony and exhibits to be presented at hearing. Assigned exhibits numbers should be used in all prepared testimony. ()

531. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.

The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. ()

532. PROTECTIVE ORDERS.

As authorized by statute or rule, the agency may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. ()

533. -- 549. (RESERVED)

550. NOTICE OF HEARING.

Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the agency finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Section 551. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officers who will hear the case, the name, address and telephone number of the person to whom inquiries about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. ()

551. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS.

All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the

accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the request must be made. ()

552. HOW HEARINGS HELD.

Hearings may be held in person or by telephone or television or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. ()

553. CONDUCT AT HEARINGS.

All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearing. ()

554. CONFERENCE AT HEARING.

In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. ()

555. PRELIMINARY PROCEDURE AT HEARING.

Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. ()

556. CONSOLIDATION OF PROCEEDINGS.

The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding. ()

557. STIPULATIONS.

Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The agency is not bound to adopt a stipulation of the parties, but may do so. If the agency rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. ()

558. ORDER OF PROCEDURE.

The presiding officer may determine the order of presentation of witnesses and examination of witnesses. ()

559. TESTIMONY UNDER OATH.

All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the agency is the truth, the whole truth, and nothing but the truth. ()

560. PARTIES AND PERSONS WITH SIMILAR INTERESTS.

If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. ()

561. CONTINUANCE OF HEARING.

The presiding officer may continue proceedings for further hearing. ()

562. RULINGS AT HEARINGS.

The presiding officer rules on motions and objections presented at hearing. When the presiding officer is a hearing officer, the presiding officer's rulings may be reviewed by the agency head in determining the matter on its merits and the presiding officer may refer or defer rulings to the agency head for determination. ()

563. ORAL ARGUMENT.

The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. ()

564. BRIEFS -- MEMORANDA -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION -- PROPOSED ORDER OF THE PRESIDING OFFICER.

In any contested case, any party may ask to file briefs, memoranda, proposed orders of the parties or statements of position, and the presiding officer may request briefs, proposed orders of the parties, or statements of position. The presiding officer may issue a proposed order and ask the parties for comment upon the proposed order. ()

565. PROCEDURE ON PREHEARING MOTIONS.

The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond. ()

566. JOINT HEARINGS.

The agency may hold joint hearings with federal agencies, with agencies of other states, and with other agencies of the state of Idaho. When joint hearings are held, the agencies may agree among themselves which agency's rules of practice and procedure will govern. ()

567. -- 599. (RESERVED)

600. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE.

Evidence should be taken by the agency to assist the parties' development of a record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. The agency's experience, technical competence and specialized knowledge may be used in evaluation of evidence. ()

601. DOCUMENTARY EVIDENCE.

Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. ()

602. OFFICIAL NOTICE -- AGENCY STAFF MEMORANDA.

Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed. When the presiding officer proposes to notice agency staff memoranda or agency staff reports, responsible staff employees or agents shall be made available for cross-examination if any party timely requests their availability. ()

603. DEPOSITIONS.

Depositions may be offered into evidence. ()

604. OBJECTIONS -- OFFERS OF PROOF.

Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection, or, if the presiding officer is a hearing officer, the presiding officer may receive the evidence subject to later ruling by the agency head or refer the matter to the agency head. ()

605. PREPARED TESTIMONY.

The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Section 600. ()

606. EXHIBITS.

Exhibit numbers may be assigned to the parties before hearing. Exhibits prepared for hearing must ordinarily be typed or printed on eight and one-half inch by eleven inch (8-1/2" x 11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. Motion pictures, slides, opaque projections, videotapes, audiotapes or other materials not capable of duplication by still photograph or reproduction on paper shall not be presented as exhibits without approval of the presiding officer. ()

607. -- 609. (RESERVED)

610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS.

Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations in a contested case are not part of the record. ()

611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS.

Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. ()

612. CONSIDERATION OF SETTLEMENTS.

Settlements must be reviewed under this rule. When a settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the presiding officer could summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties. On the other hand, when one (1) or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the agency's charge under the law. ()

613. BURDENS OF PROOF.

Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. ()

614. SETTLEMENT NOT BINDING.

The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. ()

615. -- 649. (RESERVED)

650. RECORD FOR DECISION.

01. Requirement. The agency shall maintain an official record for each for each contested case and (unless statute provides otherwise) base its decision in a contested case on the official record for the case. ()

02. Contents. The record for a contested case shall include: ()

a. All notices of proceedings; ()

b. All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; ()

c. All intermediate or interlocutory rulings of hearing officers or the agency head; ()

d. All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); ()

e. All offers of proof, however made; ()

f. All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; ()

g. All evidentiary rulings on testimony, exhibits, or offers of proof; ()

h. All staff memoranda or data submitted in connection with the consideration of the proceeding; ()

i. A statement of matters officially noticed; and ()

j. All recommended orders, preliminary orders, final orders, and orders on reconsideration. ()

651. RECORDING OF HEARINGS.

All hearings shall be recorded on audiotape or videotape at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Any party may have a transcript prepared at its own expense. ()

652. -- 699. (RESERVED)

700. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR.

If an applicant or claimant or appellant, petitioner, complainant, or moving party fails to appear at the time and place set for hearing on an application or claim or appeal, petition, complaint, or motion, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. ()

701. SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER.

Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered. ()

702. ISSUANCE OF DEFAULT ORDER.

The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of

the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the defaulting party. If authorized by statute or rule, costs may be assessed against a defaulting party. ()

703. -- 709. (RESERVED)

710. INTERLOCUTORY ORDERS.

Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the agency may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains or is accompanied by a document containing one of the paragraphs set forth in Sections 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the officer issuing the order pursuant to Sections 711, 760, and 770. ()

711. REVIEW OF INTERLOCUTORY ORDERS.

Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. ()

712. -- 719. (RESERVED)

720. RECOMMENDED ORDERS.

01. Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. ()

02. Content. Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: ()

a. This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. ()

b. Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding. ()

c. Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty-one (21) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. ()

721. -- 729. (RESERVED)

730. PRELIMINARY ORDERS.

01. Definition. Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. ()

02. Content. Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: ()

a. This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a motion for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. ()

b. Within twenty-one (21) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. ()

c. If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. ()

d. If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. ()

e. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: ()

- i. A hearing was held; ()
- ii. The final agency action was taken; ()
- iii. The party seeking review of the order resides; or ()
- iv. The real property or personal property that was the subject of the agency action is attached. ()

f. This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. ()

731. -- 739. (RESERVED)

740. FINAL ORDERS.

01. Definition. Final orders are preliminary orders that have become final under Section 730 pursuant

to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code. ()

02. Content. Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: ()

a. This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. ()

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: ()

- i. A hearing was held; ()
- ii. The final agency action was taken; ()
- iii. The party seeking review of the order resides; or ()
- iv. The real property or personal property that was the subject of the agency action is attached. ()

c. An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. ()

741. -- 749. (RESERVED)

750. ORDER NOT DESIGNATED.

If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. ()

751. -- 759. (RESERVED)

760. MODIFICATION OF ORDER ON PRESIDING OFFICER'S OWN MOTION.

A hearing officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the hearing officer's own motion within fourteen (14) days after issuance of the recommended or preliminary order by withdrawing the recommended or preliminary order and issuing a substitute recommended or preliminary order. The agency head may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the agency head itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it. ()

761. -- 769. (RESERVED)

770. CLARIFICATION OF ORDERS.

Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal the order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. ()

771. -- 779. (RESERVED)

780. STAY OF ORDERS.

Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion. ()

781. -- 999. (RESERVED)

20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION

000. AUTHORITY.

This chapter is adopted under the legal authority of Sections 38-115, 38-132, 38-402, 58-104(6), 58-105, and 67-5201 et seq., Idaho Code. ()

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 20.04.01, “Rules Pertaining to Forest Fire Protection.” ()

02. **Scope.** These rules govern requirements pertaining to forest fire protection. ()

002. INCORPORATION BY REFERENCE.

01. **Incorporated Document.** IDAPA 20.04.01 adopts and incorporates by reference the full text of the following documents published by the San Dimas Technology & Development Center (SDTDC). ()

a. Spark Arrester Guide – General Purpose and Locomotive (GP/Loco), Volume 1, September 2012, 1251 1809-SDTDC. ()

b. Spark Arrester Guide – Multiposition Small Engine (MSE), Volume 2, August 2012, 1251 1808-SDTDC. ()

c. Spark Arrester Guide – Off- Highway Vehicles (OHV), Volume 3, April 2012, 1251 1805-SDTDC. ()

02. **Printed and Bound Copies.** Printed copies or bound copies may be viewed at any District Office or requested through SDTDC, 444 E. Bonita Ave, San Dimas, 91773. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Block.** A piece of logging equipment where steel rope or cable is actively turning the block’s pulley and used as part of a cable logging/yarding system for the specific purposes of establishing tail hold anchor points, intermediate support of main lines, or carriage haul-back capability for the purposes of yarding or hauling of logs to a log landing for transportation to a mill or processing facility. ()

02. **Cable or Cable Assisted Logging.** A harvest system for felling or yarding of forest product materials consisting of the use of a cable assisted harvester or the use of a yarder, spar tree, or intermediate support with motorized or non-motorized carriage to transport logs to the landing for further processing purposes. ()

03. **Closed Fire Season.** The period from May 10 to October 20, inclusive, of each year or as designated by the Director due to conditions of unusual fire danger pursuant to Section 38-115, Idaho Code. ()

04. **Department.** The Idaho Department of Lands. ()

05. **Director.** The director of the Idaho Department of Lands or his authorized representative. ()

06. **District.** A designated forest protective district. ()

07. **Fire Warden.** A duly appointed fire warden or deputy. ()

08. **Forest Land.** Any land which has upon it sufficient brush or flammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or removal of forest products, to constitute a fire menace to life (including animal) or property. ()

09. **Forest Operation.** An activity or service conducted on forest lands involving any of the operations as described below where a Certificate of Compliance is required pursuant to Section 38-122, Idaho Code. ()

a. The harvesting of trees using equipment that includes, but is not limited to, felling, bucking, yarding, delimiting, and decking operations; ()

b. Thinning or mastication operations for stand improvement, stand density management or fuel reduction purposes; ()

c. Road construction or reconstruction of existing roads including installation or improvement of bridges, culverts or structures; and ()

d. Slash management including chipping, grinding, or other mechanized reduction activities. ()

10. Metal-Tracked Harvester. Any machine with metal tracks used to fall, bunch or process trees into forest products at the stump. ()

11. Operator. A person who conducts a forest operation. ()

12. Operating Area. That area where a forest operation is taking place. ()

13. Person. Includes any person or persons, and any corporation, firm or other entity. ()

14. Range Land. Any land that is not cultivated and that has upon it native grasses or other forage plants making it best suited for grazing of domestic and wild animals and which land is adjacent to or intermingled with forest land. ()

15. Slash. Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or to the clearing of land that are four (4) inches and under in diameter. ()

16. State. State of Idaho. ()

011. -- 019. (RESERVED)

020. VARIANCE.

If conditions or activities require the application of practices that differ from those prescribed in these rules, the Operator must obtain a variance prior to employing any of those differing practices. ()

01. Obtaining a Variance. In order to obtain a variance, the Operator must submit a written request for a variance to the local Fire Warden. The request must include the following: ()

a. A description of the specific Operating Area where the variance is being requested; ()

b. The particular conditions that necessitate a variance; ()

c. A detailed description of the alternative practice; and ()

d. A detailed description of how the alternate practice, if applied, will provide fire protection that is equal to or greater than the fire protection provided by the standards set forth in these rules. ()

02. Department Response to Request for Variance. Within five (5) business days from receipt of the variance request, the Department will evaluate the request and notify the Operator in writing of the Department's determination to allow or disallow the variance request. ()

021. -- 029. (RESERVED)

030. STANDARDS FOR FIRE PROTECTION BY INDIVIDUALS.

The following rules and standards for protection by owners of forest land who have elected to provide their own protection as provided by Section 38-111, Idaho Code, apply: ()

01. Fire Plans. Each owner must submit to the director for approval, through the district fire warden in charge of the district in which such forest land lies, before April 1, of each year, a written fire plan that includes, but is not limited to: ()

a. A map, with scale of two (2) inches to the mile, revealing section, township, and range lines of the forest land involved and showing thereon roads, streams, trails, and the location of protection facilities for such land. ()

b. A description of the system for discovering and reporting any and all fires originating on or spreading to the forest land involved. ()

c. A statement showing the number of firefighters available for immediate action to suppress any fire on the forest land; and further, their sources of additional manpower available as firefighters. ()

d. A statement showing the type and amount of firefighting equipment in serviceable condition including, but not limited to, fire hose, fire engines, portable pumps, dozers, and mobile equipment for the transportation of men and equipment. ()

e. A statement as to the location of fire-tool caches and the number and kind of serviceable hand tools in each cache kept available for immediate use in firefighting, including shovels, hoes, axes, and fire-pump cans. ()

f. The name, address, and telephone number of the person who is in charge of the protection facilities and obligated to carry out the provisions of the fire plan. ()

02. Approval of Fire Plan Required. No plan will become effective unless approved by the director. ()

031. -- 039. (RESERVED)

040. COSTS OF FIRE SUPPRESSION AND PROTECTION.

Whenever the state incurs costs in controlling or extinguishing a fire that any person willfully or is negligently responsible for, such costs include all actual costs to the state, including wages of full-time personnel and use of equipment of the forest protective district or districts where the fire originated or burned. ()

041. -- 049. (RESERVED)

050. BURNERS.

Any sawmill, planing mill, shingle mill, or other woodworking plant, or plant manufacturing wood products, operating in or within five hundred (500) feet of forest land, and burning refuse wood material outside of and/or adjacent to such mill or plant, will meet the terms of Section 38-108, Idaho Code. ()

051. -- 059. (RESERVED)

060. BURNING PERMITS.

The burning permit specified in Section 38-115, Idaho Code, is used to protect public health, safety, and welfare. The permit is subject to the following conditions: ()

01. When Permit Required. Permits issued for open fires are required from May 10 to October 20, inclusive, of each year and are limited to that period of time needed to accomplish the permitted burning; provided, however, in no event will such permit be issued to cover a period of more than ten (10) days. ()

02. Permit Conditions. Each permit contains all the terms and conditions deemed necessary by the director for such burning, which terms and conditions remain effective for the entire period of the permit. ()

061. -- 069. (RESERVED)

070. PERMIT TO ENTER CLOSED AREA.

Pursuant to Section 38-115, Idaho Code, the director, because of critical fire hazard, may close specified areas to entry by any person or party. ()

01. Notice of Closure. Notice of closure to specified areas will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. Such proclamation will immediately be mailed to the fire wardens of the affected districts. ()

02. Fire Warden Permits. The fire warden in charge of the forest protective district in which such areas are located may, in his discretion, issue permits to individuals to enter such closed areas. The permittee is required to carry a copy of the permit at all times while in the closed area. ()

071. -- 079. (RESERVED)

080. SPARK ARRESTERS.

01. Requirements. The steam or internal combustion engines referred to in Section 38-121, Idaho Code, must be equipped with properly installed, maintained, and effectively working spark arresters that comply with the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide(s)." ()

02. Exemptions. The following are exempt from the requirements of the rule: ()

a. Turbo-charged internal combustion engines in which one hundred percent (100%) of the exhaust gases pass through the turbo-charger. ()

b. Engines of passenger-carrying vehicles and light trucks, equipped with baffle-type muffler and tailpipe through which all exhaust gasses pass, that are kept in good repair. ()

c. Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle. ()

d. Engines of water pumping equipment used in firefighting. ()

e. Engines of helicopters and other aircraft. ()

081. -- 089. (RESERVED)

090. SMOKING IN THE WOODS.

01. Smoking Prohibited. Smoking is prohibited on forest or range lands of the state during periods of critical fire danger as designated by the director. Logging operators must post "NO SMOKING" signs conspicuously in their camps and operating areas when such periods of critical fire danger have been declared. ()

02. Designated Smoking Areas. Fire wardens may designate those areas where smoking may be permitted upon approval of the director. ()

091. -- 099. (RESERVED)

100. FIRE TOOLS AND FIRE EXTINGUISHERS.

During closed fire season the following fire tool requirements apply: ()

01. Basic Fire Cache. Every Operator engaged in any Forest Operation on Forest Lands must have available for firefighting purposes the number of tools and tool boxes set forth in Table 1. A Forest Operation having more than ten (10) people must use multiples of any of the columns in the table to arrive at a tool distribution equal to or in excess of the number of people in the Forest Operation.

TABLE 1			
People in Operation	2 - 5	6 - 8	9 - 10
Tool Box	1	1	1
Shovels	2	4	5
Pulaskis	2	4	4
5 gallon pump cans or bladder bags	1	1	2

()

a. The tool boxes required by this rule must be clearly marked “FOR FIRE USE ONLY”; and

()

b. The tools required by Subsection 100.01 must be in a location immediately accessible for firefighting purposes, maintained in a serviceable condition and be fully functional at the time of deployment.

()

02. Warming Fires or Campfires. Except when in designated developed campgrounds or when traveling as a pedestrian, all persons or parties igniting warming fires or campfires must be equipped with the following:

()

a. One (1) serviceable shovel at least twenty-four (24) inches in overall length with six (6) inch or wider blade.

()

b. One (1) water container, capacity one (1) gallon or more.

()

03. Power Equipment. Each unit of mobile or stationary power equipment other than portable power saws, trail bikes, motorcycles, all-terrain vehicles and similar type vehicles operating on forest lands of the state must be equipped with a minimum of one (1) chemical fire extinguisher rated by the Underwriters Laboratory as not less than 4-BC.

()

04. Portable Power Saw. Any person using a portable power saw on forest land in the state must have the following immediately available for the prevention and suppression of fire:

()

a. A fully charged operable fire extinguisher of at least eight (8) ounce minimum capacity.

()

b. A serviceable round-pointed size zero (0) or larger shovel.

()

101. -- 109. (RESERVED)

110. FIRE CREWS.

When engaged in a Forest Operation on Forest Lands during closed fire season, the person responsible for the Forest Operation must designate a fire crew and a fire foreman, with powers to act for their employer, to take immediate initial action within the scope of their knowledge, skills and abilities and make a reasonable effort to suppress any fire starting on the Operating Area without compromising the safety of the crew.

()

111. -- 119. (RESERVED)

120. RESTRICTED ACTIVITIES.

01. Critical Fire Danger. During periods of critical fire danger, as determined by the director, all persons engaged in any activities in forest areas of the state, determined to be critical, may have those activities

restricted to the least dangerous periods of the day. ()

02. Notice. Notification of such restriction will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. ()

121. -- 129. (RESERVED)

130. WATER SUPPLY AND EQUIPMENT.

Every Operator conducting a Forest Operation using a cable logging system or a metal tracked harvester during the period of July 1st through September 30th annually must provide the following water supply and fire suppression equipment in the Operating Area. ()

01. Water Supply. ()

a. The water supply must consist of a self-propelled motor vehicle or trailer equipped with a water tank containing not less than two hundred (200) gallons of water. ()

b. Trailers used for this purpose must be equipped with a functional hitch attachment and have a serviceable tow vehicle immediately available to provide for timely fire suppression response. ()

02. Water Delivery. ()

a. Water pump. The size and capacity of the water pump must be sufficient to provide a discharge of not less than twenty (20) gallons per minute when pumping through fifty (50) feet of hose of not less than three quarter (¾) inch inside diameter with an adjustable nozzle at pump level. ()

b. Hose and nozzle. The Operator must have at least five hundred (500) feet of serviceable hose of not less than three quarter (¾) inch inside diameter and a nozzle. ()

03. Readiness. ()

a. All hose, motor vehicles, trailers, tanks, nozzles and pumps must be kept ready for immediate use during active operations, including fire watch service as set forth in Section 140 of these rules. ()

b. The water supply, pump, a minimum of two hundred (200) feet of hose packaged in a suitable manner for immediate deployment, and the nozzle must be maintained as a connected, operating unit ready for immediate use. ()

04. Water Supply and Equipment Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the water supply and equipment requirements of Section 130. ()

131. -- 139. (RESERVED)

140. FIRE WATCH SERVICE.

Every Operator engaged in a Forest Operation within a Stage 2 proclamation area must provide Fire Watch Service in the Operating Area. ()

01. Duties and Requirements. Fire Watch Service must consist of at least one (1) person who: ()

a. Is constantly on duty for three (3) hours after all power-operated equipment has been shut down for the day. ()

b. Visually observes the Operating Area where activity occurred during the day. ()

c. Has adequate equipment for transportation and communications to summon fire-fighting assistance in a timely manner; and ()

d. Immediately responds to any fire in the Operating Area to initiate such fire suppression actions to suppress the fire within the scope of their knowledge, skills and abilities. ()

02. Fire Watch Service Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the fire watch service requirements of Section 140. ()

141. -- 149. (RESERVED)

150. OPERATION AREA FIRE PREVENTION.

To prevent the spread of fire on or from an Operating Area, every Operator conducting a Forest Operation during the period of July 1st through September 30th, annually, must comply with the following precautions: ()

01. Cable or Cable Assisted Logging. The following practices and equipment are required by the operator when conducting a cable logging operation on forest land. ()

a. Clear the ground of all flammable debris for not less than ten (10) feet slope distance from the point directly below any block. ()

b. Prevent moving lines from rubbing on rock or woody material in such a way to cause sparks or sufficient heat that may cause fuel ignition. ()

c. Provide a water supply that complies with the capacity, pump, hose, nozzle and readiness requirements set forth in Section 130 of these rules. ()

d. Provide at each Block: ()

i. One (1) pump equipped can or bladder containing not less than five (5) gallons of water; and ()

ii. One (1) round pointed size zero (0) or larger shovel in a serviceable condition. ()

151. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.02.01 – RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT
DOCKET NO. 20-0201-2101 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2022 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 38-1304, 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:

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2021 for review during the 2022 legislative session. The pending rule has words and restrictions removed, wherever possible, to decrease the total word count and reduce the overall regulatory burden. Specifically, the pending rule simplifies the fish-bearing stream definition and tree retention requirements, modernizes ground-based equipment requirements, and codifies common sediment reduction best management practices.

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 September 1, 2021, Idaho Administrative Bulletin, [Vol. 21-9, pages 67-91](#).

Documents from negotiated and proposed rulemaking, including an unofficial strikethrough version of the proposed rule that shows the changes made from the previously codified rule, are available on the Idaho Department of Lands website at the following web address: <https://www.idl.idaho.gov/rulemaking/docket-20-0201-2101/>.

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 is anticipated.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Hess at (208) 666-8636 or ghess@idl.idaho.gov.

DATED this 19th day of October, 2021.

Gary Hess
Regulatory and Stewardship Program Manager
Forestry and Fire Division
Idaho Department of Lands
3284 W Industrial Loop
Coeur d'Alene, Idaho 83815
Phone: (208) 666-8636
Fax: (208) 769-1524

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 38-1304, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, September 14, 2021 – 6:00 p.m. (PT)

**Idaho Department of Lands
Louise Shadduck Building
Sundance Conference Room
3284 West Industrial Loop
Coeur d’Alene, ID 83815**

**To attend by Zoom:
<https://idl.zoom.us/j/84370856637?pwd=SVJRTlprN0FHalBHMnFLVmw4YW12Zz09>**

**To attend by telephone call: 1 (253) 215 8782
Meeting ID: 843 7085 6637, Passcode: 861791**

Monday, September 20, 2021 – 6:00 p.m. (PT)

**Lewiston Community Center
Multi-Purpose Room
1424 Main Street
Lewiston, ID 83843**

**To attend by Zoom:
<https://idl.zoom.us/j/83154776344?pwd=ZDQ4Z203M01keWI4MUhQZUIMOElmQT09>**

**To attend by telephone call: 1 (253) 215 8782
Meeting ID: 831 5477 6344, Passcode: 634320**

The hearing sites 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 Forest Practices Advisory Committee (FPAC) voted to recommend language to the State Board of Land Commissioners which will provide for a simplified “Shade Rule” (030.07.e.ii. (2014)) next to fish-bearing (Class I) streams and refine the definition of Class I streams (010.47.a.) to apply only to aquatic life beneficial use. This simplification will promote rule understanding and make compliance easier and less costly. The objective is to retain management options for landowners while still affording appropriate protections to stream shade and large organic debris recruitment.

FPAC also identified a need to update rules specific to the use of ground-based equipment on steep slopes. The technology used in the industry has changed; machinery is now being used on steep slopes while tethered to an anchor with a specialized winch to improve traction. This traction assistance allows the machine to operate safely on steep slopes while minimizing soil disturbance. Reduced incidence of injuries and improvements in harvest efficiency have resulted from their use. Existing rule language does not allow for universal use of this new family of machines; modified rule language is needed to accommodate changing technology.

Additional amendments are proposed to remove words and restrictions, wherever possible, to comply with the Governor's Executive Order 2020-01, Zero-Based Regulation. This includes some non-substantive editorial changes which were not in the draft rule text used for negotiated rulemaking.

Collectively, these proposed changes will reduce the rule set length, simplify the language, promote rule understanding, and provide economic benefit while maintaining or enhancing water-quality protection.

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 as a result of this rulemaking: No fiscal impact is anticipated.

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 7, 2021, Idaho Administrative Bulletin, Vol. 21-4, pages 44-46.

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: For assistance on technical questions concerning the proposed rule, contact Gary Hess at (208) 666-8636 or ghess@idl.idaho.gov.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2021.

DATED this 30th day of July, 2021.

THE FOLLOWING IS THE TEXT OF PENDING DOCKET NO. 20-0201-2101

20.02.01 – RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

000. LEGAL AUTHORITY.

In accordance with Section 38-1304, Idaho Code, the Idaho Board of Land Commissioners has authority to adopt rules establishing minimum standards for the conduct of forest practices on forest land. ()

001. SCOPE.

These rules constitute the minimum standards for the conduct of forest practices on forest land and describe administrative procedures necessary to implement those standards. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

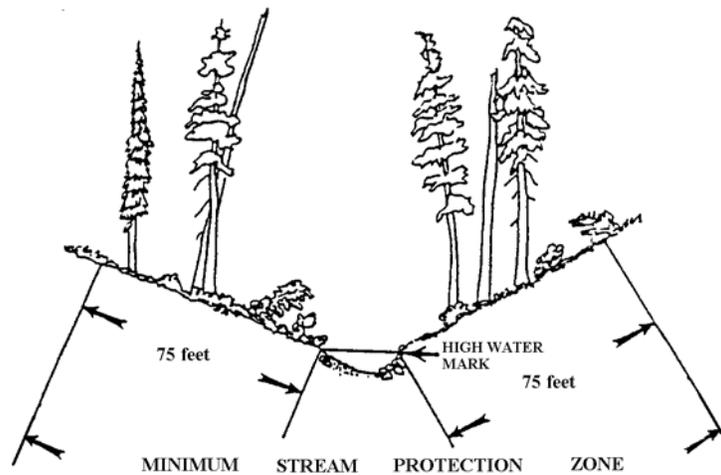
The terms “Best Management Practices (BMP),” “Department,” “Forest Land,” “Forest Practice,” “Forest Regions,” “Harvesting,” “Landowner,” “Operator,” “Rules,” “State,” and “Timber Owner,” have meanings provided in Section 38-1303, Idaho Code. In addition to the definitions set forth in the Act, the following definitions apply to these rules:

- ()
- 01. Act.** The Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. ()
- 02. Acceptable Tree Species.** Any tree species normally marketable in the region, which are suitable to meet stocking requirements. Acceptable trees must be of sufficient health and vigor to assure growth and harvest. ()
- 03. Additional Hazard.** Debris, slashings, and forest fuel resulting from a forest practice. ()
- 04. Average DBH.** Average diameter in inches of trees cut or to be cut, measured at four and one-half (4.5) feet above mean ground level on standing trees. ()
- 05. Board.** The Idaho State Board of Land Commissioners or its designee. ()
- 06. Buffer Strip.** A protective area adjacent to an area requiring special attention or protection. ()
- 07. Cable Yarding.** Techniques that use winch systems, secured to stationary base machines, to transport fully or partially suspended logs or trees to landings. ()
- 08. Chemicals.** Substances applied to forest lands or timber to accomplish specific purposes and includes pesticides (as defined in Title 22, Chapter 34, Idaho Code), fertilizers, soil amendments, road dust abatement products and other materials that may present hazards to the environment. ()
- 09. Constructed Skid Trail.** A skid trail created by the deliberate cut and fill action of a dozer or skidder blade resulting in a road-type configuration. ()
- 10. Commercial Products.** Saleable forest products of sufficient value to cover cost of harvest and transportation to available markets. ()
- 11. Condition of Adjoining Area.** Those fuel conditions in adjoining areas that relate to spread of fire and to economic values of that area. ()
- 12. Contaminate.** To introduce into the atmosphere, soil, or water sufficient quantities of substances that are injurious to public health, safety, or welfare; domestic, commercial, industrial, agricultural or recreational uses; or livestock, wildlife, fish or other aquatic life. ()
- 13. Cross-Drain.** A diversion, depression, slope, or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation, duff, ditch, or other dispersion area to minimize volume and velocity of runoff which might cause soil erosion. ()
- 14. Cull.** Non-marketable, live, standing trees taller than twenty (20) feet. ()
- 15. Deterioration Rate.** Rate of natural decomposition and compaction of fuel debris which decreases the hazard and varies by site. ()
- 16. Director.** The Director of the Idaho Department of Lands or his designee. ()
- 17. Emergency Forest Practice.** A forest practice initiated during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event to minimize damage to forest lands, timber, or public resources. ()

18. **Fertilizers.** Any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment. ()
19. **Fire Trail.** Access routes that are located and constructed in a manner to be useful in fire control efforts or fire spread deterrence in the hazard area. ()
20. **Fuel Quantity.** The diameter, number of stems and predominant species to be cut or already cut, and the size of the continuous thinning block, all of which determine quantity of fuel per unit of area. ()
21. **Ground-based Equipment.** Mobile equipment such as trucks, tractors, dozers, skidders, excavators, loaders, mechanized harvesters and forwarders used for forest practices. ()
22. **Habitat Types.** Forest land capable of producing similar plant communities at climax. ()
23. **Hazard.** Any vegetative residue resulting from a forest practice which constitutes fuel. ()
24. **Hazard Offset.** Improvements or a combination of practices which reduce the spread of fire and increases the ability to control fires. ()
25. **Hazard Points.** The number of points assigned to certain hazardous conditions on an operating area, to actions designed to modify those conditions or to actions by the operator, timber owner or landowner to offset those conditions on the same operating area. ()
26. **Hazard Reduction.** The burning or physical reduction of slash by treatment in some manner which will reduce the risk from fire. ()
27. **Lake.** A body of perennial standing open water, natural or human-made, larger than one (1) acre in size. Lakes include the beds, banks or wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, settling or gravel ponds. Any reference in these rules to Class I streams also applies to lakes. ()
28. **Large Organic Debris (LOD).** Live or dead trees and parts thereof that are large enough; or longer than the channel width or twenty (20) feet; or sufficiently buried in the stream bank or bed to be stable during high flows. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form. ()
29. **Noncommercial Forest Land.** Habitat types not capable of producing twenty (20) cubic feet of wood fiber per acre per year. ()
30. **Operating Area.** That area where a forest practice is taking place or will take place. ()
31. **Ordinary High Water Mark.** That mark on all water courses, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter. ()
32. **Outstanding Resource Water.** A high-quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, designated by the legislature. ORW constitutes as outstanding national or state resource that requires protection from nonpoint activities, including forest practices, which may lower water quality. ()
33. **Prescribed Fire.** The controlled application of fire to wildland fuels, in either their natural or modified state, under conditions of weather, fuel moisture and soil moisture that allow the fire to be confined to a predetermined area while producing the intensity of heat and rate of spread required to meet planned objectives. ()

34. **Present Condition of Area.** The amount or degree of hazard present before a thinning operation commences. ()
35. **Public Resource.** Water, fish, wildlife, and capital improvements of the State or its political subdivisions. ()
36. **Reforestation.** Establishment of an adequately stocked stand of trees of species acceptable to the Department to replace those removed by harvesting or a catastrophic event on commercial forest land. ()
37. **Relative Stocking.** A measure of site occupancy calculated as a ratio of actual stand density to the biological maximum density for a given forest type. This ratio, expressed as a percentage, shows the extent to which trees use a plot of forestland. This term was used in the Class I tree retention rule (030.07.e.ii) and has been replaced with Weighted Tree Count as described in the same rule. ()
38. **Relief Culvert.** A structure to relieve surface runoff from roadside ditches to prevent excessive volume and velocity. ()
39. **Slash.** Any vegetative residue three inches (3") or less in diameter resulting from a forest practice or clearing of land. ()
40. **Site.** An area with the combination of biotic, climatic, and soil conditions or ecological factors that create capacity for forest vegetation. ()
41. **Site Factor.** A combination of average slope and predominant aspect of the operating area which relate to rate of fire spread. ()
42. **Site-Specific Best Management Practice.** A BMP that is adapted to and takes account of the specific factors influencing water quality, water quality objectives, on-site conditions, and other factors applicable to the site where a forest practice occurs which has been approved by the Department or by the Board in consultation with the Department and the Forest Practices Advisory Committee. ()
43. **Size of Thinning Block.** Acres of continuous fuel creating an additional hazard within an operating area. Distance between the perimeter of thinning blocks containing continuous fuel must be a minimum of six (6) chains apart to qualify as more than one (1) block. ()
44. **Snags.** Dead, standing trees taller than twenty (20) feet. ()
45. **Soil Erosion.** Movement of soils resulting from forest practices. ()
46. **Soil Stabilization.** The minimizing of soil movement. ()
47. **Stream.** A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow. Any reference in these rules to Class I streams applies to lakes. ()
- a. Class I streams are important for the spawning, rearing or migration of fish. ()
- b. Class II streams are usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, consider streams as Class II where the total upstream watershed is less than two hundred forty (240) acres in the north forest region and four hundred sixty (460) acres in the south forest region. Their principal value lies in their influence on water quality or quantity downstream in Class I streams. ()
- c. Class I Stream Protection Zone (SPZ) means the area encompassed by a slope distance of seventy-five (75) feet on each side of the ordinary high water marks. (Figure 1.)

FIGURE 1
CLASS 1 STREAM PROTECTION ZONE

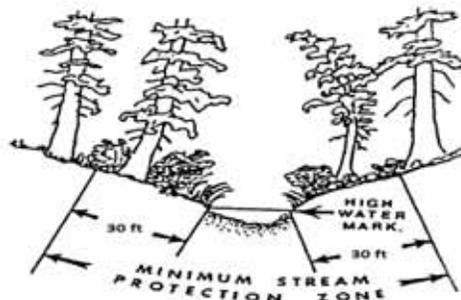


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d. Class II Stream Protection Zone (SPZ) means the area encompassed by a minimum slope distance of thirty (30) feet on each side of the ordinary high water marks. (Figure 2.) For Class II streams that do not contribute surface flow into Class I streams, a variance to this requirement may be requested. In no case will this width be less than five (5) feet slope distance on each side of the ordinary high water marks. Operators must provide for soil stabilization and water filtering effects by leaving undisturbed soils in widths sufficient to prevent washing of sediment.

FIGURE 2
CLASS II STREAM PROTECTION ZONE

CLASS II STREAM PROTECTION ZONE



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48. Time of Year of Forest Practice. Parts of a year assigned hazard points when the forest practice takes place. Points are: October through December - two (2) points; August through September - four (4) points; January through April - seven (7) points; May through July - ten (10) points. ()

49. Traction-Assisted Harvesting. Techniques that use winch systems to tether ground-based equipment to a stationary base for stabilizing and assisting steep-slope operation. Cable tension from the winch will be synchronized or automatically held constant. Enhanced traction for the equipment must minimize soil disturbance and risk of sediment delivery to streams. ()

50. Watershed Advisory Group. A formal group of citizens that provides the Idaho Department of Environmental Quality with local public input and guidance regarding specific watersheds during watershed analysis and BMP development. ()

011. ABBREVIATIONS.

01. BMP. Best Management Practices. ()

02. LOD. Large Organic Debris. ()

03. SPZ. Stream Protection Zone. ()

012. -- 019. (RESERVED)

020. GENERAL RULES.

01. Compliance. Operators must comply with practices contained within a rule to accomplish the purpose of the rule. ()

a. If conditions of sites or activities require application of practices which differ from those prescribed by the rules, the operator must obtain a variance according to the following procedure: ()

i. The operator must submit a written request for variance to the Department. The request must include a description of the site and particular conditions which necessitate a variance and a description of proposed practices which, if applied, will result in a violation of the rules. ()

ii. The Department will evaluate the request and notify the operator in writing within fourteen (14) calendar days whether the variance is granted or denied. ()

iii. All authorized variance practices must provide for results over the long term which are equivalent or better than those from rule to ensure site productivity, water quality and fish and wildlife habitat. A variance may be applied only at approved sites. ()

b. Practices must also be in compliance with the Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code); Idaho Water Quality Standards and Waste Water Treatment Requirements (Title 39, Chapter 1, Idaho Code); the Idaho Pesticide Law (Title 22, Chapter 34, Idaho Code), and the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code), and rules promulgated thereunder. ()

c. Water may be diverted from a stream and used at any time to carry out Idaho forest practices and for forest road dust abatement, provided that: 1) The total daily volume diverted is no greater than two-tenths (0.2) acre-feet (65,170 gallons) from a single stream; and 2) The rate of diversion is no greater than twenty-five percent (25%) of the rate of flow then available in the stream at the point of diversion for these purposes. ()

i. No person may, under this Section 020, divert water from an irrigation canal, irrigation reservoir, or other irrigation facility while water is lawfully diverted, stored, captured, conveyed, used or otherwise physically controlled by an irrigator, irrigation district or canal company. ()

ii. No person may, under this Section 020, divert water from a stream within a water district, or from

which an irrigation delivery entity diverts water, without first providing notice to the watermaster of the intent to divert. ()

iii. Water diversion intakes used for diversions under Subsection 020.01 must be screened with a maximum screen mesh size as follows: 1) fish-bearing Class I streams: 3/32 inch, and 2) all other streams: 1/4 inch. ()

d. Any alternative conservation measure having received a favorable Biological Opinion or Incidental Take Permit from the National Marine Fisheries Service or US Fish and Wildlife Service will be considered as complying with these rules. ()

02. Conversion of Forest Lands. Prior to converting forest lands to another use, the person converting the lands must file a written notification with the Department. These rules will continue to apply to the conversion and converting lands, except those relating to reforestation. On converted parcels larger than one (1) acre, acceptable vegetative cover sufficient to maintain soil productivity and minimize erosion must be planted. Cover must be established within one (1) year of forest practice completion, except that the Director may grant an extension of time if weather or other conditions interfere. Within three (3) years of forest practice completion, the Director will determine if the conversion has been accomplished by: ()

a. The presence or absence of improvements necessary for use of land for its intended purpose;()

b. Evidence of actual use of the land for the intended purpose. ()

c. If the conversion has not been accomplished within three (3) years of harvest completion, supplemental reforestation Subsection 050.06 applies. ()

03. Annual Review and Consultation. The Director will, at least annually, meet with other state agencies and the Forest Practices Advisory Committee and review recommendations for amendments to or repeal of these rules. He will then provide the Board a summary of any meetings, together with recommendations regarding these rules. ()

04. Consultation. The Director may consult with other state agencies where expertise from such agencies would be helpful or necessary. ()

a. These rules are approved best management practices under IDAPA 58.01.02, "Water Quality Standards." The Water Quality Standards describe a procedure for modifying the practices based on monitoring and surveillance. The Director will review petitions from Idaho Department of Environmental Quality for changes or additions to these rules and make recommendations for modification to the Board. ()

05. Notification of Forest Practice. ()

a. Before commencing a forest practice or a conversion of forest lands the operator must notify the Department as required in Paragraph 020.05.b. The notification may be provided by the timber owner or landowner. ()

b. The notification required by Paragraph 020.05.a. must be on forms provided by the Department, will identify each forest practice to be conducted, and include the name and address of the operator, timber owner, and landowner; the legal description of the operating area; whether the forest practice(s) borders an outstanding resource water and other information the Department considers necessary for administration of the rules. No forest practice may begin until the applicable notification is formally accepted by the Department. No later than fourteen (14) calendar days after formal acceptance of the notice, the Department will send a copy of the notice to the operator, timber owner, and landowner. ()

c. The operator, timber owner, or landowner that filed the original notification, must notify the Department of any subsequent change in information contained in the notice within thirty (30) calendar days of the change. No more than fourteen (14) calendar days from receipt of the notice, the Department will send a copy of the notice to the operator, timber owner, and landowner. ()

d. The notification is valid for the same period as the certificate of compliance under Section 38-122, Idaho Code. If the forest practice is continuing when the notification expires, the notification must be renewed using the same procedures provided for in this subsection. ()

e. If the notification required by Paragraph 020.05.a. of this subsection indicates that the forest practice will be continuing at the notification's expiration, the operator, timber owner, or landowner must notify the Department and obtain a renewal of the notification at least thirty (30) calendar days prior. No more than fourteen (14) calendar days from receipt of the request, the Department will send a copy of the renewed notification to the operator, timber owner, and landowner. ()

06. Notification Exception. A notification is required for all forest practices except: ()

a. Routine road maintenance, recreational uses, grazing by domestic livestock, cone picking, culture and harvest of Christmas trees on lands used solely for the production of Christmas trees, or harvesting of other minor forest products. ()

b. Non-commercial cutting and removal of forest tree species by a person for their own personal use. ()

c. Clearing forest land for conversion to surface mining or dredge and placer mining operations under a reclamation plan or dredge mining permit. ()

07. Emergency Forest Practices. No prior notification is required for emergency forest practices. Within forty-eight (48) hours after commencement of such practice, the operator, timber owner, or landowner must notify the Director and explain why emergency action was necessary. Such emergency forest practices are subject to the rules herein, except that the operator, timber owner, or landowner may take any reasonable action to minimize damage to forest lands, timber, or public resource from the direct or indirect effects of the catastrophic event. ()

08. Duty of Purchaser. Before purchasing, contracting to purchase or accepting delivery of a forest tree species harvested from forest lands in Idaho, the initial purchaser must receive and keep on file a copy of the notification of forest practice for the harvesting practice applicable to the acquired forest tree species. The notice must be available for inspection upon request by the Department at all reasonable times. ()

09. State Divided into Regions. For the purpose of administering the Act and these rules, the State is divided into two (2) forest regions: one (1) north of the Salmon River and one (1) south of the Salmon River. ()

10. Regions Divided into Forest Habitat Types. For administration purposes, the forest regions can be divided into Habitat Types. ()

021. -- 029. (RESERVED)

030. TIMBER HARVESTING.

01. Purpose. Harvesting of forest tree species is a part of forest management. This is how wood for human use is obtained and how forests are established and tended. During harvesting operations there will be a temporary disturbance to the forest environment. These rules establish minimum standards for forest practices that will maintain the productivity of the forest land, minimize soil and debris entering streams, and protect wildlife and fish habitat. ()

02. Quality of Residual Stocking. Reforestation is required if harvesting reduces stocking of acceptable trees below minimums of Subsection 050.04. ()

03. Soil Protection. For each harvesting operation, operators should select the logging method and type of equipment adapted to the given slope, landscape and soil properties in order to minimize soil erosion. ()

a. An operation that uses ground-based equipment must not be conducted if it will cause rutting, deep

soil disturbance, or accelerated erosion. On slopes exceeding forty-five percent (45%) gradient and which are immediately adjacent to a Class I or II stream, ground-based equipment, except for traction-assisted harvesting equipment, must not be used without an approved variance. Where slopes in the area to be logged exceed forty-five percent (45%) gradient, the operator, landowner or timber owner must notify the Department of these steep slopes upon filing the notification as provided for in Subsection 020.05. ()

b. The grade of constructed skid trails on geologically unstable, saturated, or highly erodible or easily compacted soils is limited to a maximum of thirty percent (30%). ()

c. In accordance with appropriate silvicultural prescriptions, keep skid trails to the minimum feasible width and number. Limit tractors used for skidding to that size appropriate for the job. ()

d. Uphill cable yarding is preferred. When downhill yarding, take reasonable care to lift the leading end of the log to minimize downhill movement of slash and soils. ()

04. Location of Landings, Skid Trails, and Fire Trails. Locate landings, skid trails, and fire trails on stable areas to prevent the risk of material entering streams. ()

a. Locate all new or reconstructed landings, skid trails, and fire trails on stable areas outside all SPZs. Locate fire and skid trails where sidecasting is held to a minimum. ()

b. Landing size is limited to that necessary for safe economical operation. ()

c. To prevent landslides, fill material used in landing construction must be free of loose stumps and excessive accumulations of slash. On slopes where sidecasting is necessary, stabilize landings by seeding, compacting, riprapping, benching, mulching or other suitable means. ()

05. Drainage Systems. Provide and maintain a drainage system for each landing, skid trail or fire trail that will control the dispersal of surface water to minimize erosion. ()

a. Stabilize skid trails and fire trails whenever they are subject to erosion, by water-barring, cross-draining, out-sloping, scarifying, seeding or other suitable means. Keep this work current to prevent erosion prior to seasonal runoff. ()

b. Reshape landings as needed to facilitate drainage prior to seasonal runoff. Stabilize all landings by establishing ground cover or other means within one (1) year after harvesting is completed. ()

06. Treatment of Waste Materials. Leave or place all debris, overburden, and other waste material associated with harvesting in a way that prevents their entry into streams. ()

a. Fell, buck, and limb trees, whenever possible, so that the tree or any tree parts fall away from Class I streams. Continuously remove slash that enters Class I streams because of harvesting operations. Continuously remove other debris that enters Class I streams because of harvesting operations whenever there is a potential for stream blockage or if the stream has the ability for transporting such debris. Place removed material five (5) feet slope distance above the ordinary high water mark. ()

b. Remove slash and other debris that enters Class II streams whenever there is a potential for stream blockage or if the stream has the ability for transporting the debris immediately following skidding and place removed material above the ordinary high water mark or otherwise treat as prescribed by the Department. No formal variance is required. ()

c. Deposit waste material from construction or maintenance of landings and skid and fire trails in geologically stable locations outside of the appropriate SPZ. ()

07. Stream Protection. During and after forest practice operations, protect stream beds and streamside vegetation to provide the most natural condition possible to maintain water quality and aquatic habitat. ()

a. Lakes require an approved site-specific riparian management prescription prior to conducting forest practices within the SPZ. ()

b. Prior to conducting forest practice operations that cross streams using ground-based equipment, install temporary or permanent structures adequate to carry stream flow; skidding or forwarding directly in or through streams or fords is not permitted. Minimize the number of stream crossings and make direct approaches to minimize ground disturbance in the SPZ. Remove all temporary crossings immediately after use and, where applicable, cross-drain the approaches. (Construction of hydraulic structures in stream channels is regulated by the Stream Channel Protection Act - Title 42, Chapter 38, Idaho Code, and Paragraphs 040.02.e. and 040.02.g.). ()

c. Operation of ground-based equipment is not allowed within the SPZ except at approaches to stream crossings. ()

d. When cable yarding is necessary, across or inside the SPZs, it must be done in a way that minimizes stream bank vegetation and channel disturbance. ()

e. Provide for LOD, shading, soil stabilization, wildlife cover and water filtering effects of vegetation along streams. ()

i. Leave shrubs, grasses, and rocks wherever they afford shade over a stream or maintain the integrity of the soil near a stream. Landowners are strongly encouraged to leave all trees immediately adjacent to streams. ()

ii. During commercial harvest within Class I SPZs, retain the following weighted tree count per one-hundred (100) linear feet of stream: ()

(1) Fifty-seven (57) north of the Clearwater/Lochsa Rivers; ()

(2) Forty-nine (49) between the Clearwater/Lochsa and Salmon Rivers; ()

(3) Forty-one (41) south of the Salmon River; and ()

(4) Thirty-seven (37) in drier forests with SPZs dominated by Douglas-fir and ponderosa pine. ()

(5) At least four (4) of the above weighted tree count must be retained in the outer twenty-five feet (25') of the SPZ. ()

iii. Calculate weighted tree count by multiplying the number of live conifers and hardwoods present in each diameter range by the weight below and then sum the results.

Diameter Range (inches)	4-11.9"	12-19.9"	20-27.9"	28-35.9"	≥36"
Weight	1	3	5	8	11

()

iv. Prior to and during harvest, cutting in any part of a given one hundred foot (100') Class I SPZ segment is only allowed if the weighted tree count in the inner fifty feet (50') of that segment is above: thirty-three (33) north of the Clearwater/Lochsa Rivers, twenty-eight (28) between the Clearwater/Lochsa and Salmon Rivers, twenty-three (23) South of the Salmon River, and twenty-one (21) in drier forests with SPZs dominated by Douglas-fir and ponderosa pine. Note that the combination of minimum values for the inner fifty feet (50') and outer twenty-five feet (25') do not meet the minimum for the SPZ segment; additional trees must be left in one or both areas to meet the rule. ()

v. To protect filtering and shade effects of streamside vegetation adjacent to all Class II streams

following harvesting and hazard management activities, retain live trees or establish new trees within thirty (30) feet on each side of the streams' ordinary high water mark to comply with the minimum stocking standards expressed in Subsection 050.04. ()

vi. During harvesting, carefully remove timber from the SPZ in such a way that LOD, shading and filtering effects are maintained and protected. When portions of harvested or naturally fallen trees land in or over a Class I stream, leave the portion consistent with the LOD definition of Subsection 010.28. When salvaging uprooted trees, leaving the section with the root ball attached is preferred. ()

vii. During harvesting operations, portions of felled or bucked trees not meeting the LOD definition must be removed, consistent with the slash removal requirements of Subsection 030.06. ()

viii. To obtain a variance from the tree retention requirements, the operator must develop a site-specific riparian management prescription and submit it to the Department for approval. The prescription should consider stream characteristics and the need for LOD, stream shade and wildlife cover which will achieve the objective of these rules. ()

ix. Stream width will be measured as average between ordinary high water marks. ()

f. Limit direct ignition of prescribed burns to hand piles within SPZs; all other direct ignitions must occur outside of SPZs, so a backing (cooler) fire will more likely occur within the SPZ. ()

i. Hand piles must be at least five (5) feet from the ordinary high water mark of streams. ()

ii. No mechanical piling of slash or natural forest fuels is allowed in an SPZ (an exception is filter windrows for erosion control which must not be ignited). ()

08. Maintenance of Productivity and Related Values. Design harvesting practices to assure the continuous growing and harvesting of forest tree species by suitable economic means and to protect soil, air, water, and wildlife resources. ()

a. Where major scenic attractions, highways, recreation areas or other high-use areas are located within or traverse forest land, give special consideration to scenic values by prompt cleanup and regeneration. ()

b. Give special consideration to preserving any critical aquatic or wildlife habitat, including snags, especially within SPZs. Wherever practical, preserve fruit, nut, and berry producing trees and shrubs. ()

c. Avoid conducting operations along or through bogs, swamps, wet meadows, springs, seeps, wet draws or other locations where the presence of water is indicated by associated vegetation; temporary crossings can be used as referred to in Paragraph 030.07.b. Protect soil and vegetation from disturbance which would cause adverse effects on water quality, quantity and wildlife and aquatic habitat. ()

d. Harvesting operations within a single ownership, in which essentially all trees have been removed in one operation, must be planned so that adequate wildlife escape cover (e.g., topography, vegetation, SPZs, etc.) is available within one-quarter (1/4) mile. ()

031. CUMULATIVE WATERSHED EFFECTS.

01. Purpose. In accordance with Section 38-1305(8), Idaho Code, the Department has developed methods for controlling cumulative watershed effects (CWE). The methods and procedures are described in the department manual entitled "Forest Practices Cumulative Watershed Effects Process for Idaho." Proper application of this process will help ensure watersheds are managed to protect water quality so that beneficial uses are supported. This rule describes how the process is to be implemented on forest land. ()

02. Process Application. ()

a. Application of the CWE process and any resulting site-specific BMPs are encouraged but not

mandatory. ()

b. The process may be initiated by either the Department, a watershed advisory group, or an individual landowner or group of landowners that collectively own at least twenty-five percent (25%) of the forested land in a watershed. In any case, a reasonable effort will be made to notify forest landowners within the watershed, and the landowners will be given the opportunity to participate in the process. ()

c. The Department must be notified prior to the initiation of the CWE process. ()

d. The Department will review and approve the watershed assessment and CWE site-specific BMPs for compliance with the Act. ()

03. Site-Specific BMP Implementation. Site-specific BMPs developed by a watershed advisory group are encouraged and applied on a voluntary basis. ()

032. -- 039. (RESERVED)

040. ROAD CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE.

01. Purpose. Provide standards and guidelines for road construction, reconstruction, and maintenance that will maintain forest productivity, water quality, and fish and wildlife habitat. ()

02. Road Specifications and Plans. Road specifications and plans must be consistent with good safety practices. Landowners and Operators should plan each road to the minimum use standards adapted to the terrain and soil materials to minimize disturbances and damage to forest productivity, water quality, fish, and wildlife habitat. In addition, landowners and operators must: ()

a. Plan transportation networks to avoid road construction within SPZs, except at approaches to stream crossings. Leave or reestablish areas of vegetation between roads and streams. ()

b. Plan roads no wider than necessary to safely accommodate the anticipated use. Minimize cut and fill volumes by aligning the road to fit the natural terrain features as closely as possible. Adequately compact fill material. Dispose of excess material on geologically stable sites. ()

c. Plan roads to drain naturally by out-sloping or in-sloping with cross-drainage and by grade changes where possible. Install dips, water bars, cross-drainage, or subsurface drainage on roads when necessary. ()

d. When natural drainage will not protect the surface, cut slopes or fill slopes, plan roads with relief culverts and roadside ditches. Install culverts to prevent erosion of the fill by properly sizing, bedding and compacting. Ensure drainage structures avoid direct discharge of sediment into streams. ()

e. This rule applies to new culvert installations, or reinstallations during road reconstructions or because of catastrophic events. Temporary culvert crossings are exempt from the fifty (50) year peak flow design requirement but must be removed before seasonal run-off. ()

i. Culverts in fish-bearing streams must provide for fish passage. ()

ii. Design stream crossings to carry the fifty (50) year peak flow using Department accepted engineering methods or the culvert sizing table below. Armor the inlet or use a flared inlet structure on thirty (30) inch or greater diameter culverts. The minimum diameter culvert allowed is eighteen (18) inches.

CULVERT SIZING TABLE

The left side of this culvert sizing table will be used for the area of the state north of the Salmon River and within the South Fork Salmon River drainage; the right side will be used for the area of the state south of the Salmon River and outside the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

North Forest Region and South Fork Salmon River Drainage			South Forest Region
Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)	Watershed Area (acres)
Ditch relief, seeps, springs, wet areas, draws	12	NA	Ditch relief, seeps, springs, wet areas, draws
less than 32	18	6	Less than 72
33 - 74	24	12	73-150
75 - 141	30	20	151-270
142 - 240	36	32	271-460
241 - 366	42	46	461-720
367 - 546	48	65	471-1025
547 - 787	54	89	1026-1450
788 - 1027	60	112	1451-1870
1028 - 1354	66	142	1871-2415
1355 - 1736	72	176	2416-3355
1737 - 2731	84	260	3356-5335
2732 - 4111	96	370	5336-7410
4112 - 5830	108	500	7411-9565
5831 - 8256	120	675	9566-11780

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures. ()

iii. Relief culverts, and those used for seeps, springs, wet areas, and draws must not be less than twelve (12) inches in diameter for permanent installations. ()

f. On existing roads that are not reconstructed or damaged by catastrophic events, landowners or operators are encouraged, but not required, to replace or provide mitigation for culverts that do not provide for fish passage in accordance with Subparagraph 040.02.e.i. or cannot carry the fifty (50) year peak flow of Subparagraph 040.02.e.ii. ()

g. Plan and install stream crossings in compliance with the Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code), Paragraph 030.07.b. and the culvert sizing requirements of Paragraph 040.02.e. Fords are acceptable stream crossing structures on small, shallow streams, with gradients less than four percent (4%). For fords: cross-drain and rock the road surface on each side of the stream for at least seventy-five (75) feet for Class I and at least thirty (30) feet for Class II streams; minimize sediment delivery to streams by limiting use to low water, dry, or frozen conditions; minimize hauling or equipment crossing trips during times of salmonid spawning and egg incubation. ()

h. Avoid reconstruction of existing roads located in SPZs, except for approaches to stream crossings, unless it will result in the least long-term impact on site productivity, water quality, and fish and wildlife habitat. Reconstruction of existing roads in SPZs requires a variance. Reusing existing roads in SPZs for skidding or landing logs requires a variance. Reusing existing roads in SPZs only for hauling fully suspended logs does not require a variance. ()

03. Road Construction. Landowners and operators must use the following practices to construct or reconstruct roads in a way that prevents debris, overburden, and other material from entering streams. ()

- a.** Construct roads in compliance with the planning guidelines of Subsection 040.02. ()
- b.** Clear all debris generated during construction or maintenance which potentially interferes with drainage or water quality. Deposit excess material and slash on geologically stable sites outside the SPZs. ()
- c.** Where sediments would enter streams, stabilize exposed material (road surface, cut slopes, fill slopes, borrow pits, waste piles, etc.) prior to seasonal runoff. Install supplemental stabilization measures such as seed and mulch, slash mats, or rock. Rock the road surface through the entire SPZ over Class I stream crossings. ()
- d.** Compact road fills. Minimize snow, ice, or frozen soil buried in embankments. Significant woody material is not allowed in fills, but slash may be used as a filter windrow along the fill toe in compliance with the Idaho Forestry Act and Fire Hazard Reduction Programs, Title 38, Chapters 1 and 4, Idaho Code. ()
- e.** During and following operations on out-sloped roads, retain out-slope drainage and remove berms on the outside edge, except those intentionally constructed for road grade fill protection. ()
- f.** Provide for drainage of quarries to prevent sediment from entering streams. ()
- g.** Construct cross-drains and relief culverts to minimize erosion. Use riprap, vegetative matter, downspouts, and similar devices to minimize erosion of the fill. Install drainage structures or cross-drain incomplete roads prior to seasonal runoff. If effective forest floor filtration is not available within SPZs, install supplemental filtration at drainage structure outlets or additional drainage structures outside SPZs to prevent road surface erosion from entering streams. ()
- h.** Postpone earthwork or material hauling during wet periods if erodible material would enter streams. ()
- i.** Remove or stabilize cut-slope material subject to sloughing concurrent with construction. ()
- j.** Construct full-bench roads, without fill slope disposal on slopes greater than sixty percent (60%) in unstable or erodible soils. ()

04. Road Maintenance. Landowners and operators must use the following practices for regular preventive maintenance operations to minimize disturbance and damage to forest productivity, water quality, and fish and wildlife habitat. ()

- a.** Place all debris or slide material associated with road maintenance in a manner to prevent their entry into streams. ()
- b.** Repair slumps, slides, and other erosion sources causing stream sedimentation to minimize sediment delivery. ()
- c.** Active forest roads are used for hauling forest products, rock and other road building materials. Conduct the following maintenance on active roads. ()
 - i.** Keep culverts and ditches functional. ()
 - ii.** Crown, out-slope, in-slope, or cross-drain road surfaces during and upon completion of seasonal operations. Remove berms from the outside edge except those intentionally constructed for protection of fills. ()
 - iii.** Maintain the road surface and postpone hauling during wet periods as necessary to minimize erosion of the subgrade and provide proper drainage. ()
 - iv.** Apply road-surface stabilizing materials in a way that prevents their entry into streams. ()

v. During active maintenance, ensure road surfaces within SPZs are sufficiently stabilized. Install supplemental filtration at drainage structure outlets within SPZs if effective forest floor filtration is not available. ()

d. Incidental haul roads are roads with a primary purpose other than forest practices that are used for hauling logs during active harvest. Active road maintenance requirements apply. Once active road maintenance is completed, no other maintenance is required under the Act. ()

e. Inactive forest roads are no longer used for commercial hauling, but maintained for access. Conduct the following maintenance on inactive roads. ()

i. When active use is over, clear ditches and culverts, crown, out-slope, in-slope, cross-drain or otherwise treat the road surface to minimize erosion. Maintain drainage structures as needed. ()

ii. The roads may be permanently or seasonally blocked to vehicle traffic. ()

f. Long-term inactive roads are forest roads that will not be used soon, but may be used again; no subsequent maintenance is required following completion of the practices below: ()

i. Out-slope, cross-drain, seed or treat the surface to control erosion. ()

ii. Block the road to vehicle traffic. ()

iii. The Department may require the removal of bridges, culverts, ditches and unstable fills. The landowner must maintain any bridges or culverts left in place. ()

g. Permanently abandoned roads are forest roads not intended to be used again. Remove all drainage structures and treat road surfaces to minimize erosion. ()

i. Restore stream gradients to their natural slope. ()

ii. Treat the road surface to break up compacted areas. ()

iii. Pull back fill slopes of roads within SPZs to a stable configuration unless long-term stability is evident. ()

iv. Pull back unstable side-hill fills to a stable configuration. ()

v. Control ditch-line erosion by cross-draining, out-sloping, or regrading to eliminate ditches. ()

vi. Stabilize soil exposed from regrading, ripping, and drainage removal by seeding, mulching, armoring, or other treatment. ()

05. Winter Operations. To minimize erosion and prevent damage to roads and constructed skid trails from winter logging, operators must implement the practices below: ()

a. Install adequate road drainage prior to winter operations using rolling dips, drivable cross-drains, open-top culverts, out slopes, or other methods. ()

b. Maintain roads to keep the surface drained during thaws or break up. This may require active maintenance of existing drainage, drain holes in snow berms, and installation of additional cross-drains or treatment of the road surface. ()

041. -- 049. (RESERVED)

050. RESIDUAL STOCKING AND REFORESTATION.

01. Purpose. To provide requirements for residual stocking and reforestation that will maintain a continuous growing and harvesting of forest tree species, and for sites not requiring reforestation, to maintain soil productivity and minimize erosion. The rules specify the minimum number of acceptable trees per acre and the maximum period of time allowed after harvesting for establishment of forest tree species. ()

02. Quality of Residual Stocking. On any operation, trees left for future harvest must be of acceptable species and adequately protected from harvest damage to enhance their survival and growth. Locate roads and landings and conduct felling, bucking, skidding, yarding, and decking operations to minimize damage to residual trees. Acceptable residual trees should have a minimum live crown ratio of thirty percent (30%), minimum basal scarring, and should not have dead or broken tops. When stands have a high percentage of unacceptable trees, consider stand replacement rather than intermediate cuttings. ()

03. Sites Impractical to Reforest. Sites impractical to reforest, generally ponderosa pine and drier Douglas-fir habitat types, must not be harvested below minimum stocking, unless the site is converted to some other use or, in instances of wildfire, insects, disease or other natural causes, where salvage of damaged timber is planned. ()

a. When harvesting timber on these sites, one (1) of the following actions must be taken to ensure minimum stocking: ()

i. Establish a new stand by leaving seed trees on the site and inter-planting at least once within five (5) years of harvest completion. ()

ii. Establish a new stand of timber by planting the site with an acceptable tree species, and inter-planting at least once within five (5) years of the original planting. ()

b. If the efforts listed above in a.i. and a.ii. do not provide the minimum stocking level, the landowner will be encouraged but not required to perform additional reforestation efforts. ()

04. Stocking. ()

a. Stocking is satisfactory immediately following harvest if the following number of acceptable trees per acre, within each specified region, for at least one (1) diameter range are reasonably well distributed over the area affected by harvesting. (NOTE: (1) DBH = Diameter (outside of the bark) of a tree four and one half (4.5) feet above mean ground level):

MINIMUM STOCKING - ACCEPTABLE TREES

Idaho Region	Diameter Range DBH (inches)	Average Number of Retained Trees Per Acre	Average Spacing (feet)
North	0" – 2.9"	170	16 x 16
South	0" – 2.9"	125	18 x 18
North	3.0" – 10.9"	110	19 x 19
South	3.0" – 10.9"	75	24 x 24
North	11.0" and greater	20	46 x 46
South	11.0" and greater	15	53 x 53

()

b. If the stand consists of retained trees of mixed diameter ranges reasonably well distributed over the harvested area and none of the diameter ranges individually equal or exceed the minimum trees per acre shown above, stocking is satisfactory if the weighted total of all of the diameter ranges of the retained trees exceeds a value of one hundred seventy (170) for a stand in the North Region and one hundred twenty-five (125) in the South Region.

Calculate the weighted total by multiplying the number of retained trees per acre in each diameter range by the weight below and then sum the results.

Diameter Range	Weight
0" – 2.9"	1
3.0" – 10.9"	1.6
11.0" and greater	8.4

()

c. Harvested stands which are not adequately stocked, as defined above, are subject to supplemental reforestation requirements specified in Subsection 050.06. ()

05. Reforestation Exemptions. ()

a. Reforestation is not required for: ()

i. Noncommercial forest land; ()

ii. Land converted to another use. This may include land converted to roads used in a forest practice; ()

iii. A forest practice which will result in ten (10) acres or less below minimum stocking levels. ()

b. On lands where reforestation is not being planned in accordance with Subsection 050.03, establish some form of grass or planted cover within one (1) year in order to maintain soil productivity and minimize erosion. ()

06. Supplemental Reforestation. Seeding and/or planting may be required if after three (3) growing seasons from the date of harvest, stocking levels do not meet the standards in Subsection 050.04. Complete required seeding and/or planting before the end of the fifth growing season following the time of harvest; the Director must grant an extension of time if suitable seeds or seedlings are not available or if weather or other conditions interfere. ()

a. Reforestation practices must ensure seedlings become established. This can be accomplished by adequate site preparation, using acceptable seed or seedlings, following accepted planting or sowing practices, or other suitable means. ()

b. The party responsible for reforestation is the landowner during the harvest which reduced stand stocking below the minimum levels stated in Subsection 050.04. ()

051. -- 059. (RESERVED)

060. USE OF CHEMICALS AND PETROLEUM PRODUCTS.

01. Purpose. Chemicals perform an important function in growing and harvesting forest tree species. These rules regulate chemical handling, storage and application for forest practices so that the public health and aquatic and terrestrial habitats will not be endangered by contamination of streams or other bodies of water. ()

02. Other Applicable Laws. Anyone mixing, loading, applying or otherwise using chemicals must comply with the applicable portions of state and federal law, including but not limited to the Pesticide and Chemigation Law, Title 22, Chapter 34, Idaho Code and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." ()

03. Petroleum Products. Stationary or mobile petroleum storage containers with capacities greater than two hundred (200) gallons must not be located closer than one hundred (100) feet from any waterway or area of

open water. Dikes, berms or embankments must be constructed to contain at least one hundred ten percent (110%) of the volume of petroleum products stored within the tanks. Diked areas must be sufficiently impervious and of adequate capacity to contain spilled petroleum products. In the event any leakage or spillage enters any waterway or area of open water, the operator must immediately notify the Department. ()

a. During fueling operations or petroleum product transfer to other containers, there must be a person attending the operation at all times. Fueling operations must not take place where the fuel will enter streams, lakes or other areas of open water, if spillage occurs. ()

b. Equipment and containers used to transport, store or transfer petroleum products must be maintained in a leakproof condition. If the Department finds evidence of petroleum product leakage or spillage, the equipment or containers may not be used until the deficiency has been corrected. ()

c. Waste resulting from logging operations, such as crankcase oil, filters, grease, oil containers, or other nonbiodegradable waste must be removed from the operating area and disposed of properly. ()

04. Equipment Maintenance. Equipment used to transport, store, or apply chemicals must be maintained in leakproof condition. If, the Department finds evidence of chemical leakage, the Department may suspend further use of that equipment until the deficiency has been corrected. ()

05. Mixing and Cleaning. ()

a. A person using water to mix chemicals must provide an air gap or reservoir between the water source and the mixing tank and use uncontaminated tanks, pumps, hoses and screens to handle and transfer mix water. ()

b. Chemicals may be mixed and tanks and equipment cleaned only where spills will not enter any water source. ()

i. Landing areas must be located where spilled chemicals will not enter any water source. ()

ii. Rinsate and wash water should be recovered and used for make-up water, be applied to the target area, or disposed of according to state and federal laws. ()

06. Aerial Application: ()

a. With the exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide leave at least one (1) swath width (minimum one hundred (100) feet) untreated on each side of all Class I streams, flowing Class II streams and other areas of open water. When applying pelletized fertilizer, leave a minimum of fifty (50) feet untreated on each side of all Class I streams, flowing Class II streams, and other areas of open water. ()

b. Use a bucket or spray device capable of immediate shutoff. ()

c. Shut off chemical application during turns and over open water. ()

07. Ground Application with Power Equipment. ()

a. With exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide, leave at least twenty-five (25) feet untreated on each side of all Class I streams, flowing Class II streams and areas of open water. ()

b. When applying fertilizer, leave at least ten (10) feet untreated on each side of all streams and areas of open water. ()

08. Hand Application. ()

- a. Apply only to specific targets, such as a stump, burrow, bait, or trap. ()
- b. Keep chemicals out of all water sources or streams. ()
- 09. Limitations on Applications.** ()
- a. Chemicals must be applied in accordance with all limitations and instructions printed on the product registration labels, supplemental labels, and others established by regulation of the Director. ()
- b. Do not exceed allowable rates. ()
- c. Prevent direct entry of chemicals into any water source or stream. ()
- 10. Daily Records of Chemical Applications.** ()
- a. When pesticides are applied on forest land, the operator must maintain a daily record of spray operations which includes: ()
- i. Date and time of day of application. ()
- ii. Name and address of owner of property treated. ()
- iii. Purpose of the application. ()
- iv. Contractor's name and applicator's or pilot's name. ()
- v. Location of project (section, township, range and county). ()
- vi. Air temperature (hourly). ()
- vii. Wind velocity and direction (hourly). ()
- viii. Pesticides used including trade or brand name, EPA product registration number, mixture, application rate, carrier used and total amounts applied. ()
- b. Whenever fertilizers or soil amendments are applied, the operator must maintain a daily record of such application which includes Subsection 060.10 and the name of the fertilizer or soil amendment and application rate. ()
- c. The records required in Subsection 060.10 must be maintained in compliance with the record-keeping requirements of IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." ()
- d. All records required in Subsection 060.10 must be retained for three (3) years. ()
- 11. Container Disposal.** Chemical containers must be: cleaned and removed from the forest and disposed of in a manner approved by the Director in accordance with applicable local, state and federal regulations; or removed for reuse in a manner consistent with label directions and applicable regulations of a state or local health department. Open burning of containers is prohibited. ()
- 12. Spills.** In the event of a spill: ()
- a. All chemical accidents and spills must be reported immediately to the Director. ()
- b. Appropriate procedures must be taken immediately to control the spill source and contain the released material. ()

c. The applicator must collect, remove, and dispose of spilled material in accordance with applicable local, state and federal law and in a manner approved by the Director. ()

13. Misapplications. Whenever chemicals are applied to the wrong site or pesticides are applied in a manner inconsistent with the product label, the applicator must report those misapplications immediately to the Director. ()

061. -- 069. (RESERVED)

070. SLASHING MANAGEMENT.

01. Purpose. To provide for slashing and fire hazard management resulting from harvesting, forest management, forest tree species improvement, or defoliation caused by chemical applications necessary to protect reproduction and residual stands, reduce risk from fire, insects and disease or optimize the conditions for future forest tree species regeneration and to maintain air and water quality, fish and wildlife-habitat. ()

02. Commercial Slash. Fuels and debris resulting from a forest practice involving removal of a commercial product must be managed as set forth in the Idaho Forestry Act, Title 38, Chapters 1 and 4, Idaho Code and the rules and regulations pertaining to forest fire protection. ()

03. Non-Commercial Slash. Fuels and debris resulting from a forest practice where no commercial product is removed must be managed in a manner as hereinafter designated under authority of the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. ()

a. Within ten (10) days or a time mutually agreed upon following receipt by the Department of the "Notification of Forest Practice" as provided in Subsection 020.05, the Department will make a determination of the potential fire hazard and hazard reduction and/or hazard offsets, if any, needed to reduce, abate or offset the fire hazard. This determination will be based on a point system found in Paragraph 070.03.e. ()

b. The operator, timber owner and landowner will be notified in writing of the determination and of the hazard reductions and/or hazard offsets, if any, that must be accomplished by the operator, timber owner or landowner. The notification will specify a reasonable time period not to exceed twelve (12) months from the date the forest practice commenced the hazard reduction completion and will specify the number of succeeding years that on site improvements or extra protection must be provided. ()

c. A release of all obligations under Subsection 070.03 will be granted in writing when the hazard reduction and/or hazard offsets have been accomplished. When hazard offsets are to be accomplished during succeeding years, the release will be conditioned upon the completion of the required hazard offsets. Notification of release will be mailed to the operator, timber owner and landowner within seven (7) days of inspection by the Department. Inspections by the Department will be made within ten (10) days of notification by the operator, timber owner or landowner unless otherwise mutually agreed upon. ()

d. If the Department determines upon inspection that the hazard reduction or hazard offsets have not been accomplished within the specified time limit, the Department may grant extensions of time, each not to exceed three months, if the Director determines that a diligent effort has been made and that conditions beyond the control of the party performing the hazard reduction or hazard offsets prevented completion. If an extension is not granted the Department will proceed as required in Section 38-1307, Idaho Code (Idaho Forest Practices Act). ()

e. For the purpose of determining the potential fire hazard and the appropriate hazard reduction and/or hazard offsets, the Department will use a point system with the following rating guides. A value of eighty (80) points or less for any individual forest practice under Subsection 070.03, as determined by the Department, will be sufficient to release the operator, timber owner and landowner of all further obligations under Subsection 070.03. Total points of the proposed forest practice will be determined from Tables I and II. If the total points are greater than eighty (80), modification of the thinning practice to reduce points may be made as determined by Tables I and II, slash hazard offsets may be scheduled to reduce points as determined by Table III or a combination of these options may be used to reduce the hazards to a point total of eighty (80) or less. Consideration will be given to the operator's, timber owner's and landowner's preference in selecting the options to reduce the points to eighty (80) or less.

TABLE I – HAZARD POINTS											
Hazard Points for Ponderosa Pine, Western Red Cedar or Western Hemlock											
Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	3	3	4	5	6	7	9	10	16
2	3	6	9	13	16	22	25	30	36	42	51
3	7	16	25	32	38	46	51	52	56	59	
4	9	22	32	40	50	52	54	56	60		
5	13	28	40	51	54	56	59	60			
6	19	36	51	54	58	60	60				
Hazard Points for Douglas Fir, Grand Fir or Engelmann Spruce											
Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	3	4	6	7	8	9	13	16	22
2	4	7	13	16	22	28	32	36	42	50	54
3	8	19	28	36	44	51	53	54	58	60	
4	10	25	36	46	51	54	57	59	60		
5	16	32	46	52	56	59	60	60			
6	22	40	52	56	60	60	60				
Hazard Points for Western Larch, Lodgepole Pine or Western White Pine											
Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	2	3	4	4	5	6	8	9	13
2	3	6	8	11	16	19	22	28	32	38	48
3	6	16	25	32	38	46	51	52	56	59	
4	8	16	28	36	44	50	52	54	58		
5	9	22	32	42	50	53	55	57			
6	13	28	40	50	53	56	59				

TABLE II - HAZARD POINTS WORKSHEET

HAZARD CHARACTERISTICS

HAZARD POINTS

Fuel Quantity

Hazard points from Slash Hazard Table I 1/

Record number of trees/acre to be cut _____
 Average D.B.H. _____
 Predominant species _____

	Size of thinning block			
Points	0 - 15	16 - 30	31 - 45	46 - 60 1/
Acres	20	20 - 40	40 - 80	80

Site Factor

Record Slope _____ % Aspect _____
 Determine points from table below 1/

ASPECT	PERCENT SLOPE			
	0 - 19	20 - 39	40 - 59	60
E or NE	0	5	10	20
E or NW	0	5	10	30
W or SE	0	10	30	40
S or SW	0	20	40	60
1/	Max. 60 points			

Other Factors	
Condition of operating area before forest practice commences	0 - 20 points
Condition of adjoining area	0 - 20 points
Presence of snags and culls	0 - 5 points
Deterioration rate of slash	0 - 5 points
Time of year forest practice operation	10 points
October thru December	2 points
August thru September	4 points
January thru April	7 points
May thru July	10 points
TOTAL FOREST PRACTICE AREA POINTS	(Max. 240 points)

TABLE III - HAZARD OFFSETS

Offsets	Hazard Point Deductions
Physical Changes to the Hazard (1)	
(1) Points will be proportional to the amount of hazard disposed of or modified.	
Disposal by burning or removal.	0 - 160
Modification by reducing depth through crushing, chipping or lopping.	0 - 60
On Site Improvements	
Condition of main access road to forest practice area should allow movement of heavy trucks without difficulty.	0 - 5
Access control to forest practice area provided by closure to public traffic.	0 - 5
Availability of water for tankers within one mile of forest practice area or within three miles for helicopter bucket use. Water supply to be sufficient to supply at least fifty thousand (50,000) gallons.	0 - 15
Buffer zones of unthinned areas at least two chains in width between roadways and thinned areas.	0 - 10
Fuel breaks with slash hazard removal around and/or through forest practice area, located so as to provide optimum fire control effect and of two to four chains in width.	0 - 25
Fire trails with fuel removed to expose mineral soil to a width of twelve (12) feet. Maximum points allowed if combined with a fuel break.	0 - 15
Extra Protection	
Increased attack capability such as retardant availability, increased attack manpower and equipment. Must be in addition to regular forces normally available during the fire season.	0 - 40
Fire detection and prevention increased beyond that normally available for lands in the fire protection district.	0 - 15
Initial attack time based on proximity of forest practice area to initial attack forces.	0 - 5
Landowner protection plan which would provide extra fire protection on a voluntary basis such as extra equipment and/or manpower.	0 - 5

()

071. PRESCRIBED FIRE.

01. Purpose. Prescribed fire is a land management tool. Smoke from prescribed fires can have adverse impacts on ambient air quality or public health. These rules establish a management system for smoke from prescribed fires that will protect air quality. ()

02. Notification. The use of prescribed fire requires a valid notification in accordance with Subsection 020.05 to maintain air quality and to protect public health. Possession of a valid notification will not preclude meeting the fire safety requirements specified in Section 38-115, Idaho Code. ()

03. Recommended Practices. To maintain air quality and protect public health the following practices are recommended: ()

- a. Slash and large woody debris piles should be compact and free of stumps, soil, snow, and

nonwoody organic material. ()

b. Piles should be fully cured, dried at least two (2) months, prior to ignition. Piles should be at least partially covered with a water-resistant material so they can be ignited after enough precipitation to lower the fire danger. ()

c. Broadcast burns should be conducted within a prescription that minimizes adverse effects on air quality. ()

d. Membership in good standing in a recognized Airshed Group is encouraged. ()

072. -- 999. (RESERVED)

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

DOCKET NO. 26-0000-2100

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2022 Idaho State Legislature for final approval. The pending rule becomes final and effective upon 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, or 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 67-4223, 67-4238, 67-7001, 67-7002, 67-7008A, 67-7103, 67-7122, 67-7125, and 67-7132, 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 pending rule adopts and publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 26, rules of the Department of Parks and Recreation:

IDAPA 26

- 26.01.03, *Rules Governing Recreational Registration Program Vendors*;
- 26.01.21, *Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park*;
- 26.01.22, *Rules Governing Cooperating Associations*;
- 26.01.24, *Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds*;
- 26.01.30, *Idaho Safe Boating Rules*;
- 26.01.31, *Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds*;
- 26.01.34, *Idaho Protection Against Invasive Species Sticker Rules*; and
- 26.01.37, *Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles*.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the October 20, 2021, Special Edition of the Idaho Administrative Bulletin, [Vol. 21-10SE, pages 3854-3888](#). This amendment to 26.01.31 removed the reference to a nonexistent section and replaced it with the proper reference. The following definitions of 26.01.31 were updated:

07. Grant. A grant from programs or funds as described in Section 050 of this chapter.

08. Grantee. An applicant who receives a grant from the Department for the programs or funds as described in Section 050.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Seth Hobbs, (208) 514-2427.

Dated this 22nd day of December, 2021.

Seth Hobbs, Rules Review Officer
Idaho Department of Parks and Recreation
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THE FOLLOWING NOTICE PUBLISHED WITH THE OMNIBUS PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4223, 67-4238, 67-7001, 67-7002, 67-7008A, 67-7103, 67-7122, 67-7125, and 67-7132, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 26, rules of the Department of Parks and Recreation:

IDAPA 26

- 26.01.03, *Rules Governing Recreational Registration Program Vendors;*
- 26.01.21, *Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park;*
- 26.01.22, *Rules Governing Cooperating Associations;*
- 26.01.24, *Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds;*
- 26.01.30, *Idaho Safe Boating Rules;*
- 26.01.31, *Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds;*
- 26.01.34, *Idaho Protection Against Invasive Species Sticker Rules;* and
- 26.01.37, *Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles.*

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rule(s) being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Seth Hobbs, (208) 514-2427.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

Substantive changes have been made to the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

THE FOLLOWING IS THE TEXT OF OMNIBUS PENDING DOCKET NO. 26-0000-2100

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.03 – RULES GOVERNING RECREATION PROGRAMS

000. LEGAL AUTHORITY.

The Parks and Recreation Board, State of Idaho, acting pursuant to the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and its powers and responsibilities under the Parks and Recreation Act, Title 67, Chapter 42, Idaho Code, adopted the following rules. These rules are promulgated under the Department’s authority to administer the following Acts: Recreational Activities, Sections 67-7101 through 67-7133, Idaho Code, and Idaho Safe Boating Act, Section 67-7001 et seq., Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter are cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.03, “Rules Governing Recreation Programs.” ()

02. Scope. These rules are intended to set forth the procedures for vendors to apply to sell Recreation Program products and the formula for off-highway vehicle law enforcement fund distribution. ()

002. -- 009. (RESERVED)

010. DEFINITION OF TERMS.

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

02. Memorandum of Agreement. A contract between the Department and the Vendor. ()

03. Payment in Lieu of Taxes. The Payments in Lieu of Taxes (PILT; 31 U.S.C. §§6901-6907) program provides compensation for certain tax-exempt federal lands, known as entitlement lands. PILT payments are made annually to units of general local government – typically counties – that contain entitlement lands. ()

04. Recreation Program Products. Products include, but are not limited to, certificates of number, permits, user certificates, and stickers. ()

05. Vendor. Any business or agency authorized to sell products. ()

011. – 099. (RESERVED)

100. CRITERIA FOR APPLYING FOR VENDORSHIP.

A prospective vendor may apply to sell one (1) or more types of products. A prospective vendor may make a request to the Department at any time by phone, mail, or in person to receive a copy of the applicable vendor Memorandum of Agreement. The Memorandum of Agreement must be signed and returned to the Department for approval. ()

101. – 199. (RESERVED)

200. NOTIFICATIONS AND TIME LIMITS.

01. Action on Application. The Department must provide written notification within thirty (30) days following receipt of a signed memorandum of agreement as to the approval or denial of same. This decision for approval or denial is based on the ability of the business or agency to sell recreation program products. ()

02. Notification. If approved, a fully executed copy of the vendor memorandum of agreement will be returned to the vendor. If denied, notification will outline reasons for such denial. ()

201. -- 499. (RESERVED)

500. OFF-HIGHWAY LAW ENFORCEMENT FUND DISTRIBUTION FORMULA.

01. Formula. As set forth in Section 7126, Idaho Code, the Department distributes the funds in the off-highway vehicle law enforcement fund based on the following formula: ()

- a.** Total federal acres with reference to the Payments in Lieu of Taxes (PILT) number for each eligible county minus large tracts of land not open to off-highway vehicle use. The result is the total off-highway vehicle opportunity on federal public land for that county. ()
- b.** Calculate the percentage of the total off-highway vehicle opportunity on federal public land for each eligible county as compared to the entire state. ()
- c.** Multiply this percentage by zero point six (0.6) to get sixty percent (60%) of the value. ()
- d.** Calculate the percentage of off-highway vehicle certificate of number designations for each eligible county as compared to the entire state. ()
- e.** Multiply this percentage by zero point four (0.4) to get forty percent (40%) of the value. ()
- f.** Add the sixty percent (60%) value from the total off-highway vehicle opportunity on federal public land to the forty percent (40%) value of the off-highway vehicle certificates of number. This total will be the percentage of the off-highway vehicle law enforcement funds for which the individual county is eligible. ()

501. -- 999. (RESERVED)

**26.01.21 – RULES GOVERNING LEASING PRACTICES AND PROCEDURES
FOR RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK**

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho Park and Recreation Board pursuant to Idaho Code, Section 67-4223 and are intended to further define and make specific Idaho Code, Section 67-4223 as it pertains to the administration of recreational residence site leases within Heyburn State Park. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.21, “Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park.” ()

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration of recreational residence site leases within Heyburn State Park. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. ()

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

03. Director. The director and chief administrator of the Department, or the designee of the director. ()

04. Lease. The contract defining the rights and duties of the parties regarding a recreational residence site within Heyburn State Park. ()

05. Lease Payment. The annual fee paid by a Lessee to the Lessor. ()

06. Lessee. A person who holds a valid lease for a recreational residence site within Heyburn State Park. ()

07. Lessor. The Board or it’s authorized representative. ()

08. Recreational Residence Site. A particularly described parcel of real property, located within Heyburn State Park and owned by the Department, which has been made available to private individuals through a lease for the purpose of constructing and maintaining a recreational residence. ()

011. -- 049. (RESERVED)

050. LEASE TERM.

01. Cottage Site Leases. Leases are issued for a term not to exceed ten (10) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. ()

02. Float Home Moorage Site Leases. Lease of a float home moorage site may be issued for a period of up to thirty (30) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. ()

051. -- 069. (RESERVED)

070. RENEWAL.

No lease may include any right of renewal, whether expressed or implied. ()

071. -- 089. (RESERVED)

090. LEASE RATES.

01. Base Rates. Base lease rates are set so as to provide the Department a reasonable return based upon the fair market value of the lease site. ()

02. Lease Rate Adjustments. The lease provides for annual adjustments. ()

091. -- 109. (RESERVED)

110. OCCUPANCY.

01. Recreational Occupancy. With the exception of those leases that have been grandfathered for full-time occupancy, the leased premises may be used solely for recreational residential purposes. Use may be intermittent or seasonal but in no event may the residence be occupied in excess of six (6) months in any twelve (12) consecutive months or more than one hundred eighty five (185) days in any three hundred sixty five (365) day cycle. ()

02. Full-Time Occupancy. Leases that have been grandfathered for full-time occupancy revert to recreational residential purposes when they are transferred, whether by gift, sale, or devise. ()

111. -- 129. (RESERVED)

130. USE.

01. Commercial Use Prohibited. Leased premises may not be used for commercial purposes. This includes, but is not limited to, short- or long-term rental for profit, and the conduct of any enterprise of a commercial nature. ()

02. Public Use. Heyburn State Park is a public facility that is managed for the use and benefit of the public. Recreational residence leases reserve to the Department and its agents the right of ingress and egress across lease premises. Recreational residence leases preserve the right of the general public to cross the leased premises for any lawful purpose. ()

131. -- 999. (RESERVED)

26.01.22 – RULES GOVERNING COOPERATING ASSOCIATIONS

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 make specific Section 67-4238, Idaho Code, which deals with establishment of cooperating associations. ()

001. -- 009. (RESERVED)

010. DEFINITIONS.

When used in these rules, the terms set forth below have the following definitions: ()

01. Agreement. A written document between the association and the Department which defines a specific facility, terms, and conditions of operation to which both parties agree. ()

02. Cooperating Association. Any private, nonprofit organization that enters into an agreement with the Department to aid the interpretive, educational, and related visitor service activities of a state park facility in which the cooperating association is authorized to function. ()

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

04. Director. The director of the Idaho Department of Parks and Recreation or his designee. ()

05. State Park Facility. A structure or area within an Idaho state park, the entire state park, state park region or state park system. ()

011. -- 049. (RESERVED)

050. PURPOSE OF COOPERATING ASSOCIATIONS.

01. Generally. The purpose of a cooperating association is to assist the Department at a local, regional, or statewide level to enhance the interpretive, educational, and/or related visitor services activities. ()

02. Authorized Organizations and Activities. The Department may enter into agreements with private nonprofit scientific, historic or educational organizations for the purpose of providing interpretive services to state park facilities in Idaho. Said associations may provide such services as educational or interpretive material for sale; acquire display materials and equipment for exhibits; provide support for park interpretive programs or environmental education programs; support park facility libraries; provide support for other interpretive projects related to a specific park facility; provide fund raising activities within the park facility; or other specifically approved activities. All proposed services or activities must receive approval of the director prior to the activity taking place. ()

051. -- 099. (RESERVED)

100. CRITERIA FOR COOPERATING ASSOCIATIONS.

01. Number Limited. No more than one (1) association may be created on behalf of any park. ()

02. Requirements. Associations are encouraged to incorporate under the laws of the state of Idaho and to attain nonprofit, tax-exempt status under provisions of Section 501(c)3 of the federal Internal Revenue Service tax code, but it is neither a requirement nor a responsibility of the Department. Requirements of an association are that they have, as a minimum, a chairman, vice-chairman, secretary and treasurer, who may also serve on the board of directors of the association. Each association determines the number of association board members. Summary minutes of official association meetings must be forwarded to the Department within thirty (30) days after the meeting. A department representative, designated by the director, is an ex-officio member of the board. Association membership dues may be established by the association. ()

101. -- 149. (RESERVED)

150. DEPARTMENT ASSISTANCE TO ASSOCIATIONS.

If the association desires, the Department, in its discretion, may provide assistance to the association on an incidental basis. The Department may provide space at a state park facility for the interpretive materials provided by the

association. ()

151. -- 199. (RESERVED)

200. AGREEMENT REQUIRED/PRIOR APPROVAL OF ACTIVITIES REQUIRED.

An agreement must be signed between officials of the association and the Department prior to an association undertaking activities enumerated under Subsection 050.02 of this chapter. Agreements signed by officials of the association and the Department are binding on successor officers of the association and the Department. Association activities at a park may not conflict with park resources or objectives, must comply with all applicable statutes, rules and regulations, and are subject to prior approval of the director. Decisions of the director are deemed to be a final decision. ()

201. -- 249. (RESERVED)

250. DISPOSITION OF ASSETS AND PROFITS.

01. Profits to Benefit Park Facilities. Any profits received from the sale of publications or other materials provided by an association pursuant to an agreement entered into under these rules must be used by the association for interpretive or educational purposes to benefit the state park facility for which the association provides services. ()

02. Dissolution of Association. In the event that the association disbands, dissolves, or the agreement between the association and the Department is terminated for any reason whatsoever, all profits that have accrued to the association as a result of the association/Department agreement must be donated to the Department. The Department will use such assets or profits for interpretive and educational purposes at the designated state park facility. ()

251. -- 299. (RESERVED)

300. ACCOUNTABILITY.

01. Annual Statements Required. An annual financial statement of the association must be prepared and presented to the department director by May 1 of each year. ()

02. Department Not Liable. In no event will the Department be held liable for any debts incurred by the association. ()

301. -- 349. (RESERVED)

350. TERMINATION.

An agreement between an association and the Department may be terminated upon thirty (30) days written notice by either party to the other at the address for "Notices" listed in the agreement. ()

351. -- 999. (RESERVED)

26.01.24 – RULES GOVERNING THE ADMINISTRATION OF THE SAWTOOTH NATIONAL RECREATION AREA SPECIAL LICENSE PLATE FUNDS

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.24, “Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds.” ()

02. Scope. This chapter establishes procedures for the administration of the Sawtooth National Recreation Area special plate funds, received pursuant to Section 49-419A, Idaho Code, including requirements for project application, eligibility, review, award and management. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Applicant. A public entity, user group, organization, or individual that identifies a need for a project and applies for a sawtooth national recreation area special license plate fund grant through the Department. ()

02. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. ()

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

04. Director. The director and chief administrator of the Department or the designee of the director. ()

05. Park and Recreation Fund. That fund created in Section 67-4225, Idaho Code. ()

06. Project. Any effort in compliance with applicable rules and policies governing the use of Sawtooth National Recreation Area special license plate funds. ()

07. Sawtooth National Recreation Area (SNRA) Special License Plate Funds. Those funds derived from the sale and purchase of Sawtooth National Recreation Area special license plates pursuant to Section 49-419A, Idaho Code. ()

011. -- 049. (RESERVED)

050. ELIGIBLE APPLICANTS FOR SAWTOOTH NATIONAL RECREATION AREA SPECIAL LICENSE PLATE FUNDS.

Any public entity or private group, organization or individual which provides evidence of its ability to implement or operate and maintain the project following the completion of the project. ()

051. -- 099. (RESERVED)

100. ELIGIBLE PROJECTS.

01. Determination of Eligibility. The director determines eligibility of projects in accordance with Section 49-419A, Idaho Code, and this chapter. ()

02. Eligible Projects. Eligible projects are limited to planning, design, development, construction, repair and maintenance of: ()

a. Motorized and non-motorized trails; ()

b. Camping facilities; ()

- c. Bridges located on a motorized or non-motorized trail; ()
- d. Restrooms used primarily by recreationists; ()
- e. Parking areas used primarily to access outdoor recreation facilities; ()
- f. Boat launch facilities; ()
- g. Boat docks; ()
- h. Interpretive centers, facilities and services for recreationists including informational and directional signs; ()
- i. Emergency medical facilities and services for recreationists; and ()
- j. Unpaved roads leading to recreation areas. ()

03. Location of Eligible Projects. All eligible projects must be located within the SNRA and must be open to the public regardless of race, color, religion, national origin, gender, age or disability. ()

101. -- 149. (RESERVED)

150. APPLICATION PROCEDURES.

To be considered for a grant, an applicant must file with the Department a memorandum of understanding in a form prescribed by the director and bearing original signatures no later than January 1 of each year. ()

151. -- 199. (RESERVED)

200. DISBURSEMENT OF FUNDS.

The Department will remit to the applicant at least eighty-five percent (85%) of all moneys collected pursuant to Section 49-419A, Idaho Code, not later than January 25, April 25, July 25 and October 25 of each year. The Department retains up to fifteen percent (15%) to cover costs related to the administration of this chapter. ()

201. -- 249. (RESERVED)

250. EXPENDITURE OF FUNDS.

The applicant must expend all funds received pursuant to this chapter within two (2) years of receipt. ()

251. -- 299. (RESERVED)

300. RETURN OF FUNDS.

Any funds required by these rules to be returned from the applicant to the Department will be credited to the park and recreation account and disbursed on or before the dates provided in Section 150 of this chapter. ()

301. -- 349. (RESERVED)

350. DOCUMENTATION.

01. Allowable Costs. Applicable Office of Management and Budget (OMB) cost principles must be followed in determining reasonable and allowable costs. ()

02. Documentation and System of Internal Controls. The applicant must maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs by project. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. ()

03. Record Retention. The applicant must retain all financial information referenced in these rules

regarding a project for a time period of three (3) years from the date of the receipt of funds, or until the satisfactory completion of any litigation or audit concerning the project, whichever date is later. ()

04. Audit Authority. The Department has the right of access to any pertinent books, documents, papers, or other records of applicant which are pertinent to these rules, in order to make audits, examinations, excerpts, and transcripts. An audit may result in the disallowance of costs incurred by the applicant and the establishment of a debt (account receivable) due the Department. ()

351. -- 399. (RESERVED)

400. MAINTENANCE STANDARDS.

The applicant must ensure facilities developed, constructed or repaired with SNRA special license plate funds are maintained and operated in a condition equivalent to that existing when it was funded, normal wear and tear excepted. Maintenance standards must be adopted by the applicant during the application phase of the grant. ()

401. -- 449. (RESERVED)

450. PROJECT CONVERSIONS.

No project funded by SNRA special license plate funds may, without prior approval of the Department, be converted to uses other than for the authorized purpose of the original grant. The Department must approve a conversion only when the SNRA special license plate funds expended on the project can be returned to the Department, or the applicant can provide an immediate substitution of other projects of at least equal current fair market value and of reasonable equivalent usefulness and location. ()

451. -- 499. (RESERVED)

500. PURCHASE AND BIDDING REQUIREMENTS.

All local, state and federal laws pertaining to the expenditure of SNRA special license plate funds must be followed by the applicant. ()

501. -- 999. (RESERVED)

26.01.30 – IDAHO SAFE BOATING RULES

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.30, “Idaho Safe Boating Rules.” ()

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. Duly Constituted Water Ski School. A profit-making business that files Idaho income tax returns in accordance with the Idaho Income Tax Act (Title 63, Chapter 30, Idaho Code) substantiating that instruction of water ski students for the making of a profit is or was being performed by the instructor. ()

02. Lifeboat. A vessel that: ()

a. Is owned by the owner of a vessel for which a valid certificate of number has been issued; ()

b. Is kept with the numbered vessel during normal operation of the numbered vessel; and ()

c. Is used solely in life threatening situations. ()

03. Motorboat. Any vessel propelled by machinery, which is powered by an energy source other than human effort, whether or not such machinery is the principal source of propulsion. ()

04. Sailboat. Any vessel equipped with mast(s) and sail(s), dependent upon the wind to propel the vessel in the normal course of operation of the vessel. ()

05. Sailboard. A surfboard type sailboat with no freeboard and using a triangular sail on a swivel mounted mast not secured to a hull by guys or stays. ()

06. Tender. A vessel equipped with propulsion machinery of less than ten (10) horsepower that: ()

a. Is owned by the owner of a vessel for which a valid certificate of number has been issued; ()

b. Displays the number of that numbered vessel followed by the suffix “1”; and ()

c. Is used for direct transportation between the numbered vessel and the shore and for no other purpose. ()

07. Watercraft. Those devices designed as a means of transportation on water. The following devices are not considered watercraft: ()

a. Diver’s aids operated and designed primarily to propel a diver below the surface of the water; and ()

b. Non-motorized devices not designed as a means of transportation on water, such as inflatable air mattresses, single inner tubes, and beach and water toys. ()

c. Float houses as defined in Section 67-7003(8), Idaho Code. ()

08. Whistle or Horn. Any sound producing appliance capable of producing the prescribed blasts and which complies with the specifications of 33 U.S.C. Section 2001 et seq. and 33 CFR Section 86.01 et seq. ()

09. Other Definitions. Other definitions set forth in the Idaho Safe Boating Act (Title 67, Chapter 70, Idaho Code) are incorporated herein by reference. ()

011. -- 049. (RESERVED)

050. PERSONAL FLOTATION DEVICES (PFD'S).

01. Personal Flotation Devices Required. Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04 of this chapter, no person may operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests, Type III special purpose marine buoyant devices, Type IV buoyant cushions or ring life buoys, or Type V restricted use devices) as follows: ()

a. Recreational vessels (used for non-commercial use) less than sixteen (16) feet in length, and canoes and kayaks of any length, must have one (1) type I, II, or III wearable personal flotation devices of a suitable size for each person on board. ()

b. Recreational vessels sixteen (16) feet in length and over, except as stated in Subsection 050.01.a. of this chapter, must have one (1) type I, II, or III wearable personal flotation device of a suitable size for each person on board and, in addition, one (1) type IV throwable device. ()

c. Commercial vessels less than forty (40) feet in length not carrying passengers for hire must have at least one (1) Type I, II, or III wearable personal flotation device of a suitable size for each person on board. ()

d. Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire must have at least one Type I wearable personal flotation device of a suitable size for each person on board. ()

e. Commercial vessels twenty-six (26) feet in length or longer must have at least one (1) Type IV throwable ring life buoy in addition to other requirements. ()

f. Children fourteen (14) years of age and younger, onboard vessels nineteen (19) feet or less, must wear an approved flotation device when the vessel is underway. ()

02. Location and Condition. All personal flotation devices required by Section 050 of this chapter must be readily accessible to persons on board and be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed by a boat (water ski, wake board, knee board, tube, etc.), an approved flotation device must be worn to be considered readily accessible. All such devices must be approved by the U.S. Coast Guard, and must be marked in accordance with U.S. Coast Guard standards. All such devices must comply with the construction and design standards set forth by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. ()

03. Alternative PFD Requirement. A Type V personal flotation device may be carried in lieu of any required personal flotation device if U.S. Coast Guard approved for the activity engaged in. ()

04. Exemptions. ()

a. Racing shells, rowing sculls and racing kayaks are exempt from the requirements of Section 050 of this chapter provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing. ()

b. Float tubes are exempt from the requirements of Section 050 of this chapter while being operated

on lakes and reservoirs of this state of less than two hundred (200) surface acres in size at natural or ordinary high water. ()

051. -- 074. (RESERVED)

075. FIRE EXTINGUISHERS.

01. Fire Extinguishers Required. Except seaplanes and those motorboats less than twenty-six (26) feet in length, propelled by outboard motors, of open construction that will not permit the entrapment of explosive or flammable gases or vapors, and not carrying passengers for hire, no person may operate or permit to be operated any motorboat on the waters of this state unless it carries on board and have readily accessible at least the minimum number of serviceable U.S. Coast Guard approved fire extinguishers as set forth below. ()

02. Type and Size -- Table. Extinguishers approved for use on motorboats are hand portable of either B-I or B-II classification. "B" type is for gasoline, oil and grease fires. "I" and "II" denotes size as follows:

Classification	Foam Dioxide	Carbon Chemical	Dry Freon	Halon/
B-I	1.25 gals.	4 lbs.	2 lbs.	2.5 lbs.
B-II	2.50 gals.	15 lbs.	10 lbs.	

()

03. Inspections. Dry chemical fire extinguishers without gauges or indicating devices must be inspected every six (6) months. If the gross weight of a carbon dioxide (CO2) fire extinguisher is reduced by more than ten percent (10%) of the net weight, the extinguisher is not acceptable and must be recharged. ()

04. Specific Requirements. Except as provided in Subsection 075.01 of this chapter, the requirements for fire extinguishers by length of motorboat are as follows: ()

- a. Less than twenty-six (26) feet in length: At least one (1) B-I fire extinguisher is required. ()
- b. Twenty-six (26) feet to less than forty (40) feet in length: At least two (2) B-I fire extinguishers are required. ()
- c. Forty (40) feet to not more than sixty-five (65) feet in length: At least three (3) B-I fire extinguishers are required. ()
- d. Over sixty-five (65) feet in length: Federal requirements apply as stated in 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 46 CFR Section 25.30-1 et seq. ()

05. Alternative Fire Extinguisher Requirement. One (1) B-II fire extinguisher may be substituted for two (2) B-I fire extinguishers. ()

06. Fixed Systems. When a fixed fire extinguishing system is installed in machinery space(s), one (1) less B-I fire extinguisher is required. ()

076. -- 099. (RESERVED)

100. LIGHTS AND SHAPES.

01. Lights Required. No person may operate or permit the operation of any vessel on the waters of this state between sunset and sunrise or in other times of restricted visibility unless the vessel is equipped with and displays the lights herein specified, and during such time no other lights which may be mistaken for those prescribed must be exhibited. ()

02. Motorized Vessels. A motorboat less than sixty-five and six-tenths (65.6) feet in length must exhibit navigation lights as follows: ()

a. A white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of two hundred twenty-five (225) degrees (twenty (20) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on either side of the vessel. ()

b. A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. ()

c. On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. ()

d. A motorboat less than thirty-nine and four-tenths (39.4) feet in length may exhibit a white light aft visible all around the horizon in lieu of the white lights prescribed in Subsections 100.02.a. and 100.02.b. of this chapter. ()

03. Non-Motorized Vessels. A sailboat, under sail alone, and a vessel under oars or paddles, must exhibit navigation lights as follows: ()

a. On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. ()

b. A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. ()

c. A sailboat of less than twenty-three (23) feet in length or a vessel under oars or paddles must, if practicable, exhibit the lights prescribed in Subsections 100.03.a. and 100.03.b. of this chapter, but if it does not, it must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision. ()

04. Anchorage. All vessels must display a white light visible all around the horizon when anchored on the waters of this state, unless anchored in a designated mooring area. ()

05. Seaplanes. Where it is impracticable for a seaplane to exhibit lights of the characteristics or in the positions prescribed in Section 100 of this chapter, it must exhibit lights as similar in characteristics and position as is possible. ()

06. Sailboats. Between sunrise and sunset, a vessel proceeding under sail when also being propelled by machinery must exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than thirty-nine and four-tenths (39.4) feet in length is not required to exhibit this shape, but may do so. ()

07. Visibility. Every white light prescribed by Section 100 of this chapter must be of such character as to be visible at a distance of at least two (2) miles. Every other colored light must be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow and must be of such character as to be visible at a distance of at least one (1) mile. The word "visible" in Section 100 of this chapter means visible on a dark night with clear atmosphere. ()

08. Alternative Lights and Shapes. In lieu of the lights and shapes required in Section 100 of this chapter, a vessel may exhibit those lights and shapes provided for by 33 U.S.C. Section 1601 et seq., or 33 U.S.C. Section 2001 et seq. and applicable regulations, and as published by the U.S. Coast Guard in the Navigational Rules International - Inland. ()

101. -- 124. (RESERVED)

125. VENTILATION.

01. Ventilation Required. Except seaplanes, no person may operate or permit to be operated any vessel having aboard a gasoline engine used for any purpose, unless it is provided with proper ventilation. ()

02. Compartments With Gasoline Engines. Each compartment in a vessel that has a permanently installed gasoline engine with a cranking motor must be open to the atmosphere, or be ventilated by a natural ventilation system and a mechanical exhaust blower system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 183.601 et seq. ()

03. Collection of Vapors or Gases. Each compartment or tank in a vessel that may permit the entrapment of explosive or flammable gases or vapors must be ventilated by a natural ventilation system. ()

04. Natural Ventilation System. A natural ventilation system must be approved for use by the U.S. Coast Guard and include a supply opening or duct from the atmosphere or from a ventilated compartment or from a compartment that is open to the atmosphere, and an exhaust opening into another ventilated compartment or an exhaust duct to the atmosphere. Each exhaust opening or duct must originate in the lower third of the compartment; and each supply opening or duct and each exhaust opening or duct in a compartment must be above the normal accumulation of bilge water. Each supply opening must be forward facing and located on the exterior surface of a vessel, or be constructed so that air effectively flows into or out of the supply or exhaust openings. ()

05. Exhaust Blowers. Each vessel that is required to have an exhaust blower must have a label that is located as close as practicable to each ignition switch, is in plain view of the operator, and has at least the following information:

**“WARNING -- GASOLINE VAPORS CAN EXPLODE. BEFORE STARTING ENGINE
OPERATE BLOWER FOR FOUR (4) MINUTES AND CHECK ENGINE
COMPARTMENT BILGE FOR GASOLINE VAPORS.”**

()

06. Alternative Ventilation System. In lieu of the ventilation and warning label required in Section 125 of this chapter, a vessel may be provided with any type of ventilating system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. ()

126. -- 149. (RESERVED)

150. SOUND PRODUCING DEVICES.

No person may operate or permit to be operated any vessel on the waters of this state without carrying on board sound producing devices as follows: ()

01. Vessels Thirty-Nine and Four-Tenths Feet and Over. A vessel of thirty-nine and four-tenths (39.4) feet or more in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq., and a bell. The whistle or horn must be audible for at least one-half (1/2) nautical mile, and the bell, when struck, must produce a clear bell-like tone of full sound characteristic. ()

02. Vessels Under Thirty-Nine and Four-Tenths Feet. A vessel of less than thirty-nine and four-tenths (39.4) feet in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq. The whistle or horn must be audible for at least one-half (1/2) nautical mile.

()

151. -- 174. (RESERVED)

175. BACKFIRE FLAME CONTROL.

Except seaplanes, no person may operate or permit to be operated any motorboat on the waters of this state unless each carburetor on every inboard gasoline engine installed in a motorboat must be equipped with a U.S. Coast Guard approved backfire flame arrester or other means of backfire flame control approved for use by the U.S. Coast Guard, each of which is securely attached to the carburetor and in proper working order. ()

176. -- 199. (RESERVED)

200. WARNING FLAGS FOR DOWNED SKIERS.

No person may operate or permit to be operated any vessel used for towing waterskiers or similar devices in which persons or objects are being towed above, in, or on the waters of this state unless it has on board and displays a warning flag as specified in Section 200 of this chapter. ()

01. Size and Color. A warning flag must be international orange or red in color and must be at least one (1) foot square. ()

02. Use. When any person being towed by the vessel becomes disengaged from the towline and is down in the water, a person in the vessel must immediately hold the warning flag aloft, visible from all sides, as an indicator to other vessels in the area that a person is down in the water. As long as such downed person is in the water, the flag must remain displayed to prevent danger to that person and hazards to passing vessels. ()

03. Use Limited. Such warning flag must be displayed only under the conditions set forth in Section 200 of this chapter or when other eminent danger exists. ()

201. -- 224. (RESERVED)

225. VESSEL LIVERIES -- EQUIPMENT.

Neither the owner of a vessel livery nor his agent or employee may permit any vessel permitted by him to be operated as a vessel to depart from his premises unless it has been provided, either by owner or renter, with the equipment required pursuant to Title 67, Chapter 70, Idaho Code and this chapter. ()

226. PERSONAL WATERCRAFT LIVERIES.

01. Education Required. All liveries renting, leasing or hiring out any personal watercraft must provide education in the laws, rules and safe operation of the personal watercraft to each person that will operate the personal watercraft. No person may operate any personal watercraft that is rented, leased or hired without first completing instruction in the laws, rules and safe operation of the personal watercraft. This instruction must include: ()

a. The complete reading of "Personal Watercraft Laws and Safe Operation," IDPR form REV 50.13; and ()

b. The complete viewing of the video "Play It Safe" produced by the Personal Watercraft Industry Association. ()

02. Acknowledgment Required. All persons operating a rented, leased or hired personal watercraft must carry on board for inspection by any law enforcement officer a valid "Idaho PWC Renter's Acknowledgment of Education" form, IDPR form REV 50.14. ()

03. Provision of Forms, Videos, Publications. All forms, videos and other required educational materials will be provided to personal watercraft liveries by the Department at no charge to the livery. ()

227. -- 249. (RESERVED)

250. VESSEL NUMBERS -- DISPLAY, SIZE, COLOR.

- 01. Requirements.** Each vessel number required by Section 67-7008, Idaho Code, must: ()
- a.** Be in plain vertical block characters of not less than three (3) inches in height; ()
 - b.** Contrast with the color of the background; ()
 - c.** Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (Example: ID 5678 A or ID-5678-A); ()
 - d.** Read from left to right; ()
 - e.** Be maintained in legible condition; ()
 - f.** Be as high above the waterline as practicable without decreasing the visibility of the number. ()
- 02. Manufacturers and Dealers.** When a vessel is used by a manufacturer or dealer for testing or demonstrating, the vessel number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel. ()
- 03. Special Circumstances.** On vessels so configured that a vessel number on the hull or superstructure would not be easily visible, the vessel number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the vessel number is visible from each side of the vessel. ()

251. -- 274. (RESERVED)

275. VESSEL NUMBERS -- FORM.

- 01. Numbering.** Each vessel number issued according to Section 67-7008, Idaho Code, must consist of the prefix "ID," which denotes Idaho as the State of issuing authority, followed by: ()
- a.** Not more than four (4) numerals followed by not more than two (2) capital letters (Example: ID 1234 AB); or ()
 - b.** Not more than three (3) numerals followed by not more than three (3) capital letters (Example: ID 123 ABC). ()
- 02. Prohibited Letters.** A vessel number suffix may not include the letters "I," "O," or "Q," which may be mistaken for numerals. ()

276. -- 299. (RESERVED)

300. VALIDATION STICKERS.

- 01. Size and Location of Stickers.** Validation stickers issued according to Section 67-7008, Idaho Code, must: ()
- a.** Be displayed within six (6) inches of and directly in line with the vessel number displayed on the vessel; ()
 - b.** Be approximately three (3) inches square; and ()
 - c.** Indicate the year in which each validation sticker expires by the colors, green, red, blue, and international orange, in rotation beginning with green for stickers that expire in 1987. ()

02. Removal of Stickers. Validation stickers issued according to Sections 67-7008 or 67-7011, Idaho Code, that have become invalid must be removed from the vessel. ()

301. -- 324. (RESERVED)

325. APPLICATION AND CERTIFICATE OF NUMBER -- CONTENTS.

01. Requirements. Except as allowed in Subsections 325.03 and 325.04 of this chapter, each application for a certificate of number and each certificate of number, referred to in Section 67-7008, Idaho Code, must contain the following information: ()

- a.** Number issued to the vessel; ()
- b.** Expiration date of the certificate; ()
- c.** State of principal use; ()
- d.** Name of the owner; ()
- e.** Address of owner, including ZIP code; ()
- f.** Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing or other use; ()
- g.** Manufacturer's hull identification number (if any); ()
- h.** Make of vessel; ()
- i.** Year vessel was manufactured; ()
- j.** Overall length of vessel; ()
- k.** Whether the vessel is an open boat, cabin cruiser, houseboat, or other type; ()
- l.** Hull material; ()
- m.** Whether the propulsion is inboard, outboard, inboard-outdrive, or sail; ()
- n.** Whether the fuel is gasoline, diesel, or other; ()
- o.** The number previously issued by an issuing authority for the vessel, if any; ()
- p.** Whether the application is for a new certificate of number, renewal of a certificate of number, or transfer of ownership; ()
- q.** The signature of the owner. ()

02. Manufacturer or Dealer. A certificate of number issued to a manufacturer or dealer to be used on a vessel for test or demonstration purposes may omit the requirements of Subsections 325.01.g. through 325.01.n. of this chapter if the word "manufacturer" or "dealer" is plainly marked on the certificate. ()

03. Livery Vessels. A certificate of number issued to a vessel that is to be rented or leased without propulsion machinery may omit the requirements of Subsections 325.01.m. and 325.01.n. of this chapter if the words "livery vessel" are plainly marked on the certificate. ()

04. Proof of Ownership. Each applicant for a certificate of number as prescribed in Section 67-7008,

Idaho Code, must submit one (1) of the following documents to the Department or authorized vendor: ()

a. The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; ()

b. If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; ()

c. If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; ()

d. If none of the documents listed in Subsections 325.04.a. or 325.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. ()

326. -- 349. (RESERVED)

350. NUMBERING - EXEMPTIONS.

The following vessels are exempt from the numbering provisions of Title 67, Chapter 70, Idaho Code, pursuant to Section 67-7009(5), Idaho Code: ()

01. Rowboats. Rowboats without motors; ()

02. Canoes. Canoes without motors; ()

03. Kayaks. Kayaks without motors; ()

04. Inflatables. Inflatable vessels without motors; ()

05. Paddle Vessels. Paddle vessels without motors; ()

06. Sailboards. Sailboards without motors; ()

07. Tenders. Tenders; ()

08. Documented Vessels. Vessels properly documented with the U.S. Coast Guard, according to 46 U.S.C. 12101 et seq.; and ()

09. Government Vessels. Vessels exempted in Section 67-7009(3), Idaho Code, include those vessels owned by the United States, another state or a political subdivision thereof, which are used principally for governmental purposes other than recreation, and which are clearly identifiable as a government-owned vessel. ()

351. -- 399. (RESERVED)

400. COUNTY ELIGIBILITY TO RECEIVE MONEYS FROM THE STATE VESSEL ACCOUNT.

01. Boating Improvement Program. Only those counties in the state with a boating improvement program, as recognized by the Department, are eligible to receive moneys from the state vessel account. A “boating improvement program” means that one (1) or more recognized boating facilities are being developed and/or maintained within the county’s jurisdiction and/or that the county has or is actively developing a recognized boating law enforcement program” (Section 67-7013(6), Idaho Code). ()

02. Requirements for Boating Improvement Program. A boating improvement program is

recognized if it contains one (1) or more of the following: ()

a. Boating facilities that are being maintained within the county's jurisdiction. A boating facility is an improved public boating access site, which includes at least an improved (concrete or asphalt) boat ramp and any type parking area for vehicles and their attached boat trailers. ()

b. Boating facilities that are being developed within the county's jurisdiction. "Being developed" means that substantiating evidence can and must be presented in proof of the development. ()

c. The county has a boating law enforcement program. A boating law enforcement program is a program whereby an agent of the county sheriff's Department is currently, or has in the recent past, patrolled the county's waterways and enforced Title 67, Chapter 70, Idaho Code. ()

d. The county is actively developing a boating law enforcement program. "Actively developing" means that substantiating evidence can and must be presented in proof if the development. ()

401. -- 424. (RESERVED)

425. HULL IDENTIFICATION NUMBERS - REQUIRED.

01. Obtaining a Hull Identification Number. A person who builds or imports a vessel for his own use and not for the purposes of sale must request a hull identification number from the director and affix the number as instructed (Section 67-7004(2), Idaho Code). ()

02. Displaying the Hull Identification Number. A person must identify a vessel with the display of two (2) identical hull identification numbers, or as otherwise provided by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 181.21 et seq. ()

03. Duplicate Numbers Prohibited. The same hull identification number may not be assigned to more than one (1) vessel. ()

04. Proof of Ownership. Each applicant for a hull identification number as prescribed in Sections 67-7004(2) and 67-7004(4), Idaho Code, must submit one (1) of the following documents to the Department: ()

a. The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; ()

b. If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; ()

c. If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; ()

d. If none of the documents listed in Subsections 425.04.a. or 425.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. ()

426. -- 449. (RESERVED)

450. HULL IDENTIFICATION NUMBERS -- FORM.

Each hull identification number issued according to Section 67-7004(2), Idaho Code, consists of twelve (12) characters, uninterrupted by slashes, hyphens, or spaces, as follows: ()

01. Prefix. The first three (3) characters (prefix) are "IDZ," which denotes Idaho as the issuing

authority. ()

02. Hull Serial Number. Characters four (4) through eight (8) are the hull serial number assigned by the director in letters of the English alphabet, or Arabic numerals, or both, except the letters “I,” “O,” and “Q.” ()

03. Date of Manufacture. Characters nine (9) and ten (10) indicate the month and year of manufacture. The date indicated can be no earlier than the date construction or assembly began and no later than the date construction or assembly is completed or the vessel is imported into the United States. Character nine (9) are indicated using letters of the English alphabet. The first month of the year, January, is designated by the letter “A,” the second month, February, by the letter “B,” and so on until the last month of the year, December. Character ten (10) is the last digit of the year of manufacture or import and must be an Arabic numeral. ()

04. Model Year. Characters eleven (11) and twelve (12) indicate the model year using Arabic numerals for the last two (2) numbers of the model year such as “87” for 1987 and “88” for 1988. ()

451. -- 474. (RESERVED)

475. HULL IDENTIFICATION NUMBERS -- DISPLAY.

Each hull identification number issued according to Section 67-7004(2), Idaho Code must be displayed as follows: ()

01. Primary Number. The primary hull identification number must be affixed: ()

a. On vessels with transoms, to the starboard outboard side of the transom within two (2) inches of the top of the transom, gunwale, or hull/deck joint, whichever is lowest. ()

b. On vessels without transoms or on vessels on which it would be impractical to use the transom, to the starboard outboard side of the hull, aft, within one (1) foot of the stern and within two (2) inches of the top of the hull side, gunwale or hull/deck joint, whichever is lowest. ()

c. On catamarans and pontoon vessels which have readily replaceable hulls, to the aft crossbeam within one (1) foot of the starboard hull attachment. ()

d. If the hull identification number would not be visible, because of rails, fittings, or other accessories, the number must be affixed as near as possible to the location specified in Subsection 475.01 of this chapter. ()

02. Duplicate Number. The duplicate hull identification number must be affixed in an unexposed location on the interior of the vessel or beneath a fitting or item of hardware. ()

03. Hull Identification Number to Be Permanently Affixed. Each hull identification number must be carved, burned, stamped, embossed, molded, bonded, or otherwise permanently affixed to the vessel so that alteration, removal, or replacement would be obvious. If the number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area. A hull identification number may not be attached to parts of the vessel that are removable. ()

04. Size of Characters. The characters of each hull identification number may be no less than one-fourth (1/4) of an inch high. ()

476. -- 499. (RESERVED)

500. IDAHO WATERWAY MARKING SYSTEM.

01. Uniform System. In the marking of water areas, as described in Section 67-7031, Idaho Code, the Uniform State Waterway Marking System is used for the placement of aids to navigation and regulatory markers in the waters of the state. ()

02. Regulatory Markers. Regulatory markers are used to indicate to a vessel operator the existence of dangerous areas as well as those which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions. ()

03. Colors. Each regulatory marker must be colored white with international orange geometric shapes. ()

04. Buoys. When a buoy is used as a regulatory marker it must be white with horizontal bands of international orange placed completely around the buoy circumference. One (1) band must be at the top of the buoy body, with a second band placed just above the waterline of the buoy so that both international orange bands are clearly visible to approaching vessels. The area of buoy body visible between the two (2) bands must be white. ()

05. Geometric Shapes. Geometric shapes must be placed on the white portion of the buoy body and must be colored international orange. The authorized geometric shapes and meanings associated with them are as follows: ()

a. A vertical open faced diamond shape to mean danger. ()

b. A vertical open faced diamond shape having a cross centered in the diamond to mean that a vessel is excluded from the marked area. ()

c. A circular shape to mean that vessel operated in the marked area is subject to certain operating restrictions. ()

d. A square or rectangular shape with directions or information lettered on the inside. ()

06. Signs. Where a regulatory marker consists of a square or rectangular shaped sign displayed from a structure, the sign must be white, with an international orange border. When a diamond or circular geometric shape associated with meaning of the marker is included it must be centered on the signboard. ()

07. Navigation Aids. Aids to navigation are used to supplement the federal lateral system of buoyage and have either a lateral or cardinal meaning. ()

08. Defined Channel. On a well defined channel including a river or other relatively narrow natural or improved waterway, an aid to navigation is normally a solid colored buoy. A buoy that marks the left side of the channel viewed looking upstream or toward the head of navigation must be colored all black. A buoy that marks the right side of the channel viewed looking upstream or toward the head of a navigation must be colored all red. On a well defined channel, solid colored buoys are established in pairs, one (1) on each side of the navigable channel that they mark, and opposite each other to inform the user that the channel lies between the buoys and that he should pass between the buoys. ()

09. Irregularly Defined Channel. On an irregularly defined channel, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel provided they are spaced at sufficiently close intervals to inform the user that the channel lies between the buoys and that he should pass between the buoys. ()

10. Undefined Channel. Where there is no well defined channel or when a body of water is obstructed by objects whose nature or location is such that the obstruction can be approached by a vessel from more than one (1) direction, supplemental aids to navigation having cardinal meaning (i.e., pertaining to the cardinal points of the compass, north, east, south, and west) may be used. The use of an aid to navigation having cardinal meaning is discretionary provided that the use of such a marker is limited to wholly state owned waters and the state waters for private aids to navigation as defined and described in Section 500 of this chapter. ()

11. Cardinal System. Aids to navigation conforming to the cardinal system consist of three (3) distinctly colored buoys. ()

a. A white buoy with a red top may be used to indicate to a vessel operator that he will pass to the south or west of the buoy. ()

b. A white buoy with a black top may be used to indicate to a vessel operator that he will pass to the north or east of the buoy. ()

c. In addition, a buoy showing alternate vertical red and white stripes may be used to indicate to a vessel operator that an obstruction to navigation extends from the nearest shore to the buoy and that he may not pass between the buoy and shore. The number of white and red stripes is discretionary, provided that the white stripes are twice the width of the red stripes. ()

12. Markers to Be Visible. The size, shape, material, and construction of all markers, both fixed and floating, must be such as to be observable under normal conditions of visibility at a distance such that the significance of the marker or aid must be recognizable before the observer stands into danger. ()

13. Lettering to Be Visible. Numbers, letters or words on an aid to navigation or regulatory marker must be placed in a manner to enable them to be clearly visible to an approaching and passing vessel. They must be block style, well proportioned, and as large as the available space permits. Numbers and letters on red or black backgrounds must be white; numbers and letters on white backgrounds must be black. ()

14. Numbering Buoys. Odd numbers must be used to identify solid colored black buoys or black topped buoys; even numbers must be used to identify solid colored red buoys or red topped buoys. All numbers must increase in an upstream direction or toward the head of navigation. The use of numbers to identify buoys is discretionary. ()

15. Lettering Markers. Letters only may be used to identify regulatory and the white and red vertically striped obstruction markers. When used the letters must follow alphabetical sequence in an upstream direction or toward the head of navigation. The letters "I" and "O" are omitted to preclude confusion with numbers. The use of letters to identify regulatory markers and obstruction markers is discretionary. ()

16. Reflective Material. The use of reflectors or retroreflective materials is discretionary. ()

17. Color of Reflective Material. When used on buoys having lateral significance, red reflectors or retroreflective materials must be used on solid colored red buoys; green reflectors or retroreflective materials must be used on solid colored black buoys; white reflectors or retroreflective materials only may be used for all other buoys including regulatory markers, except that orange reflectors or retroreflective materials may be used on the orange portions of regulatory markers. ()

18. Lights. The use of navigational lights on state aids to navigation, including regulatory markers, is discretionary. When used, lights on solid colored buoys must be regularly flashing, regularly occulting, or equal interval lights. For ordinary purposes the frequency of flashes may not be more than thirty (30) flashes per minute (slow flashing). When it is desired that lights have a distinct cautionary significance, as at sharp turns or sudden constrictions in the channel or to mark wrecks or other artificial or natural obstructions, the frequency of flashes may not be less than sixty (60) flashes per minute (quick flashing). When a light is used on a cardinal system buoy or a vertically striped white and red buoy it must always be quick flashing. The colors of the lights must be the same as for reflectors; a red light only on a solid colored red buoy; a green light on solid colored black buoy; white light only for all other buoys including regulatory markers. ()

19. Ownership Identification. The use and placement of ownership identification is discretionary, provided that ownership identification is worded and placed in a manner that avoids detracting from the meaning intended to be conveyed by a navigational aid or regulatory marker. ()

20. Mooring Buoys. Mooring buoys in state waters for private aids to navigation must be colored white and must have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the waterline. ()

21. Lighted Mooring Buoys. A lighted mooring buoy must normally display a slow flashing white

light. When its location in a waterway is such that it constitutes an obstruction to a vessel operated during hours of darkness, it must display a quick flashing white light. ()

22. Identifying Mooring Buoys. A mooring buoy may bear ownership identification provided that the manner and placement of the identification does not detract from the meaning intended to be conveyed by the color scheme or identification letter when assigned. ()

501. -- 524. (RESERVED)

525. NEGLIGENCE OPERATION.

Negligent operation, as used in Section 67-7017, Idaho Code, includes, but not be limited to, the following: ()

01. Airborne. Becoming airborne or completely leaving the water while crossing the wake of another vessel at an unsafe distance from the vessel creating the wake; or ()

02. Weaving. Weaving through congested traffic; or ()

03. Speed or Proximity. Operating at such a speed and proximity to another vessel, a person, or property of other persons so as to require the operator to swerve at the last moment to avoid collision. ()

526. -- 999. (RESERVED)

**26.01.31 – RULES GOVERNING THE ADMINISTRATION OF THE IDAHO DEPARTMENT
OF PARKS AND RECREATION STATE AND FEDERAL GRANT FUNDS**

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. ()

001. SCOPE.

The purpose of this chapter is to ensure consistent administration of state and federal grant programs. It is the intent of the department, through the state and federal grant programs, to provide funds and planning assistance to entities consistent with the purpose statement outlined in Idaho Code for each program and the provisions detailed in this chapter and the recreation grant program guidance. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. 2CFR 200. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as set forth in 2 CRF 200 (Code of Federal Regulations). ()

02. Applicant. An IDPR approved entity, that identifies a need for a project, supplies initial support data, and applies for program grant through the Department. ()

03. ATV. All-terrain vehicle. ()

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

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

06. Director. The Idaho Department of Parks and Recreation, or the designee. ()

07. Grant. A grant from programs or funds as described in Section 050 of this chapter. ()

08. Grantee. An applicant who receives a grant from the Department for the programs or funds as described in Section 050. ()

09. Match. The grantee's contribution of cash, material, labor, and third-party in-kind services needed to complete the project as defined in the grant agreement. ()

10. Non-Profit. An organization that qualifies for tax-exempt status by the IRS because its mission and purpose are to further a social cause and provide a public benefit. As used in this chapter, the term includes qualified non-for-profit organizations that benefit outdoor recreation. ()

11. Project. The purchases, construction, or other activities proposed by the applicant and documented in the grant agreement. ()

12. Public Entity. The state, federal or local government or a subdivision thereof (including recreation districts), or a Native American Tribe. ()

13. Recreational Grant Program Guidance. A compilation of state procedures, rules, policies, and instructions assembled for dissemination to the potential entities that may wish to apply for grants. ()

14. State and Federal Grant Manager. The Department employee in charge of state and federal grant programs. ()

011. -- 049. (RESERVED)

050. GRANT CYCLES.

Applications for Off-Road Motor Vehicle (ORMV) Fund, Recreational Vehicle Fund (RV), Waterways Improvement Fund (WIF), Motorbike Recreation Account (MB), Mountain Bike License Plate (BK), Cutthroat License Plate (CP), and Recreational Road and Bridge (RB) grants will be considered at least once each state fiscal year (July 1 through June 30) dependent upon adequate funding availability. Applications for Recreational Trails Program (RTP) projects

will be considered at least once each federal fiscal year (October 1 through September 30) dependent upon adequate funding availability. ()

051. -- 074. (RESERVED)

075. ELIGIBLE APPLICANTS.

Public entities are eligible to apply for all grant programs. Non-profit organizations are eligible to apply for the Recreational Trails Program and Mountain Bike Plate program. The state and federal grant manager determines if applicants are eligible based on federal code, state statutes and past performance of the applicant. Based on an applicant's past performance in managing a grant with the department the state and federal grant manager may recommend to the board that the applicant be considered ineligible for the current funding cycle. ()

076. -- 099. (RESERVED)

100. APPLICATION PROCEDURE.

01. Submittal. Eligible applicant submits application prior to the stated deadline in the Recreational Grant Program Guidance. To be considered for a grant, an applicant must propose an eligible project and submit all documentation required by this chapter. ()

02. Public Comment. As part of the application, the applicant must provide an opportunity for public comment. The applicant must include proof of public comment regarding the project in the application. The opportunity for public comment should begin within one (1) year of submitting the application. Any projects with public comment conducted over one (1) year prior to application may be rejected by the state and federal grant manager and the project will be deemed ineligible. ()

03. Complete Application. Materials submitted by the sponsor are reviewed by the department for completeness and eligibility. ()

04. Ranking. The appropriate advisory committee establishes project rankings by rating each eligible project using criteria established by the board. To objectively rate competing eligible projects, the committee considers the application and how the project meets the criteria and established priorities for the program. ()

05. Board Review. The board reviews the priority list for awards and sets funding line based on recommendation of the advisory committees and the state and federal grant manager. ()

06. Grant Award. Upon grant approval by the board, the department will present the sponsor with a grant agreement that identifies eligible costs and obligates the applicant to a specified project scope and performance period. ()

07. Grant Agreement. The applicant must sign the agreement prior to initiating work on the project. The signed agreement obligates the applicant to complete all elements of the project as described in the agreement and any applicable approved amendment. ()

101. -- 149. (RESERVED)

150. PROJECT REQUIREMENTS.

01. Real Property. The grantee must include any proposals to purchase real property with grant moneys in the grant application and must provide an appraisal consistent with Section 175 of this chapter. ()

02. Fees. The applicant is required to identify any existing or proposed fees associated with the grant request, including existing or proposed facilities. The applicant may propose fees for the use of or access to facilities or real property developed or purchased with grant funds at a level commensurate with the costs of maintenance and upkeep of the facility or real property. Requests for donations and fees for special events of limited duration at the facility are exempt when such are intended to cover extraordinary expenses. ()

03. Grant Modification. Only for good cause, and upon the submission of detailed justification in writing and approval by the state and federal grant manager, may the terms and obligations of the grant application or grant agreement be modified. Examples of “good cause” include extraordinary physical barriers, project re-routing necessary to avoid critical habitat, and other constraints beyond the control of the grantee. ()

151. -- 174. (RESERVED)

175. REAL PROPERTY APPRAISALS.

01. Appraisal Required. A real estate appraisal is required for all real property to be acquired with grant funds. The appraisal must be paid for by the grantee but may be included as part of eligible project costs in the application. ()

02. Appraisal Review. The state and federal grant manager reviews appraisals for reasonableness at the time of application. The state and federal grant manager may reject a grant application that includes an unreasonable appraisal. ()

03. Negotiated Price. An approved appraisal is an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this value can be considered along with the appraised value in establishing the reasonable limits of grant assistance. If the grantee believes the negotiated price is a better indication of market value, yet is higher than the appraised value, a detailed statement of this difference must be submitted to the state and federal grant manager. ()

04. Adequate Title and Public Access. The grantee must have clear title to, or adequate control and tenure of, the real property (land, land improvement, structures, and appurtenances) to be developed. The term “adequate control and tenure” of real property means a lease or an easement that provides the grantee sufficient control over the real property to permit the proposed development and use for a period of at least twenty-five (25) years from the date of application, unless specifically approved in writing by the department for a shorter term. The grantee must list all outstanding rights or interests held by others in the real property to be developed. If access to the real property to be developed is over private property, then the grantee must describe the provisions made to ensure adequate public access. In the event the real property becomes unusable for its intended purposes or if such use ceases, the grantee is responsible for conversion of the project. ()

05. Limitations on Use. Property rights obtained with grant funds must be free of all reservations or encumbrances that would limit the use of the site disproportionate to the public benefit. ()

176. -- 199. (RESERVED)

200. GRANT STANDARDS.

01. Minimum Project Match. Applicants must provide a minimum match of five percent (5%) of the total project cost, except recreational trails program which has a federal minimum match. ()

02. Minimum Motorized Equipment Match. Grants for motorized equipment are allowed in the waterways improvement fund, recreational vehicle, off-road motor vehicle, recreational trails program, motorbike recreation, and mountain bike plate grant programs. Applicants must provide a minimum match of twenty percent (20%) of the total equipment purchase. An applicant may claim up to fifteen percent (15%) match from the trade-in value of other equipment. A minimum of five percent (5%) must be a cash match. ()

03. Waterways Improvement Fund Grant Limit. The total sum of WIF grant funds approved to be used in any one (1) county may not exceed fifty percent (50%) of the total WIF grant funds approved to be used statewide in any state fiscal year. ()

201. MATCHING FUNDS.

The following types of match may be used: ()

01. Force Account Labor and Equipment. Documentation of force account must include: the name

of each employee, dates worked, hourly rate of pay, number of hours worked, and the total cost by each employee. Documentation of equipment costs includes the type of equipment used, dates used, hourly rate value, number of hours used, how the hourly rate was determined, and total cost. ()

02. Donated Materials. The value of donated material that is used as match cannot exceed the costs of the materials as documented in an invoice or receipt, or the market price at the time the grantee requests reimbursement for the material, whichever is less. The grantee must provide a detailed invoice marked “donation” or a letter from the donor (including the value) as documentation of donated material. ()

03. Donated Contract Labor. When an employer, other than the grantee, donates the services of an employee, these services are valued at the employee’s regular rate of pay (not including fringe benefits and overhead costs). These services must be for the same skill for which the employee is normally paid. The grantee must provide documentation that includes the employee’s name, dates worked, hourly rate, number of hours worked, and total cost. ()

04. Rates for Volunteers. Skilled and unskilled volunteer labor rates must be consistent with the rate the grantee would pay for similar work in the grantee’s labor market. If the volunteer is professionally skilled and employed in the work being performed on the project, the grantee may use the volunteer’s normal wage rate. If the volunteer is not professionally employed in the work being performed on the project, the grantee must value the donated labor at the federal minimum wage rate. The grantee must provide documentation that includes the volunteer’s name, date worked, hourly rate, number of hours worked, and total cost. ()

202. -- 299. (RESERVED)

300. EXPENDITURE OF GRANT FUNDS.

Grant funds not expended within the designated fiscal year or years as established by the project period in the project agreement, may be revoked unless the applicant requests and receives an extension of time from the state and federal grant manager. ()

301. PROJECT EXTENSION.

A written request for an extension of the project period must be received and reviewed by the state and federal grant manager prior to the end of the project period. No project extension will be granted for more than one (1) year; however, an applicant may request project extensions in consecutive years. ()

302. COST INCREASES.

01. Cost Overruns. Twenty percent (20%) of any program allocation may be held out by the department for necessary cost overruns related to previously awarded grants. Any unused funds will be redistributed in the next funding cycle. ()

02. Minor Cost Increases. Cost increases of fifteen percent (15%) or less of the original grant amount that are less than or equal to twenty thousand dollars (\$20,000), may be approved by the director. Cost increases of fifteen percent (15%) or less of the original grant amount that exceed twenty thousand dollars (\$20,000) may be approved by the board. ()

03. Major Cost Increases. Cost increases of more than fifteen percent (15%) of the original grant amount are not allowed. The applicant must either resubmit the project or submit a new grant request to increase the current project. ()

303. -- 349. (RESERVED)

350. PROJECT MANAGEMENT AND DISBURSEMENT OF FUNDS.

01. Grant Agreement. A grantee must complete the grant agreement form, with original or authenticated digital signatures, within sixty (60) calendar days of written notification of grant award. The agreement obligates the applicant to complete all elements of the project as specified in the signed grant agreement. ()

02. Purchase and Bidding Requirements. The grantee must follow all local, state and federal laws pertaining to the expenditure of public funds. ()

03. Permits. The grantee must legally acquire all required local, state and federal permits for the construction or development of the project before grant funds are expended. Construction must comply with the then current codes and standards. ()

04. Reimbursement of Project Costs. The grantee must initially pay all project costs and then seek reimbursement through the department. The grantee must complete the appropriate form provided by the department certifying that the data is correct and submit the form to the department with an original or authenticated signature. ()

05. Allowable Costs. The State and Federal Grant Manager determines what expenses are eligible for reimbursement based on federal code, state statutes and rules. Grantees must follow 2 CFR 200, in determining the reasonableness and allowability of costs. ()

a. Projects, or any part thereof, either paid for by the grantee or completed prior to the grant application deadline, are ineligible for grant funding or to be considered as match. However, costs for design and engineering incurred within one (1) year prior to the application deadline date may be considered as match, provided they are listed as a scope element on the application. ()

b. For Recreational Trail Program projects, any project activity conducted prior to the execution of the project agreement is ineligible for reimbursement or to be considered as match. ()

06. Matching Funds. All matching funds must meet the allowable costs criteria outlined in Section 201 of this chapter. ()

07. Documentation and System of Internal Controls. Grantees must follow 2 CFR 200 in maintaining a system of internal controls that provides reasonable assurance the grantee is managing the award in compliance with this chapter. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. ()

08. Reimbursement Requests and Reporting. Grantees must remit a performance report to the department with each reimbursement request. Failure of the grantee to report or poor performance indicated by the inspection report may disqualify grantee from any future grant applications with the department. ()

09. Grant Closeouts. Within forty-five (45) days after the completion of the project, the grantee must submit an appropriate closeout form as provided by the department. ()

10. Record Retention. The records relative to any grant project are public records. The grantee must retain all financial information referenced in this chapter regarding a project for a time period of three (3) years from the date of the final grant payment, unless any litigation or audit concerning the project has been started or announced. ()

11. Audit Authority. The department has the right of access to any books, documents, papers, or other records of grantees that are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. An audit of the grant may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due the department. The department may perform an audit randomly and without prior notice. ()

12. Failure to Comply. If a grantee fails to comply with the obligations as set forth in the signed grant agreement, the applicant must repay all or a portion of the expended grant funds as determined by the state and federal grant manager. ()

351. -- 399. (RESERVED)

400. ONGOING GRANTEE OBLIGATIONS.

01. Maintenance. The grantee must maintain any facilities, real property, and equipment funded by a grant in the condition equivalent to that existing when such facility was completed or property or equipment purchased, normal wear and tear excepted. ()

02. Public Use. The grantee must ensure that facilities and real property are available to the general public. ()

03. Nondiscrimination. The grantee must ensure that facilities and real property purchased in whole or in part with grant moneys are available for public use regardless of race, color, religion, national origin, gender, age, or disability. The grantee must ensure that facilities constructed with grant moneys meet the requirements as set by the Americans with Disabilities Act. ()

04. Acknowledgment of Funding Assistance. Grantee must post and maintain appropriate permanent signs or decals upon project sites or equipment acknowledging funding assistance from the appropriate grant fund and the department upon start of the project or purchase of equipment. ()

05. Project Liability. Grantees, through a signed agreement, assume all project liability and hold the department harmless. ()

06. Responsibility for Equipment. Motorized equipment purchased with grant funds becomes the property of the grantee and must be maintained for use on public projects. ()

07. Failure to Comply. Failure by the grantee to comply with the ongoing obligations may require repayment all or a portion of the grant funding. ()

401. -- 449. (RESERVED)

450. PROJECT CONVERSIONS.

No grant funded project may, without the prior written approval of the Board, be converted to uses other than for the authorized purposes specified in the original grant application or grant agreement. ()

451. -- 999. (RESERVED)

26.01.34 – IDAHO PROTECTION AGAINST INVASIVE SPECIES STICKER RULES

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code; and is authorized under Section 67-7008A, Idaho Code, to promulgate rules prescribing the display of protection against invasive species stickers.

()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.34, “Idaho Protection Against Invasive Species Sticker Rules.”

()

02. Scope. This chapter establishes rules to aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code.

()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter:

()

01. Commercial Outfitters. As defined in Section 36-2102(b), Idaho Code.

()

02. Department. The Idaho Department of Parks and Recreation.

()

03. Fund. Invasive Species Fund as defined in Section 22-1911, Idaho Code.

()

04. Idaho Invasive Species Act. The Idaho Invasive Species Act of 2008 as established in Title 22, Chapter 19, Idaho Code.

()

05. Motorized Vessel. Any watercraft requiring certificate of number under Section 67-7008, Idaho Code, or any comparable U.S. vessel certificate of number program.

()

06. Non-Motorized Vessel. Any watercraft used or capable of being used as a means of transportation on water that is propelled by human effort. For the purpose of this chapter this term does not include small inflatable rafts or other inflatable vessels less than ten (10) feet in length.

()

07. Protection Against Invasive Species Sticker. Any sticker issued by the Department in accordance with the provisions of Section 67-7008(A), Idaho Code.

()

08. Validation Sticker. Any sticker issued by the Department in accordance with the provisions of Section 67-7008, Idaho Code.

()

011. -- 049. (RESERVED)

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

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

()

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

()

02. Prorated Group Rates for Commercial Outfitters.

()

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

()

b. Protection Against Invasive Species Stickers purchased by outfitters or guides who are duly licensed in accordance with Title 36, Chapter 21, Idaho Code, must be accompanied by an affidavit that must be

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

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

051. -- 074. (RESERVED)

075. PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. Motorized Vessels. Beginning with the 2010 boating season, upon payment of the fees required by Section 050 of these rules, the validation sticker as identified in IDAPA 26.01.30, "Idaho Safe Boating Rules," will also serve as the Protection Against Invasive Species Sticker for those vessels numbered pursuant to Section 67-7008, Idaho Code. ()

02. All Other Watercraft. A separate Protection Against Invasive Species Sticker will be issued for all other watercraft upon payment of the fees required under Section 050 of these rules. ()

076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. Location. ()

a. Motorized vessel. Except as provided in Subsection 075.01 of this chapter, the Protection Against Invasive Species Sticker should be affixed next to the current year validation sticker on the port (left) side of the vessel. ()

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

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

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

02. Removal. Protection Against Invasive Species Stickers issued in accordance with Section 67-7008A, Idaho Code, that have become invalid, must be removed from the vessel. ()

077. ENFORCEMENT.

All operators of vessels as defined in this chapter must ensure their vessel is in compliance with the provisions of this chapter when launched upon the public waters of the state of Idaho. Non-compliance with the provisions of this chapter will result in possible assessment of penalties as described in Sec. 67-7033, Idaho Code, the Idaho Safe Boating Act. ()

078. -- 999. (RESERVED)

**26.01.37 – RULES GOVERNING TEST PROCEDURES AND INSTRUMENTS
FOR NOISE ABATEMENT OF OFF HIGHWAY VEHICLES**

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7125, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of Section 67-7125, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.37, “Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles.” ()

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of Section 67-7125, Idaho Code. ()

002. -- 009. (Reserved)

010. DEFINITIONS.

As used in this chapter: ()

01. All Terrain Vehicle (ATV). Any recreation vehicle with three (3) or more tires, under eight hundred fifty (850) pounds and less than forty-eight (48) inches in width, having a wheelbase of sixty-one (61) inches or less, traveling on low pressure tires, less than ten (10) pounds per square inch (psi). ()

02. A-Weighting Scale. A sound filtering system contained in a sound meter which adjusts (weights) the incoming sound energy to approximate human hearing. ()

03. Calibrator. A device used to standardize the reading of a sound level meter. ()

04. CC. The displacement (size) of an engine in cubic centimeters. The cc's of an engine refers to the piston displacement or engine size. ()

05. Db or Decibel. A unit used to measure the amplitude of sounds. As a sound measured in decibels increases, so does its loudness. ()

06. Off Highway Vehicle (OHV). Any ATV or motorbike as defined in Section 67-7101, Idaho Code, used off public highways but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes. These vehicles, together with others not covered by these rules, are sometimes commonly known as off-road vehicles or ORMV's. ()

07. Operator. Any person who is in physical control of an OHV. ()

08. Red-Line Speed. The lowest numerical engine speed included in the red zone on the OHV tachometer or prescribed by the manufacturer as compiled in the “Off-Highway Motorcycle and ATV Stationary Sound Test Manual” published by the Motorcycle Industry Council, Inc. ()

09. Revolutions per Minute (RPM). The number of times the crankshaft of an engine revolves in one (1) minute. ()

10. Sound Level Meter. An instrument used for measuring sound levels, which includes a microphone, an amplifier, and meter with frequency weighing networks, such as the A-weighting scale. ()

11. Tachometer. A device used to measure RPM of an engine. Tachometers used to obtain sound level measurements may be permanently affixed to the OHV or may be portable units such as hand-held electric, vibrating reed, or inductive tachometers. ()

011. -- 049. (Reserved)

050. TEST PROCEDURE.

01. Test Site. The test site must be a flat, open surface free of large reflecting surfaces, other than the ground, such as parked vehicles, signboards, or hillsides located within sixteen (16) feet of the (OHV) being tested

and the location of the microphone of the sound level meter. ()

a. Ambient sound level. The ambient sound level, including wind effects, at the test site due to sources other than the OHV being measured must be at least ten (10) dB lower than the sound produced by the OHV under test. ()

b. Wind speed. Wind speed at the test site must be less than twenty (20) miles per hour. ()

c. Persons in test area. While making sound level measurements, not more than one (1) person other than the operator, the measurer, and the assistant, if necessary, may be within ten (10) feet of the OHV under test or the microphone of the sound level meter, and that person must be directly behind the measurer on a line through the microphone of the sound level meter and the measurer. ()

02. Test Surface. The surface of the ground within the test area must be paving or hard packed earth, level within an average slope of five (5) inches per foot and must be free of loose or powdered snow, plowed soil, grass of a height greater than six (6) inches, trees, or other extraneous materials. ()

03. Position of OHV. ()

a. For two (2) wheeled OHV's, the operator may sit astride of the OHV, in normal riding position with both feet on the ground. If this is not possible because of the seat height of the OHV, an assistant may hold the OHV by the forks, front wheel, or handlebars so that it is stationary with its longitudinal plane of symmetry vertical. If an assistant is not available to assist in holding the OHV upright, the operator may use a box, rock or other object to rest his feet upon to steady the OHV, so long as the OHV longitudinal plane of symmetry is vertical and stationary. ()

b. For three (3) wheeled and four (4) wheeled ATV's, the operator may sit in the normal riding position with one (1) or both feet on the footrests. ()

04. Operation of OHV. ()

a. If the OHV has a neutral gear, the operator must run the engine with the gear box in neutral at a speed equal to one-half (1/2) of the rated engine speed or one-half (1/2) of the red line speed specified by the manufacturer as compiled in the "Off Highway Motorcycle and ATV Stationary Sound Test Manual." ()

b. If the OHV has no neutral gear, it must be operated either with the rear wheel(s) at least two (2) inches clear of the ground or with the drive chain or belt removed, or the clutch, if the OHV is so equipped, disengaged. ()

05. Engine Temperature. The engine of the OHV being tested must be at a normal operating temperature during the test. ()

051. -- 099. (Reserved)

100. MEASUREMENT.

01. Sound Level Meter Settings. The sound meter must be set for the A-weighting scale and may be set for either slow or fast dynamic response. ()

02. Exhaust Outlets. Tests must be made on each side of the OHV having an exhaust outlet. ()

03. Location of the Microphone of the Sound Level Meter. ()

a. The microphone of the sound level meter must be located twenty (20) inches - one-half (1/2) inch behind the exhaust. If there is more than one (1) exhaust outlet per side, the microphone of the sound level meter must be located with reference to the rear most outlet. ()

b. The microphone of the sound level meter must be within one-half (1/2) inch of the height of the exhaust outlet. ()

c. The microphone of the sound level meter must be at a forty-five (45) degree - ten (10) degree angle to the normal line of travel of the OHV. ()

d. The longitudinal axis of the microphone of the sound level meter must be in a plane parallel to the ground plane. ()

e. The axis of the microphone of the sound level meter must be oriented as specified for field response by the manufacturer. ()

04. Attachments Prohibited. No wire or other rigid means of distance measurement may be attached to the sound level meter measuring system. ()

05. Sound Level. The sound level recorded must be that measured during steady state operation at the engine speed specified in Subsections 050.04 and 050.05 of this chapter, two hundred (200) RPM, measured on the loudest side of the OHV. The test speed in RPM must also be recorded. ()

06. Calibration. Calibration of the sound level meter using a sound level calibrator with an accuracy of one-half (1/2) dB must be made immediately before the first test of each day. Field calibration should be made at intervals of no more than one (1) hour. ()

101. -- 149. (Reserved)

150. EQUIPMENT.

01. Sound Level Meter. A type one (1) sound level meter, which generally can provide the most accurate measurements, must be used for certification of exhaust systems and for law enforcement purposes. ()

02. Tachometer. A hand-held tachometer of the type described in Subsection 010.11 must be used if the OHV does not have a permanently affixed tachometer. ()

03. Calibrator. A calibrator appropriate for use with the sound level meter must be used to calibrate the sound level meter. ()

04. Manual. Persons measuring sound levels for law enforcement purposes must use the "Off-Highway Motorcycle and ATV Stationary Sound Test Manual," published by the Motorcycle Industry Council, Inc. for current information concerning manufacturer's specifications for OHV operation. ()

151. -- 999. (Reserved)

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES
AND IDAHO WATER RESOURCE BOARD**

DOCKET NO. 37-0000-2100

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2022 Idaho State Legislature for final approval. The pending rule becomes final and effective upon 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, or 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 42-603, 42-1734D, 42-1762, and 42-1805(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.

This pending rule adopts and publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 37, rules of the Idaho Water Resource Board and Idaho Department of Water Resources:

IDAPA 37

- 37.02.01, *Comprehensive State Water Plan Rules*;
- 37.02.04, *Shoshone-Bannock Tribal Water Supply Bank Rules*;
- 37.03.11, *Rules for Conjunctive Management of Surface and Ground Water Resources*; and
- 37.03.12, *Idaho Department of Water Resources Water Distribution Rules – Water District 34*.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rulemaking was published in the October 20, 2021, Special Edition of the Idaho Administrative Bulletin, Vol. 21-10SE, pages 4523-4546.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mathew Weaver, Deputy Director at (208) 287-4800.

Dated this 22nd day of December, 2021.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

THE FOLLOWING NOTICE PUBLISHED WITH THE OMNIBUS 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 42-603, 42-1734D, 42-1762, and 42-1805(8), Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 37, rules of the Idaho Water Resource Board and Idaho Department of Water Resources:

IDAPA 37

- 37.02.01, *Comprehensive State Water Plan Rules*;
- 37.02.04, *Shoshone-Bannock Tribal Water Supply Bank Rules*;
- 37.03.11, *Rules for Conjunctive Management of Surface and Ground Water Resources*; and
- 37.03.12, *Idaho Department of Water Resources Water Distribution Rules – Water District 34*.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mathew Weaver, Deputy Director at (208) 287-4800.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

THE FOLLOWING IS THE TEXT OF OMNIBUS PENDING DOCKET NO. 37-0000-2100

37.02.01 – COMPREHENSIVE STATE WATER PLAN RULES

000. LEGAL AUTHORITY (RULE 0).

The Board promulgates these rules pursuant to authority provided by Sections 42-1734D and 42-1734A, Idaho Code. ()

001. SCOPE (RULE 1).

The purpose of these rules is to establish the procedures and notice used by the Idaho Water Resource Board for designating a waterway as an interim protected river. ()

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Alteration. Any activity using mechanized equipment that moves or overturns gravel or earth. ()

02. Board. The Idaho Water Resource Board. ()

03. Hydropower Project. Any development that uses a flow of water as a source of electrical or mechanical power, or that regulates the flow of water for the purpose of generating electrical or mechanical power, including powerhouses, dams, water conduits, transmission lines, water impoundments, roads, and other appurtenant works and structures. ()

04. Natural River. A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, is free of substantial existing man-made impoundments, dams or other structures, and has riparian areas that are largely undeveloped, although accessible in places by trails and roads. ()

05. Recreational River. A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, and might include some man-made development within the waterway or within the riparian area of the waterway. ()

06. Riparian Area. That area within one hundred (100) feet of the mean highwater mark of a waterway. ()

07. Stream Bed. A natural water course of perceptible extent with definite bed and banks that confines and conducts the water of a waterway that lies below and between the ordinary high water mark on either side of that waterway. ()

08. Waterway. A river, stream, creek, lake or spring, or a portion thereof, and does not include any tributary thereof. ()

011. -- 014. (RESERVED)

015. INTERIM PROTECTED RIVERS (RULE 15).

01. Board Initiative. The board may consider a waterway for designation as an interim protected river upon its own initiative. ()

02. Petitions. The board will accept petitions requesting the board to designate a waterway as an interim protected river only from a state agency. The acceptability of a petition requiring clarification or corrections shall be determined by the director. ()

03. Form. Petitions shall be in writing, signed by the agency head, and shall describe the waterway, or portion thereof, requested to be designated as an interim protected river. ()

04. Filing. No petition will be considered by the board at a board meeting unless it is filed at least thirty (30) days prior to such board meeting. ()

05. Board Agenda. The board agenda will include time for representatives of the petitioning agency to describe the agency's reasons for seeking interim protection for that waterway. ()

06. Board Determination. At a board meeting the board shall determine whether the nominated

waterway merits designation as an interim protected river. The determination shall be based on a finding that: ()

a. It is probable that the waterway would be designated a protected river in the comprehensive state water plan; and ()

b. Interim protected river status is necessary to protect the values that would support such waterway's designation as a protected river in a comprehensive state water plan. ()

016. -- 024. (RESERVED)

025. PETITIONS TO EXEMPT SPECIFIC PROJECTS FROM INTERIM PROTECTED RIVERS (RULE 25).

01. Petitions to Exempt Specific Action or Projects. Petitions proposing exemption for a specific project from the interim protected river designation shall be in writing, signed by the owner, operator, or designated official of the petitioner, and describe the proposed action or project and its location. No petition will be considered by the board at a board meeting unless filed at least thirty (30) days prior to such board meeting. ()

02. Board Agenda. The board agenda will include time for the petitioner or his representative to describe how the proposed action or project would not significantly impair the values supporting a waterway's designation as an interim protected river. The burden shall be on the petitioner to show that the proposed action will not impair those values supporting a waterway's designation as an interim protected river. ()

026. -- 999. (RESERVED)

37.02.04 – SHOSHONE-BANNOCK TRIBAL WATER SUPPLY BANK RULES

000. LEGAL AUTHORITY (RULE 0).

These rules have been adopted pursuant to Sections 42-1761 to 42-1765, Idaho Code, Idaho Water Resources Board Water Supply Bank Rule 40 and The 1990 Fort Hall Indian Water Rights Agreement (Agreement) to assure orderly operation of the Shoshone-Bannock Tribal Water Supply Bank. ()

001. TITLE AND SCOPE (RULE 1).

01. Purpose. The purpose of establishing this Shoshone-Bannock Water Supply Bank is to allow for rental for any beneficial use all or any part of the water accruing to the federal contract storage rights in the American Falls Reservoir and the Palisades Reservoir as described in Article 7.3.1 of the Agreement not used on Indian lands or otherwise required to fulfill the exchange established by Article 8 of the Michaud Contract. ()

02. Intent. These rules are not intended to prohibit the Tribes from renting the storage contract water from Palisades and American Fall Reservoirs for any beneficial use within the exterior boundaries of the Reservation. ()

03. Agreement. The Idaho Water Resources Board or its successors, pursuant to Section 7.3.6 of the Agreement, agrees not to take any action that will interfere with the nature, scope, spirit and purposes of the Shoshone-Bannock Water Supply Bank. ()

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

In addition to the definitions set forth below, the definitions in “The 1990 Fort Hall Indian Water Rights Agreement” are incorporated to the extent they are applicable. ()

01. Acre Foot. The amount of water necessary to cover one (1) acre of land to a depth of one (1) foot and is equivalent to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons of water. ()

02. Agreement. “The 1990 Fort Hall Indian Water Rights Agreement” as ratified by the Shoshone-Bannock Tribes in June, 1991, and as approved by the United States in Public Law 101-602, 104 Stat. 3061 on November 16, 1990, and by the state of Idaho in 1991 Idaho Session Laws Chapter 228 at 547. ()

03. Annual. The period starting on the day following the first Monday in March of each year and ending on the first Monday of March of the succeeding year. ()

04. Bank. The “Shoshone-Bannock Tribal Water Supply Bank.” ()

05. Beneficial Use. Any use of water for DCMI, irrigation, hydropower generation, recreation, stock watering, fish propagation and instream flow uses as well as any other uses that provide a benefit to the user of the water. ()

06. Bureau. The United States Department of Interior Bureau of Reclamation. ()

07. Chairperson. The person selected by the Tribal Rental Pool Committee to be the head of the Committee. ()

08. Committee. The Tribal Rental Pool Committee. ()

09. Council. The Fort Hall Business Council. ()

10. IDWR. The Idaho Department of Water Resources an executive agency of the state of Idaho created by Section 42-1701, Idaho Code, or any successor agency. ()

11. IWRB. The Idaho Water Resource Board an agency constituted in accordance with Idaho Const. art. XV, Section 7, or any successor agency. ()

12. Rent. A temporary legal conveyance by the Tribes of the right to use storage water pursuant to Section 42-1761, Idaho Code, for a fixed period of time during which ownership of the federal contract storage right is retained for the benefit of the Tribes. ()

13. **Rental Pool.** The Tribal stored water assigned to the Bank. ()
14. **Renter.** The person renting water from the rental pool. ()
15. **Reservation.** The Fort Hall Indian Reservation. ()
16. **Reservation Watermaster.** The Tribal Water Engineer or any successor designated by the Tribes to administer the Tribal water rights under the Tribal Water Code. ()
17. **Snake River Watermaster.** The watermaster of Water District 01 or any successor. ()
18. **Tribal Stored Water.** The storage water accruing to the federal contract storage space identified in Article 7.3.1 of the Agreement. ()
19. **Tribal Water Engineer.** The Tribal officer or any successor designated to administer the Tribal Water Code. ()
20. **Tribes.** The Shoshone-Bannock Tribes. ()
- 011. -- 024. (RESERVED)**
- 025. GENERAL (RULE 25).**
01. **Priority of Use.** Before stored water is assigned to the rental pool, Tribal stored water shall be maintained and made available for Tribal uses as determined by the Council and to meet the commitment of the Tribes under Article 8 of the Michaud Contract. The water is to be rented for beneficial use and may be rented outside the Reservation subject to the provisions of Rule 45 of these Water Supply Bank Rules. ()
02. **Bank Operation.** The operation of the Bank shall be consistent with the Agreement. The Bank shall be for the exclusive purpose of rental of Tribal stored water. ()
03. **Authority of Bank.** The Shoshone-Bannock Water Supply Bank is created pursuant to the provisions of the following Sections 42-1761, 42-1762, 42-1763, 42-1764, and 42-1765, Idaho Code. ()
04. **Incorporation of Articles.** These rules incorporate by reference the provisions set forth in Article 7.3.5, 7.3.10 and 7.3.11 of the Agreement. ()
05. **Consistency.** The operation of the Bank shall be consistent with provisions of the Tribes' spaceholder contracts with the United States. ()
06. **Storage Water.** Tribal stored water rented from the pool shall be deemed storage water of the renter. ()
07. **Evaporation Losses.** Evaporation losses associated with any Tribal stored water assigned to the Bank shall be charged to storage space from which the water is released. ()
- 026. -- 029. (RESERVED)**
- 030. MANAGEMENT (RULE 30).**
01. **Bank Operation.** The Bank shall be operated by the Tribal Rental Pool Committee in conformity with these rules and the Agreement. ()
02. **Committee Composition.** The Tribal Rental Pool Committee shall be composed of the following members: the Bureau Snake River Area Manager, the Snake River Watermaster, the Tribal Reservation Watermaster and three (3) individuals designated by the Council. The composition of this Committee shall only be changed as provided in the Agreement. ()

03. Chairperson Selection. The Committee shall select its own Chairperson from the Committee as determined by a majority vote of the Committee. Each term of the Chairperson of the Committee shall not exceed four (4) years; however, nothing precludes the same person from being re-elected as Chairperson by the members for more than one (1) term. ()

04. Committee Responsibilities. The Tribal Rental Pool Committee shall have the following responsibilities: ()

a. The Committee shall ensure that the Bank is operated in compliance with these rules and the Agreement and shall establish such other policies for the operation of the Bank as are consistent with these rules and the Agreement. ()

b. The Committee shall advise the Fort Hall Business Council on water banking activities upon request. ()

05. Chairperson Duties. The Chairperson shall be responsible for such duties as are delegated by the Committee. ()

031. -- 034. (RESERVED)

035. ASSIGNMENTS OF TRIBAL STORED WATER TO THE BANK (RULE 35).

01. Assignments of Stored Water. Assignments of Tribal stored water to the Bank should identify the reservoir from which the assignment is being made. If no reservoir is identified, the Tribal stored water shall be deemed to come first from the Palisades Reservoir and secondly from American Falls Reservoir. ()

02. Assignment Forms. Assignments of Tribal stored water to the Bank shall be in writing on forms provided by the Committee and shall bear the date received by the Chairperson. Copies of all assignments shall be provided to all the Committee members and a copy shall be provided to the Council. ()

03. Term of Assignment. Assignments of Tribal stored water may be made for any period of time. ()

04. Control of Assigned Water. All Tribal stored water assigned to the Bank by the Council shall be under the control of the Committee for the duration of the term of the assignment to be rented in accordance with these rules and the terms of the assignment. ()

05. Space Assignment. Whenever Tribal stored water is made available for rental, it shall be deemed that it is the intention of the Tribes to assign sufficient space to yield the amount of water designated. ()

06. Return of Unrented Water. Any Tribal stored water assigned to the rental pool that is not rented shall be returned to the credit of the Tribes. ()

036. -- 039. (RESERVED)

040. RENTAL OF WATER FROM THE RENTAL POOL (RULE 40).

01. Rental Priorities. Tribal stored water assigned to the Bank shall be made available for rental in accordance with the priorities established by the Committee, provided that the Fort Hall Indian Irrigation Project water users shall have a right of first refusal to rent any tribal stored water assigned to the rental pool. Notice shall be given in accordance with procedures established by agreement of the Tribes and the Fort Hall Indian Irrigation Project water users. ()

02. Rental Application. A request to rent water shall be in writing on a form provided by the Committee. A copy of the request shall be provided to each member of the Committee and forwarded to the Council. ()

- 03. Content of Agreements.** All rental agreements shall contain the following information: ()
- a.** Name and address of the renter, ()
 - b.** Amount of tribal stored water obligated, ()
 - c.** The beneficial use, ()
 - d.** The rental price, ()
 - e.** The legal description of the point of diversion and place of use, ()
 - f.** The duration of the rental agreement, ()
 - g.** The understanding of responsibilities and exposures if reservoir space does not fill at some time during the term of the rental agreement. ()
 - h.** The understanding that transportation losses occurring between the reservoir and the place of use shall be deducted from water delivered under the rental agreement. ()

041. -- 044. (RESERVED)

045. GEOGRAPHIC SCOPE OF RENTING (RULE 45).

- 01. Palisades Storage.** Tribal stored water from the Palisades Reservoir may be rented for use within the Snake River Basin above Milner Dam. ()
- 02. American Falls Storage.** Tribal stored water from the American Falls Reservoir may be rented for use within the Snake River Basin within the state of Idaho. ()

046. -- 049. (RESERVED)

050. RENTAL PAYMENTS (RULE 50).

- 01. Rental Price.** The price for rental Tribal stored water from the bank shall be set by the Council. ()
- 02. Management of Rental Income.** Rental payments shall be made directly to the Council. The Council shall be responsible for the management of the rental income. The Council shall give written notice to the Committee that payment was properly received and that water may be released under the rental agreement. If payments are made over time, and payment is not received by the Council, the Council shall promptly notify the Committee to hold back on release of the water until payment is properly received. ()

051. -- 054. (RESERVED)

055. TERM OF RENTALS (RULE 55).

The Committee may rent tribal stored water for a period of up to five (5) years. Any request to rent water for a period in excess of five (5) years shall be subject to negotiations between the Tribes and the IWRB. ()

056. -- 059. (RESERVED)

060. LIABILITY (RULE 60).

Nothing in these rules shall be construed as modifying or altering any provisions of the Agreement, including but not limited to Article 7.3.12. ()

061. -- 999. (RESERVED)

**37.03.11 – RULES FOR CONJUNCTIVE MANAGEMENT OF SURFACE
AND GROUND WATER RESOURCES**

000. LEGAL AUTHORITY (RULE 0).

These rules are promulgated pursuant to Chapter 52, Title 67, Idaho Code, the Idaho Administrative Procedure Act, and Section 42-603, Idaho Code, which provides that the Director of the Department of Water Resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as necessary to carry out the laws in accordance with the priorities of the rights of the users thereof. These rules are also issued pursuant to Section 42-1805(8), Idaho Code, which provides the Director with authority to promulgate rules implementing or effectuating the powers and duties of the department. ()

001. SCOPE (RULE 1).

The rules prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply. It is intended that these rules be incorporated into general rules governing water distribution in Idaho when such rules are adopted subsequently. ()

002. OTHER AUTHORITIES REMAIN APPLICABLE (RULE 2).

Nothing in these rules limits the Director's authority to take alternative or additional actions relating to the management of water resources as provided by Idaho law. ()

003. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

For the purposes of these rules, the following terms will be used as defined below. ()

01. Area Having a Common Ground Water Supply. A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights. (Section 42-237a.g., Idaho Code) ()

02. Artificial Ground Water Recharge. A deliberate and purposeful activity or project that is performed in accordance with Section 42-234(2), Idaho Code, and that diverts, distributes, injects, stores or spreads water to areas from which such water will enter into and recharge a ground water source in an area having a common ground water supply. ()

03. Conjunctive Management. Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply. ()

04. Delivery Call. A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. ()

05. Department. The Department of Water Resources created by Section 42-1701, Idaho Code. ()

06. Director. The Director of the Department of Water Resources appointed as provided by Section 42-1801, Idaho Code, or an employee, hearing officer or other appointee of the Department who has been delegated to act for the Director as provided by Section 42-1701, Idaho Code. ()

07. Full Economic Development of Underground Water Resources. The diversion and use of water from a ground water source for beneficial uses in the public interest at a rate that does not exceed the reasonably anticipated average rate of future natural recharge, in a manner that does not result in material injury to senior-priority surface or ground water rights, and that furthers the principle of reasonable use of surface and ground water as set forth in Rule 42. ()

08. Futile Call. A delivery call made by the holder of a senior-priority surface or ground water right that, for physical and hydrologic reasons, cannot be satisfied within a reasonable time of the call by immediately curtailing diversions under junior-priority ground water rights or that would result in waste of the water resource. ()

09. Ground Water Management Area. Any ground water basin or designated part thereof as designated by the Director pursuant to Section 42-233(b), Idaho Code. ()

10. **Ground Water.** Water under the surface of the ground whatever may be the geological structure in which it is standing or moving as provided in Section 42-230(a), Idaho Code. ()
11. **Holder of a Water Right.** The legal or beneficial owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose. ()
12. **Idaho Law.** The constitution, statutes, administrative rules and case law of Idaho. ()
13. **Junior-Priority.** A water right priority date later in time than the priority date of other water rights being considered. ()
14. **Material Injury.** Hindrance to or impact upon the exercise of a water right caused by the use of water by another person as determined in accordance with Idaho Law, as set forth in Rule 42. ()
15. **Mitigation Plan.** A document submitted by the holder(s) of a junior-priority ground water right and approved by the Director as provided in Rule 043 that identifies actions and measures to prevent, or compensate holders of senior-priority water rights for, material injury caused by the diversion and use of water by the holders of junior-priority ground water rights within an area having a common ground water supply. ()
16. **Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. ()
17. **Petitioner.** Person who asks the Department to initiate a contested case or to otherwise take action that will result in the issuance of an order or rule. ()
18. **Reasonable Ground Water Pumping Level.** A level established by the Director pursuant to Sections 42-226, and 42-237a.g., Idaho Code, either generally for an area or aquifer or for individual water rights on a case-by-case basis, for the purpose of protecting the holders of senior-priority ground water rights against unreasonable lowering of ground water levels caused by diversion and use of surface or ground water by the holders of junior-priority surface or ground water rights under Idaho law. ()
19. **Reasonably Anticipated Average Rate of Future Natural Recharge.** The estimated average annual volume of water recharged to an area having a common ground water supply from precipitation, underflow from tributary sources, and stream losses and also water incidentally recharged to an area having a common ground water supply as a result of the diversion and use of water for irrigation and other purposes. The estimate will be based on available data regarding conditions of diversion and use of water existing at the time the estimate is made and may vary as these conditions and available information change. ()
20. **Respondent.** Persons against whom complaints or petitions are filed or about whom investigations are initiated. ()
21. **Senior-Priority.** A water right priority date earlier in time than the priority dates of other water rights being considered. ()
22. **Surface Water.** Rivers, streams, lakes and springs when flowing in their natural channels as provided in Sections 42-101 and 42-103, Idaho Code. ()
23. **Water District.** An instrumentality of the state of Idaho created by the Director as provided in Section 42-604, Idaho Code, for the purpose of performing the essential governmental function of distribution of water among appropriators under Idaho law. ()
24. **Watermaster.** A person elected and appointed as provided in Section 42-605, and Section 42-801, Idaho Code, to distribute water within a water district. ()
25. **Water Right.** The legal right to divert and use or to protect in place the public waters of the state of Idaho where such right is evidenced by a decree, a permit or license issued by the Department, a beneficial or

constitutional use right or a right based on federal law. ()

011. -- 019. (RESERVED)

020. GENERAL STATEMENTS OF PURPOSE AND POLICIES FOR CONJUNCTIVE MANAGEMENT OF SURFACE AND GROUND WATER RESOURCES (RULE 20).

01. Distribution of Water Among the Holders of Senior and Junior-Priority Rights. These rules apply to all situations in the state where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply. ()

02. Prior Appropriation Doctrine. These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law. ()

03. Reasonable Use of Surface and Ground Water. These rules integrate the administration and use of surface and ground water in a manner consistent with the traditional policy of reasonable use of both surface and ground water. The policy of reasonable use includes the concepts of priority in time and superiority in right being subject to conditions of reasonable use as the legislature may by law prescribe as provided in Article XV, Section 5, Idaho Constitution, optimum development of water resources in the public interest prescribed in Article XV, Section 7, Idaho Constitution, and full economic development as defined by Idaho law. An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule. ()

04. Delivery Calls. These rules provide the basis and procedure for responding to delivery calls made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right. The principle of the futile call applies to the distribution of water under these rules. Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued. ()

05. Exercise of Water Rights. These rules provide the basis for determining the reasonableness of the diversion and use of water by both the holder of a senior-priority water right who requests priority delivery and the holder of a junior-priority water right against whom the call is made. ()

06. Areas Having a Common Ground Water Supply. These rules provide the basis for the designation of areas of the state that have a common ground water supply and the procedures that will be followed in incorporating the water rights within such areas into existing water districts or creating new districts as provided in Section 42-237a.g., and Section 42-604, Idaho Code, or designating such areas as ground water management areas as provided in Section 42-233(b), Idaho Code. ()

07. Sequence of Actions for Responding to Delivery Calls. Rule 30 provides procedures for responding to delivery calls within areas having a common ground water supply that have not been incorporated into an existing or new water district or designated a ground water management area. Rule 40 provides procedures for responding to delivery calls within water districts where areas having a common ground water supply have been incorporated into the district or a new district has been created. Rule 41 provides procedures for responding to delivery calls within areas that have been designated as ground water management areas. Rule 50 designates specific known areas having a common ground water supply within the state. ()

08. Reasonably Anticipated Average Rate of Future Natural Recharge. These rules provide for administration of the use of ground water resources to achieve the goal that withdrawals of ground water not exceed the reasonably anticipated average rate of future natural recharge. (Section 42-237a.g., Idaho Code) ()

09. Saving of Defenses. Nothing in these rules affects or in any way limit any person's entitlement to assert any defense or claim based upon fact or law in any contested case or other proceeding. ()

10. Wells as Alternate or Changed Points of Diversion for Water Rights from a Surface Water Source. Nothing in these rules prohibits any holder of a water right from a surface water source from seeking, pursuant to Idaho law, to change the point of diversion of the water to an inter-connected area having a common ground water supply. ()

11. Domestic and Stock Watering Ground Water Rights Exempt. A delivery call shall not be effective against any ground water right used for domestic purposes regardless of priority date where such domestic use is within the limits of the definition set forth in Section 42-111, Idaho Code, nor against any ground water right used for stock watering where such stock watering use is within the limits of the definition set forth in Section 42-1401A(11), Idaho Code; provided, however, this exemption shall not prohibit the holder of a water right for domestic or stock watering uses from making a delivery call, including a delivery call against the holders of other domestic or stockwatering rights, where the holder of such right is suffering material injury. ()

021. -- 029. (RESERVED)

030. RESPONSES TO CALLS FOR WATER DELIVERY IN AN UNORGANIZED WATER DISTRICT OR WITH NO GROUND WATER REGULATION (RULE 30).

Responses to calls for water delivery made by the holders of senior-priority surface or ground water rights against the holders of junior-priority ground water rights within areas of the state not in organized water districts or within water districts where ground water regulation has not been included in the functions of such districts or within areas that have not been designated ground water management areas shall be as follows: ()

01. Delivery Call (Petition). When a delivery call is made by the holder of a surface or ground water right (petitioner) alleging that by reason of diversion of water by the holders of one (1) or more junior-priority ground water rights (respondents) the petitioner is suffering material injury, the petitioner shall file with the Director a petition in writing containing, at least, the following in addition to the information required by IDAPA 37.01.01, "Rules of Procedure of the Department of Water Resources," Rule 230: ()

a. A description of the water rights of the petitioner including a listing of the decree, license, permit, claim or other documentation of such right, the water diversion and delivery system being used by petitioner and the beneficial use being made of the water. ()

b. The names, addresses and description of the water rights of the ground water users (respondents) who are alleged to be causing material injury to the rights of the petitioner in so far as such information is known by the petitioner or can be reasonably determined by a search of public records. ()

c. All information, measurements, data or study results available to the petitioner to support the claim of material injury. ()

d. A description of the area having a common ground water supply within which petitioner desires junior-priority ground water diversion and use to be regulated. ()

02. Contested Case. The Department will consider the matter as a petition for contested case under the Department's Rules of Procedure, IDAPA 37.01.01. The petitioner shall serve the petition upon all known respondents as required by IDAPA 37.01.01, "Rules of Procedure of the Department of Water Resources," Rule 203. In addition to such direct service by petitioner, the Department will give such general notice by publication or news release as will advise ground water users within the petitioned area of the matter. ()

03. Informal Resolution. The Department may initially consider the contested case for informal resolution under the provisions of Section 67-5241, Idaho Code, if doing so will expedite the case without prejudicing the interests of any party. ()

04. Petition for Modification of an Existing Water District. In the event the petition proposes regulation of ground water rights conjunctively with surface water rights in an organized water district, and the water rights have been adjudicated, the Department may consider such to be a petition for modification of the organized water district and notice of proposed modification of the water district shall be provided by the Director pursuant to

Section 42-604, Idaho Code. The Department will proceed to consider the matter addressed by the petition under the Department's Rules of Procedure. ()

05. Petition for Creation of a New Water District. In the event the petition proposes regulation of ground water rights from a ground water source or conjunctively with surface water rights within an area having a common ground water supply which is not in an existing water district, and the water rights have been adjudicated, the Department may consider such to be a petition for creation of a new water district and notice of proposed creation of a water district shall be provided by the Director pursuant to Section 42-604, Idaho Code. The Department will proceed to consider the matter under the Department's Rules of Procedure. ()

06. Petition for Designation of a Ground Water Management Area. In the event the petition proposes regulation of ground water rights from an area having a common ground water supply within which the water rights have not been adjudicated, the Department may consider such to be a petition for designation of a ground water management area pursuant to Section 42-233(b), Idaho Code. The Department will proceed to consider the matter under the Department's Rules of Procedure. ()

07. Order. Following consideration of the contested case under the Department's Rules of Procedure, the Director may, by order, take any or all of the following actions: ()

a. Deny the petition in whole or in part; ()

b. Grant the petition in whole or in part or upon conditions; ()

c. Determine an area having a common ground water supply which affects the flow of water in a surface water source in an organized water district; ()

d. Incorporate an area having a common ground water supply into an organized water district following the procedures of Section 42-604, Idaho Code, provided that the ground water rights that would be incorporated into the water district have been adjudicated relative to the rights already encompassed within the district; ()

e. Create a new water district following the procedures of Section 42-604, Idaho Code, provided that the water rights to be included in the new water district have been adjudicated; ()

f. Determine the need for an adjudication of the priorities and permissible rates and volumes of diversion and consumptive use under the surface and ground water rights of the petitioner and respondents and initiate such adjudication pursuant to Section 42-1406, Idaho Code; ()

g. By summary order as provided in Section 42-237 a.g., Idaho Code, prohibit or limit the withdrawal of water from any well during any period it is determined that water to fill any water right is not there available without causing ground water levels to be drawn below the reasonable ground water pumping level, or would affect the present or future use of any prior surface or ground water right or result in the withdrawing of the ground water supply at a rate beyond the reasonably anticipated average rate of future natural recharge. The Director will take into consideration the existence of any approved mitigation plan before issuing any order prohibiting or limiting withdrawal of water from any well; or ()

h. Designate a ground water management area under the provisions of Section 42-233(b), Idaho Code, if it appears that administration of the diversion and use of water from an area having a common ground water supply is required because the ground water supply is insufficient to meet the demands of water rights or the diversion and use of water is at a rate beyond the reasonably anticipated average rate of future natural recharge and modification of an existing water district or creation of a new water district cannot be readily accomplished due to the need to first obtain an adjudication of the water rights. ()

08. Orders for Interim Administration. For the purposes of Rule Subsections 030.07.d. and 030.07.e., an outstanding order for interim administration of water rights issued by the court pursuant to Section 42-1417, Idaho Code, in a general adjudication proceeding shall be considered as an adjudication of the water rights involved. ()

09. Administration Pursuant to Rule 40. Upon a finding of an area of common ground water supply and upon the incorporation of such area into an organized water district, or the creation of a new water district, the use of water shall be administered in accordance with the priorities of the various water rights as provided in Rule 40. ()

10. Administration Pursuant to Rule 41. Upon the designation of a ground water management area, the diversion and use of water within such area shall be administered in accordance with the priorities of the various water rights as provided in Rule 41. ()

031. DETERMINING AREAS HAVING A COMMON GROUND WATER SUPPLY (RULE 31).

01. Director to Consider Information. The Director will consider all available data and information that describes the relationship between ground water and surface water in making a finding of an area of common ground water supply. ()

02. Kinds of Information. The information considered may include, but is not limited to, any or all of the following: ()

a. Water level measurements, studies, reports, computer simulations, pumping tests, hydrographs of stream flow and ground water levels and other such data; and ()

b. The testimony and opinion of expert witnesses at a hearing on a petition for expansion of a water district or organization of a new water district or designation of a ground water management area. ()

03. Criteria for Findings. A ground water source will be determined to be an area having a common ground water supply if: ()

a. The ground water source supplies water to or receives water from a surface water source; or ()

b. Diversion and use of water from the ground water source will cause water to move from the surface water source to the ground water source. ()

c. Diversion and use of water from the ground water source has an impact upon the ground water supply available to other persons who divert and use water from the same ground water source. ()

04. Reasonably Anticipated Average Rate of Future Natural Recharge. The Director will estimate the reasonably anticipated average rate of future natural recharge for an area having a common ground water supply. Such estimates will be made and updated periodically as new data and information are available and conditions of diversion and use change. ()

05. Findings. The findings of the Director will be included in the Order issued pursuant to Rule Subsection 030.07. ()

032. -- 039. (RESERVED)

040. RESPONSES TO CALLS FOR WATER DELIVERY IN AN ORGANIZED WATER DISTRICT (RULE 40).

Responses to calls for water delivery made by the holders of senior-priority surface or ground water rights against the holders of junior-priority ground water rights from areas having a common ground water supply in an organized water district shall be as follows: ()

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority water right (petitioner) alleging that by reason of diversion of water by the holders of one (1) or more junior-priority ground water rights (respondents) from an area having a common ground water supply in an organized water district the petitioner is suffering material injury, and upon a finding by the Director as provided in Rule 42 that material

injury is occurring, the Director, through the watermaster, shall: ()

a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year (5) period to lessen the economic impact of immediate and complete curtailment; or ()

b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director. ()

02. Regulation of Uses of Water by Watermaster. The Director, through the watermaster, shall regulate use of water within the water district pursuant to Idaho law and the priorities of water rights as provided in Section 42-604, Idaho Code, and under the following procedures: ()

a. The watermaster shall determine the quantity of surface water of any stream included within the water district which is available for diversion and shall shut the headgates of the holders of junior-priority surface water rights as necessary to assure that water is being diverted and used in accordance with the priorities of the respective water rights from the surface water source. ()

b. The watermaster shall regulate the diversion and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director. ()

c. Where a call is made by the holder of a senior-priority water right against the holder of a junior-priority ground water right in the water district the watermaster shall first determine whether a mitigation plan has been approved by the Director whereby diversion of ground water may be allowed to continue out of priority order. If the holder of a junior-priority ground water right is a participant in such approved mitigation plan, and is operating in conformance therewith, the watermaster shall allow the ground water use to continue out of priority. ()

d. The watermaster shall maintain records of the diversions of water by surface and ground water users within the water district and records of water provided and other compensation supplied under the approved mitigation plan which shall be compiled into the annual report which is required by Section 42-606, Idaho Code. ()

e. Under the direction of the Department, watermasters of separate water districts shall cooperate and reciprocate in assisting each other in assuring that diversion and use of water under water rights is administered in a manner to assure protection of senior-priority water rights provided the relative priorities of the water rights within the separate water districts have been adjudicated. ()

03. Reasonable Exercise of Rights. In determining whether diversion and use of water under rights will be regulated under Rule Subsection 040.01.a. or 040.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste. ()

04. Actions of the Watermaster Under a Mitigation Plan. Where a mitigation plan has been approved as provided in Rule 42, the watermaster may permit the diversion and use of ground water to continue out of priority order within the water district provided the holder of the junior-priority ground water right operates in accordance with such approved mitigation plan. ()

05. Curtailment of Use Where Diversions Not in Accord With Mitigation Plan or Mitigation Plan Is Not Effective. Where a mitigation plan has been approved and the junior-priority ground water user fails to operate in accordance with such approved plan or the plan fails to mitigate the material injury resulting from diversion and use of water by holders of junior-priority water rights, the watermaster will notify the Director who will immediately issue cease and desist orders and direct the watermaster to terminate the out-of-priority use of ground water rights otherwise benefiting from such plan or take such other actions as provided in the mitigation plan to ensure protection

of senior-priority water rights. ()

06. Collection of Assessments Within Water District. Where a mitigation plan has been approved, the watermaster of the water district shall include the costs of administration of the plan within the proposed annual operation budget of the district; and, upon approval by the water users at the annual water district meeting, the water district shall provide for the collection of assessment of ground water users as provided by the plan, collect the assessments and expend funds for the operation of the plan; and the watermaster shall maintain records of the volumes of water or other compensation made available by the plan and the disposition of such water or other compensation. ()

041. ADMINISTRATION OF DIVERSION AND USE OF WATER WITHIN A GROUND WATER MANAGEMENT AREA (RULE 41).

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority ground water right against holders of junior-priority ground water rights in a designated ground water management area alleging that the ground water supply is insufficient to meet the demands of water rights within all or portions of the ground water management area and requesting the Director to order water right holders, on a time priority basis, to cease or reduce withdrawal of water, the Director shall proceed as follows: ()

a. The petitioner shall be required to submit all information available to petitioner on which the claim is based that the water supply is insufficient. ()

b. The Director will conduct a fact-finding hearing on the petition at which the petitioner and respondents may present evidence on the water supply, and the diversion and use of water from the ground water management area. ()

02. Order. Following the hearing, the Director may take any or all of the following actions: ()

a. Deny the petition in whole or in part; ()

b. Grant the petition in whole or in part or upon conditions; ()

c. Find that the water supply of the ground water management area is insufficient to meet the demands of water rights within all or portions of the ground water management area and order water right holders on a time priority basis to cease or reduce withdrawal of water, provided that the Director shall consider the expected benefits of an approved mitigation plan in making such finding. ()

d. Require the installation of measuring devices and the reporting of water diversions pursuant to Section 42-701, Idaho Code. ()

03. Date and Effect of Order. Any order to cease or reduce withdrawal of water will be issued prior to September 1 and shall be effective for the growing season during the year following the date the order is given and until such order is revoked or modified by further order of the Director. ()

04. Preparation of Water Right Priority Schedule. For the purposes of the Order provided in Rule Subsections 041.02 and 041.03, the Director will utilize all available water right records, claims, permits, licenses and decrees to prepare a water right priority schedule. ()

042. DETERMINING MATERIAL INJURY AND REASONABLENESS OF WATER DIVERSIONS (RULE 42).

01. Factors. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following: ()

a. The amount of water available in the source from which the water right is diverted. ()

b. The effort or expense of the holder of the water right to divert water from the source. ()

c. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply. ()

d. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application. ()

e. The amount of water being diverted and used compared to the water rights. ()

f. The existence of water measuring and recording devices. ()

g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system. ()

h. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority. ()

02. Delivery Call for Curtailment of Pumping. The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan. ()

043. MITIGATION PLANS (RULE 43).

01. Submission of Mitigation Plans. A proposed mitigation plan shall be submitted to the Director in writing and contain the following information: ()

a. The name and mailing address of the person or persons submitting the plan. ()

b. Identification of the water rights for which benefit the mitigation plan is proposed. ()

c. A description of the plan setting forth the water supplies proposed to be used for mitigation and any circumstances or limitations on the availability of such supplies. ()

d. Such information as will allow the Director to evaluate the factors set forth in Rule Subsection 043.03. ()

02. Notice and Hearing. Upon receipt of a proposed mitigation plan the Director will provide notice, hold a hearing as determined necessary, and consider the plan under the procedural provisions of Section 42-222, Idaho Code, in the same manner as applications to transfer water rights. ()

03. Factors to Be Considered. Factors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights include, but are not limited to, the following: ()

a. Whether delivery, storage and use of water pursuant to the mitigation plan is in compliance with Idaho law. ()

b. Whether the mitigation plan will provide replacement water, at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source at such time and place as necessary to satisfy the rights of diversion from the surface or ground water source. Consideration will be given to the history and seasonal availability of water for diversion so as not to require replacement water at times when the surface right historically has not received a full supply, such as during annual low-flow periods and extended drought periods. ()

c. Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi-season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable. ()

d. Whether the mitigation plan proposes artificial recharge of an area of common ground water supply as a means of protecting ground water pumping levels, compensating senior-priority water rights, or providing aquifer storage for exchange or other purposes related to the mitigation plan. ()

e. Where a mitigation plan is based upon computer simulations and calculations, whether such plan uses generally accepted and appropriate engineering and hydrogeologic formulae for calculating the depletive effect of the ground water withdrawal. ()

f. Whether the mitigation plan uses generally accepted and appropriate values for aquifer characteristics such as transmissivity, specific yield, and other relevant factors. ()

g. Whether the mitigation plan reasonably calculates the consumptive use component of ground water diversion and use. ()

h. The reliability of the source of replacement water over the term in which it is proposed to be used under the mitigation plan. ()

i. Whether the mitigation plan proposes enlargement of the rate of diversion, seasonal quantity or time of diversion under any water right being proposed for use in the mitigation plan. ()

j. Whether the mitigation plan is consistent with the conservation of water resources, the public interest or injures other water rights, or would result in the diversion and use of ground water at a rate beyond the reasonably anticipated average rate of future natural recharge. ()

k. Whether the mitigation plan provides for monitoring and adjustment as necessary to protect senior-priority water rights from material injury. ()

l. Whether the plan provides for mitigation of the effects of pumping of existing wells and the effects of pumping of any new wells which may be proposed to take water from the areas of common ground water supply. ()

m. Whether the mitigation plan provides for future participation on an equitable basis by ground water pumpers who divert water under junior-priority rights but who do not initially participate in such mitigation plan. ()

n. A mitigation plan may propose division of the area of common ground water supply into zones or segments for the purpose of consideration of local impacts, timing of depletions, and replacement supplies. ()

o. Whether the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even though such plan may not otherwise be fully in compliance with these provisions. ()

044. -- 049. (RESERVED)

050. AREAS DETERMINED TO HAVE A COMMON GROUND WATER SUPPLY (RULE 50).

01. Eastern Snake Plain Aquifer. The area of coverage of this rule is the aquifer underlying the Eastern Snake River Plain as the aquifer is defined in the report, Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho, USGS Professional Paper 1408-F, 1992 excluding areas south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian. ()

a. The Eastern Snake Plain Aquifer supplies water to and receives water from the Snake River. ()

b. The Eastern Snake Plain Aquifer is found to be an area having a common ground water supply. ()

c. The reasonably anticipated average rate of future natural recharge of the Eastern Snake Plain Aquifer will be estimated in any order issued pursuant to Rule 30. ()

d. The Eastern Snake Plain Aquifer area of common ground water supply will be created as a new water district or incorporated into an existing or expanded water district as provided in Section 42-604, Idaho Code, when the rights to the diversion and use of water from the aquifer have been adjudicated, or will be designated a ground water management area. ()

051. -- 999. (RESERVED)

**37.03.12 – IDAHO DEPARTMENT OF WATER RESOURCES WATER DISTRIBUTION RULES –
WATER DISTRICT 34**

000. LEGAL AUTHORITY (RULE 0).

The Idaho Department of Water Resources (IDWR) is authorized under Section 42-603, Idaho Code, to adopt rules for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources. ()

001. SCOPE (RULE 1).

This rule governs the distribution of surface and ground water within Water District 34, the Big Lost River Basin, by the duly appointed watermaster pursuant to the provisions of Chapter 6, Title 42, Idaho Code, and applicable court decrees. This chapter does not limit the authority of the Director of the Idaho Department of Water Resources in exercising the duties and responsibilities in other provisions of Idaho law. ()

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

For the purposes of these rules, the following terms will be used as defined below. ()

01. 2-B Gage. The U.S. Geological Survey gaging station located below Mackay Dam in the SW1/4SW1/4NE1/4, Section 18, Township 7 North, Range 24 East, B.M. ()

02. Acre-Foot (AF). The unit commonly used to measure a volume of water which is equal to the amount of water to cover one (1) acre of land one (1) foot deep and is equal to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons. ()

03. Acre-Foot Per Year (AFY). Acre foot per calendar year. ()

04. Arco Gage. The U.S. Geological Survey gaging station located near the town of Arco in the SW1/4SE1/4SW1/4, Section 17, Township 3 North, Range 27 East, B.M. ()

05. Cubic Foot Per Second (CFS). The unit used to express a rate of flow of water equal to fifty (50) miner's inches or about four hundred forty-eight and eight tenths (448.8) gallons per minute. ()

06. Delivery Call. A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. ()

07. Director. The Director of the Idaho Department of Water Resources (IDWR) or the director's duly authorized designee. ()

08. Eastside Canal. The Eastside Canal diverts from the east side of the Big Lost River in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. and extends southerly to the point it discharges back into the Big Lost River in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. ()

09. Holder of a Water Right. The legal owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose. ()

10. Howell Gage. The U.S. Geological Survey gaging station located above Mackay Reservoir in the SE1/4NE1/4NW1/4, Section 30, Township 8 North, Range 21 East, B.M. ()

11. Rotation Credit. Water impounded in Mackay Reservoir pursuant to a water right whose source of water is the Big Lost River and which does not include storage as a purpose of use. The impoundment of water as rotation credit is described in Rule Subsection 040.02. ()

12. Small Domestic and Stock Water Uses. Water uses meeting the definition of Section 42-111 or Section 42-1401A(12), Idaho Code. ()

13. Storage Water. Water impounded in a storage facility, including Mackay Reservoir, pursuant to a water right which includes storage as a purpose of use. ()

14. Watermaster. The duly elected and appointed state watermaster of Water District 34 who is authorized to perform duties pursuant to Chapters 6 and 8, Title 42, Idaho Code, and the decree, or order for interim administration, of water rights for Basin 34. ()

011. -- 024. (RESERVED)

025. RIVER REACHES (RULE 25).

01. Divisions of the Big Lost River. For the purposes of quantifying river gains, losses, and calculating and accounting for natural flow, the Big Lost River is divided into the reaches identified below. Reference to a specific river reach will be by the name of the downstream station or terminus point. ()

a. Above Howell Gage. ()

b. Howell Gage to Chilly Bridge located in the NW1/4NE1/4NW1/4, Section 5, Township 8 North, Range 22 East, B.M. ()

c. Chilly Bridge to the 2-B Gage. ()

d. 2-B Gage to Leslie Gage located in the NW1/4SW1/4SE1/4, Section 10, Township 6 North, Range 25 East, B.M. ()

e. Leslie Gage to Moore diversion located in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. ()

f. Moore diversion to Arco diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. ()

g. Below Arco diversion to the Arco Gage. ()

02. River Reach Computations. For each reach of the river the natural flow will be computed as the natural flow entering the reach plus gains entering the reach minus losses from the reach. The natural flow thus calculated will be allocated as described in Rule 40. ()

03. Gage Station or Other Flow Measuring Facility. A gage station or other flow measuring facility, as approved by the director, is located at the Howell Gage, Chilly Bridge, 2-B Gage, Leslie Gage, Moore diversion, Arco diversion and Arco Gage. The Howell, 2-B and Arco gages shall be maintained as part of the USGS Cooperative Program, or equivalent measurement program, and operated continuously. Water District 34 shall continue to contribute to the maintenance and operation of these gage sites in the same proportion as is currently contributed. All other gages shall be operated when water diversions, other than solely storage in Mackay Reservoir, are being made from the river. The cost of installation, operation and maintenance of these other measuring facilities is the responsibility of Water District 34. ()

026. -- 029. (RESERVED)

030. NATURAL FLOWS (RULE 30).

Natural flow shall be delivered through the natural river channel to the point of diversion of record except as provided in these rules. ()

01. Eastside Canal. The watermaster, with the approval of the director and after consultation with the Big Lost River Irrigation District, may elect to deliver the natural flow of the river through the Eastside Canal when the following conditions are met: ()

a. The full flow of the river, including impounded water, to be delivered downstream of the Moore diversion is not greater than the capacity of the Eastside Canal. ()

b. More natural flow water can be delivered to calls for natural flow than could be delivered by using the natural river channel. ()

c. No water right is injured. ()

d. Measuring devices of a type acceptable to the director are installed and maintained where the flow leaves the river channel and where it returns to the river channel. ()

e. When used for the delivery of natural flow to the Arco diversion, the Eastside Canal is considered to be the river channel for water delivery accounting purposes and the watermaster shall protect the natural flow for delivery to prior water rights. Water rights diverting water from the river channel downstream from the point the Eastside Canal returns to the river channel shall be measured at their point of diversion from the river downstream from the Eastside Canal return. ()

f. Conveyance losses in the Eastside Canal, when considered to be the river channel, shall be proportioned between the river flow, the diversions from the Eastside and pumps that inject ground water into the Eastside Canal. The proportioning will be based upon the ratio of total Eastside diversions and injected ground water to the total inflow to the canal. ()

02. Alternate Point of Diversion. The watermaster may elect, with the approval of the director, to deliver natural flow water rights to the alternate point of diversion described in Rule Subsection 030.02.a. below when conditions in Rule Subsections 030.02.b. through 030.02.f. below are met: ()

a. This rule may be used to deliver water rights through the Munsey diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. as an alternate point of diversion for water rights with a recorded point of diversion at the McLaughlin diversion located in the NE1/4NW1/4SE1/4, Section 12, Township 3 North, Range 26 East, B.M. ()

b. The additional delivery losses through the natural channel to the recorded point of diversion for a water right prevents delivery of natural flow to one (1) or more other water rights then calling for water. ()

c. The user receives the same amount of water at the field headgate from the natural flow water right that would be delivered to the field headgate had the natural flow right been delivered at the recorded point of diversion. ()

d. Delivery of the water right at the alternate point of diversion is limited to the period of time the water right could have been delivered to the recorded point of diversion based upon the natural flow available at any time delivery is called for and the loss of the river channel at the time the alternate point of diversion began to be used for the delivery of this water right. ()

e. No water right is injured by the use of the alternate point of diversion. ()

f. The owner of the diversion works at the alternate point of diversion and the ditch(es) used to deliver the water to the field headgate from the alternate point of diversion concurs in the use of those facilities. ()

031. -- 034. (RESERVED)

035. MEASURING DEVICES AND CONTROL WORKS (RULE 35).

01. Installation and Maintenance of Measuring Devices and Control Works. In addition to measuring devices or control works specifically described in the listing of the water right, each water user, except small domestic and stock water users from ground water, shall, at the water user's expense, install and maintain measuring devices and control works of a type acceptable to the director, at all points of diversion and any other points, as determined necessary by the director for the proper administration of the use of water. The director may prohibit or prevent the diversion of water by a water user who refuses or fails to comply with this rule in accordance with the provisions of Chapter 7, Title 42, Idaho Code. ()

02. Access to Diversion Works. Water users shall provide the water district staff continual access to all diversion works, measuring devices and control structures, except ground water diversions for small domestic and stock water uses. ()

03. Diversions Which May Be Exempt. Diversions below the Chilly Bridge and above the Mackay Reservoir that divert water from the Big Lost River, whose place of use is within the flood plain of the Big Lost River as determined by the director, may be exempt from the requirement for measuring devices and control works with the approval of the director. Flow rates through exempt diversions will be estimated by the watermaster for accounting purposes by assuming the recorded flow rate of the water right is being diverted. ()

036. -- 039. (RESERVED)

040. ALLOCATION OF NATURAL FLOW (RULE 40).

01. Administration of Surface Water Rights. Water not diverted or rotated for credit is available for the next in time water right. Natural flow rights are delivered to the point of diversion with no conveyance loss assessment. A natural flow water right delivered through a lateral or canal of a water conveyance entity shall be assessed the conveyance loss for the canal through which the water right is delivered. ()

a. All water deliveries must be called for by the water user at least forty-eight (48) hours in advance of the actual water delivery. Water which can be delivered by the watermaster in less than forty-eight (48) hours may be used by the water user. ()

b. The water user must notify the watermaster of the water users intent to use water as required by Rule Subsection 040.05. ()

02. Rotation Credit. Water rights that do not include storage as a purpose of use may not be stored. Water rights whose source is Big Lost River with their point of diversion below the Mackay Dam may, however, be rotated for credit when such practice improves the efficiency of water use as contemplated by the Big Lost River Irrigation District's plan of operation subject to the following conditions: ()

a. Rotation for credit must be approved by the director as provided by these rules. ()

b. Rotation for credit must be pursuant to the Big Lost River Irrigation District's approved plan of operation. ()

c. Any water credited under such a rotation, if not used in the same irrigation season in which it is credited, shall become storage water of the Big Lost River Irrigation District at the end of the irrigation season. ()

d. Rotation for credit cannot occur prior to the need for irrigation water on the land, as determined pursuant to these rules, in any year. ()

i. Natural flow must be available at the river headgate point of diversion for the water right requesting rotation credit. ()

ii. The water user must have operable delivery and use facilities and an actual need for the water on the land in the year rotation is sought. ()

iii. If natural flow can not be delivered to a point of diversion at the beginning of the irrigation season and the watermaster determines rotation credit is needed to make possible the delivery of water rights being called for, and there is room in Mackay Reservoir for rotation credit, the watermaster may rotate natural flow rights, which would not otherwise be deliverable to their point of diversion, for credit of up to a combined total of three thousand five hundred (3,500) AF to be released from the reservoir under the control of the watermaster to make natural flow rights deliverable to their point of diversion. The watermaster may use storage water to assist the delivery of natural flow water rights at the beginning of the irrigation season when requested to do so by the storage holder. ()

e. Water rotated for credit may only be used on the land to which the water right being rotated is appurtenant (water rotated for credit may not be marketed) except under the provisions of Section 42-222A, Idaho Code. ()

f. If the reservoir fills after rotation has begun in any year, (or would have filled except for flood operations) and the natural flow is sufficient to allow diversion of water by 1905 or junior water rights while the reservoir is full, all rotation credits accrued at that time are lost and all water in Mackay Reservoir at that time becomes storage water of the Big Lost River Irrigation District for reallocation. For purposes of this rule Mackay Reservoir will be considered full when the elevation of the water in the reservoir reaches or exceeds a four (4) day average of six thousand sixty-six and twelve one hundredths (6,066.12) feet MSL (spillway crest). Rotation for credit stops at the time Mackay Reservoir fills, and while it remains full, but if the natural flow does not increase sufficiently to allow 1905 or junior water rights to divert after the reservoir fills the rotation credit in the reservoir shall remain the credit of the water user(s) who accrued the rotation credit. ()

g. Water rights being rotated must be identified to the watermaster as being rotated into Mackay Reservoir. Water rights identified as such will have the Mackay Reservoir as the temporary point of diversion during the time rotation is occurring. ()

h. The rate of diversion for a water right being rotated for credit combined with other water rights for the same place of use being diverted at the same time cannot exceed the combined diversion limit specified in the listing of water rights. This rule does not limit the rate at which rotation credit, once impounded, can be used. ()

03. Assessment of Evaporation and Conveyance Losses to Impounded Water. ()

a. Evaporation losses from Mackay Reservoir shall be estimated daily by the watermaster by applying correlated evapotranspiration data and shall be assessed to all impounded water. ()

b. Conveyance losses in the natural channel shall be proportioned by the watermaster between natural flow and impounded water. The proportioning shall be done on a river reach basis. Impounded water flowing through a river reach that does not have a conveyance loss will not be assessed a loss for that reach. Impounded water flowing through any river reach that does have a conveyance loss will be assessed the proportionate share of the loss for each losing reach through which the impounded water flows. ()

i. An exception is made for impounded water delivered through the Beck and Evan diversion located in the SW1/4SE1/4SW1/4, Section 11, Township 6 North, Range 25 East, B.M. Conveyance loss for this impounded water will be assessed the conveyance loss of the Leslie reach, if any, and the additional conveyance loss to the Beck and Evan diversion but not the conveyance loss of the entire Moore reach. ()

04. Initiation and Duration of Surface Water Allocation for Irrigation. Any time after May 1 an irrigation water user can make a delivery call on the natural flow if the water user can make beneficial use of the water for irrigation. If sufficient natural flow exists to deliver the called for water right in a useable amount to the water users place of use, the watermaster shall deliver the right. In addition, the director may allow the diversion of rights or portions of rights for irrigation use from the Big Lost River as early as April 20 and as late as October 31, and from surface water tributaries to the Big Lost River either before or after the period of use for irrigation described in the water right where: ()

a. The water so diverted is applied to a beneficial use resulting in an immediate benefit to growing plants or is necessary to allow performance of an agricultural practice generally accepted in the community, as determined by the director. ()

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. ()

c. The diversion and use of the water does not conflict with the public interest as determined by the director. ()

05. Notice to Initiate Delivery. Water users must initiate delivery of their water right(s) by notifying the watermaster that they are ready to put water to beneficial use. ()

06. Diversion of Additional Flows. The director may allow the diversion of surface water in addition to the quantity of surface water described in a water right for irrigation use to be diverted for irrigation of the described place of use where: ()

a. The waters so diverted are applied to a beneficial use, as determined by the director. ()

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of water rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. ()

c. The diversion and use of the water does not conflict with the public interest as determined by the director. ()

d. Additional flows diverted pursuant to Rule 040.06 are natural flows and will not be assessed as impounded water. ()

07. Mackay Dam Minimum By-Pass. Mackay Dam and Reservoir shall be operated to maintain a minimum flow of fifty (50) CFS at the 2-B gage. ()

08. Canal or Lateral Delivery. In the event a water user feels inappropriate delivery of natural flow water is occurring on any lateral or canal, the water user can request the watermaster to investigate. In the event the watermaster determines that delivery of natural flow water rights within a lateral or canal is being improperly conducted he shall: ()

a. Notify the ditch rider and the water delivery entity of the results of his investigation and coordinate efforts to make proper delivery of the natural flow. ()

b. If the situation has not been sufficiently resolved within twenty-four (24) hours the watermaster will notify the director who may take all actions authorized by law to remedy the situation. ()

041. -- 054. (RESERVED)

055. WATER USAGE (RULE 55).

01. Incidental Stock Water. When stock water is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use may be diverted and used, from the same point of diversion and at the same place of use as the irrigation use, for purposes of maintaining a reasonable water supply for stock watering use during the period of use for irrigation described in the water right. ()

02. Winter (Non-Irrigation Season) Stock Water. During the non-irrigation season, from October 16 through April 30 except as modified by Rule 040.04, the storage of water in Mackay Reservoir is superior to all rights from the Big Lost River with points of diversion downstream from Mackay Dam, subject to minimum release. ()

a. Winter stock water can be called for and delivered pursuant to the list of water rights if it does not interfere with storage in Mackay Reservoir. ()

b. A right holder calling for delivery of stock water must have access to a diversion point and delivery system to convey the right to the place of use recorded in the list of water rights. If the headgate and delivery system are controlled by an entity other than the water user, the watermaster will only deliver the water with the concurrence of the owner of the headgate and delivery system and then only when such delivery does not constitute unreasonable waste as determined by the director. ()

056. -- 059. (RESERVED)

060. ACCOUNTING FOR WATER DELIVERY (RULE 60). Water diversions shall be accounted for continuously, throughout the year by the watermaster. ()

061. -- 999. (RESERVED)