

PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
House Resources &
Conservation Committee
67th Idaho Legislature
First Regular Session – 2023**



Prepared by:

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

January 2023

HOUSE RESOURCES & CONSERVATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2023 Legislative Session

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – Rules Governing Licensing

Docket No. 13-0104-22013

Docket No. 13-0104-22028

13.01.10 – Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife

Docket No. 13-0110-2201 (ZBR Chapter Rewrite).....11

13.01.14 – Rules Governing Falconry

Docket No. 13-0114-2201 (ZBR Chapter Rewrite).....24

13.01.18 – Rules Governing Feeding of Wild Cervids

Docket No. 13-0118-2201 (ZBR Chapter Rewrite).....31

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.02.14 – Rules for Selling Forest Products on State-Owned Endowment Lands

Docket No. 20-0214-2201 (ZBR Chapter Rewrite).....35

IDAPA 24.35 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.35.01 – Rules of the Outfitters and Guides Licensing Board

Docket No. 24-3501-2201 (ZBR Chapter Rewrite).....40

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.30 – Idaho Safe Boating Rules

Docket No. 26-0130-2201 (Chapter Repeal).....63

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2201

NOTICE OF 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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104, 36-105, and 36-408 Idaho Code.

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

This rulemaking originated by petition. This rulemaking balances outfitting industry and other economic and social interests in the Commission's allocation of deer and elk tags for sale to outfitted hunters when the Commission sets tag limits only for nonresidents (residents unlimited) for a zone, unit, or hunt area with a history of outfitted hunter use.

The agency conducted negotiated rulemaking, with a meeting on June 15, 2022. The agency received no comment on the proposed rules. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, Vol. 22-10, pages 269-272.

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

There is no fiscal impact from this rulemaking.

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

DATED this 18th day of November, 2022.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-105, and 36-408, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

In the event a hearing is scheduled, 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 rulemaking balances outfitting industry and other economic and social interests in the Commission's allocation of deer and elk tags for sale to outfitted hunters when the Commission sets tag limits only for nonresidents (residents unlimited) for a zone, unit or hunt area with a history of outfitted hunter use. The proposed rulemaking would allocate tags in such zones, units or hunt areas by: defining an initial tag use number, based on verified outfitted hunter tag use history, which will remain the same for the zone/unit for subsequent consecutive years in which tag limits apply; allocating tags annually or for a two-year period in each zone/unit corresponding to the initial tag use number, before the Commission adopts annual or biennial tag nonresident tag limits for the zone/unit; subtracting the initial tag use number from the nonresident tag limit set for the zone/unit, after which the Commission may allocate an additional portion (not to exceed 50%) of tags remaining in the nonresident limit for outfitted hunter use based on verified tag use history in the two years preceding allocation; and making tags remaining after the allocation(s) for outfitted hunters available to nonresidents.

Consistent with the Governor's Zero-Based Regulation Executive Order, the agency also edited the rule sections to improve clarity and reduce duplication.

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

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, pages 19-20](#) under Docket No. 13-0104-2201. The Department held a negotiated rulemaking meeting on June 15, 2022.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Amber Worthington, Deputy Director, at 208-334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 24th day of August 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-2201

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.~~ (3-31-22)(____)

001. ~~TITLE AND SCOPE.~~

~~The title of this chapter for citation is IDAPA 13.01.04, "Rules Governing Licensing."~~ These rules govern licensing. (3-31-22)(____)

002. – 009. (RESERVED)

010. DEFINITIONS.

01. ~~Allocated Tag.~~ ~~Game tag allocated under Section 36-408, Idaho Code.~~ (____)

02. ~~Authorized Corporate Representative.~~ ~~Any Corporation~~ shareholder ~~in a corporation,~~ designated in writing by the corporation as the eligible ~~tag~~ applicant, ~~who is in actual physical control of the eligible property.~~ (3-31-22)(____)

03. ~~Blind Person or Visually Impaired.~~ ~~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. Persons meeting criteria set forth in Sections 36-202(w) or 67-5402(2), Idaho Code.~~ (3-31-22)(____)

04. ~~Domicile.~~ ~~The place where a~~ An individual's ~~has his~~ true, fixed, permanent home and ~~to which place he has the intention of where they intend to~~ returning whenever ~~he is~~ absent. ~~An individual~~ s can have ~~several dwelling places, but~~ only one (1) domicile. ~~Factors to consider establishing domicile include, but are not limited to~~ Determination of domicile may consider, without limitation: (3-31-22)(____)

a. ~~What address does the person use on tax returns and where does the person file a state resident~~ Income tax return ~~state of residency and filing address?~~ (3-31-22)(____)

b. ~~Where is the person registered to~~ Voter registration? (3-31-22)(____)

c. ~~Location~~ Where ~~do the~~ person and ~~his~~ immediate family live? (3-31-22)(____)

d. ~~Where does the person have his mail sent or forwarded to?~~ Mailing/forwarding address: (3-31-22)(____)

e. ~~Where does he register his automobiles?~~ Vehicle registration: (3-31-22)(____)

f. ~~Where has the person~~ Location claimed ~~a~~ for homeowner exemption ~~on a personal residence?~~ or (3-31-22)(____)

g. ~~Where does he have a~~ State of driver's license? (3-31-22)(____)

05. ~~Disabled.~~ ~~A disabled person is defined as a person~~ m Meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code. (3-31-22)(____)

06. ~~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. (3-31-22)()

~~067.~~ **Landowner.** ~~Any person~~ Person or corporation whose name appears on a deed as the owner ~~of eligible property or whose name appears, or~~ on a sales contract ~~for sale of eligible property~~ as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability corporations ~~companies~~ wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership, or corporation. (3-31-22)()

~~08.~~ **Non-Allocated Tag.** Game tag other than an allocated tag. ()

~~09.~~ **Outfitted Hunter.** Person who obtains hunting services (excluding meat pack-out) under written agreement with an outfitter licensed under Chapter 21, Title 36, Idaho Code, for the species and area for which the applicable game tag is valid. ()

~~0710.~~ **Permanent Disability.** ~~A medically~~ Medically determinable physical impairment, which a physician has certified ~~that the~~ as a condition having ~~no~~ no expectation for a fundamental or marked ~~change~~ improvement at any time in the future. (3-31-22)()

~~0811.~~ **Physician.** ~~A person~~ 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 in the state of~~ practice ~~in Idaho~~. (3-31-22)()

~~09.~~ **Resident.** "Resident" is defined in Section 36-202(s), Idaho Code. (3-31-22)

~~12.~~ **Two-Year Outfitter Verified Use History.** Tag use by outfitted hunters, as verified and recorded in accordance with Section 36-408, Idaho Code, for each of the two (2) calendar years immediately preceding the date on which the Commission determines tag allocation for a hunt area. ()

(BREAK IN CONTINUITY OF SECTIONS)

506. DEER AND ELK TAG ALLOCATION IN GENERAL HUNTS LIMITED FOR NONRESIDENTS ONLY.

~~01.~~ **Tag Allocation.** When setting annual or biennial limits for general hunt deer or elk tags available to nonresidents without resident limits, in zones, units, or other hunt areas with historic outfitted hunter use, the Commission will first allocate, on a corresponding biennial or annual basis, the number of tags reserved for outfitted hunters equal to the Initial Tag Use Number determined under this Section 506. The Commission will subtract the number of tags so allocated from the nonresident tag limit. Subject to a maximum of fifty percent (50%) of the remaining nonresident tag limit, the Commission will allocate an additional number of tags reserved for outfitted hunters corresponding to the number by which the higher tag number from the Two-Year Verified Outfitter Use History exceeds the Initial Tag Use Number for the hunt area. The number of tags remaining in the nonresident limit after subtracting the Initial Tag Use Number, and any additional tags allocated under this section, will be available for purchase as non-allocated tags by outfitted or non-outfitted hunters. ()

~~02.~~ **Initial Tag Use Number.** ()

~~a.~~ For general hunts first limited for nonresidents while unlimited for residents in 2021 or subsequent years, the Initial Tag Use Number for outfitted hunters is the higher tag use number of the Two-Year Verified Outfitter Use History for 2021-2022, or the two (2) years immediately preceding the first year the hunt area is limited, whichever period is later. ()

~~b.~~ The Commission will increase the Initial Tag Use Number for a deer unit subject to a fifty percent (50%) restriction for allocated tag limits in 2021-2022, corresponding to the reduction in outfitted hunter use

demonstrated by outfitter(s). ()

c. If general hunt tags are allocated under this Section 506 for elk zones capped for all hunters before 2021, the Initial Tag Use Number will be the number determined to be historic outfitted hunter use at the time of prior capping, if greater than the otherwise applicable Two-Year Verified Outfitter Use History. ()

d. The Initial Tag Use Number will remain the same for the zone, unit, or hunt area for subsequent consecutive years in which nonresident tag limits apply. ()

5067. DEER AND ELK ~~OUTFITTER~~ ALLOCATED TAGS.

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 outfitted hunter, in accordance with tag designation by the Idaho Outfitters and Guides Licensing Board under Section 36-2107, Idaho Code, on a form prescribed by the Department. ~~The application shall be accompanied by the appropriate license fees,~~ and a with outfitter's certification by the outfitter that the hunter has a signed a written agreement to hunt with the outfitter making application exists between the outfitter and outfitted hunter for the tag applied for. (3-31-22)()

02. **Designated Buyers.** Purchasers of allocated tags, who return their unused tag ~~and a~~ with a notarized affidavit stating that ~~the tag buyer has~~ they have 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. (3-31-22)()

03. **Unsold Tags.** Any allocated tags not sold by August 1 of each year will be sold by the Department on a first-come, first-served basis. (3-31-22)

5078. – 549. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2202

NOTICE OF 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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104, 36-105, and 36-1101(a), Idaho Code.

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

This rulemaking originated by petition. This rulemaking would allow reasonable modification of big game hunting equipment restrictions to allow the use of an electronic viewfinder or display screen to aid aiming by blind or visually impaired hunters. The agency held a negotiated rulemaking on July 21, 2022. No persons other than petitioners identified themselves as interested persons. The agency received no comment on the proposed rules. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, page 273-274](#).

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

There is no fiscal impact from this rulemaking.

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

DATED this 18th day of November, 2022.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-105, and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

In the event a hearing is scheduled, 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 rulemaking would establish an exception to the current prohibition against using an electronic device attached to, or incorporated in, a scope when taking big game (IDAPA rule 13.01.08.410.01.e.). The rulemaking would allow a blind or visually impaired hunter to attach a simple electronic device (such as a smartphone camera) to a scope as a viewfinder or display screen only to aid the hunter to line up on a target. This rulemaking would establish criteria for the exception and a permitting process.

Consistent with the Governor's Zero-Based Regulation Executive Order, the agency also edited the rule section to improve clarity and reduce duplication.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: This rulemaking originated via petition. Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, page 21](#) under Docket No. 13-0104-2202. The Department held a negotiated rulemaking meeting on July 21, 2022. No persons other than petitioners identified themselves as interested persons. No members of the public attended the meeting. The Department reviewed draft rule language with petitioners.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Amber Worthington, Deputy Director, at 208-334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 24th day of August, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-2202

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: (3-31-22)()

- a. All information requested on a form prescribed by the Department; (3-31-22)
- b. The applicant's signature; (3-31-22)
- 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; (3-31-22)
- 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; (3-31-22)
- e. Applicant's certification that applicant is able to hold and fire, without help from other persons, legal firearms or archery equipment; and (3-31-22)
- 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. (3-31-22)()

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~~ hunters. The Department has discretion to deny ~~the~~ applications as unreasonable in light of restrictions for other ~~participants in the~~ hunters, or set a modification different from the modification requested. (3-31-22)()

- 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. (3-31-22)
- 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. (3-31-22)

~~c. Reasonable modification for blind or visually impaired hunters may include a simple electronic device (e.g., smartphone camera), incorporated or attached to the scope (otherwise prohibited by IDAPA 13.01.08.410.01), for use by the hunter or companion, only as a viewfinder or display screen to aid in aiming. ()~~

03. **Authority.** Reasonable Modification Permits authorize holders to use equipment, as specified in the permit, that is otherwise prohibited ~~in a special weapon season~~. (3-31-22)()

04. **Expiration and Carrying.** (3-31-22)

- a. Reasonable modification permits expire no later than December 31 of the fifth year following the ~~issuance~~ date ~~of issuance~~, or the earlier ending of any shorter-term disability. (3-31-22)()
- b. A permit holder must carry a copy of the permit ~~while~~ during any hunting ~~in any special weapon hunt~~ in which the permit applies. (3-31-22)()

IDAPA 13 – DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0110-2201 (ZBR CHAPTER REWRITE)

NOTICE OF 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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, 36-712, and 36-2201-2205, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanation of the reasons for adopting the pending rule and a summary of 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 rule is being presented for authorization as part of the agency's plan to review each rule chapter every five years, consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). This rulemaking concerns the commercial and non-commercial importation, possession, release, sale, or salvage of wildlife. The rules under consideration govern import and transport permit issuance; captive wildlife; disease of captive wildlife; recovery, possession and sale of wildlife parts; prohibition on possession, importation and transportation of deer/moose/wild elk carcasses or parts from areas known to have animals with chronic wasting disease; private and commercial wildlife facilities; wildlife rehabilitation facilities; release of captively propagated game birds; and operation of shooting preserves.

The agency invited public participation in negotiated rulemaking, and no person expressed interest in participation. The agency also provided opportunities for public comment on proposed rules. The complete text of the proposed rule was published in the October 5, 2022 Idaho Administrative Bulletin, [Vol. 22-10, pages 275-286](#). The agency held a public meeting on October 18, 2022, at which it discussed potential changes to proposed rule sections regarding captive and commercial wildlife facilities based on initial comments received from commercial wildlife facilities regulated under both current agency rules and U.S. Department of Agriculture (USDA) regulations for exhibition of captive wildlife.

The text of the pending rule has been changed from the text of the proposed rule in accordance with Section 67-5227, Idaho Code. Changes in the pending rule text clarify points of confusion identified by commenters or upon further agency review. Changes also include the incorporation by reference of USDA regulations to align IDFG and USDA requirements for captive wildlife handling, care, treatment and transportation for warm blooded animals. Text changes regarding housing of captive wildlife provide flexibility measures to prevent escape, simplify or eliminate pieces of the rule that serve little purpose or create more burden or that are duplicative of USDA practices, and changes provide an exemption from state regulation for animal or public welfare activities (such as public handling or feeding) within commercial facilities licensed by USDA for public exhibition. The rulemaking continues state regulation of captive wildlife where there is not USDA licensing, and where there is greater potential to affect wildlife or the public at large, such as escape prevention, reporting of annual inventory and animal deaths, veterinary care for disease prevention and control, permitting for import and transport, and financial bonding for larger facilities to protect the state in case of escape or facility abandonment. The agency added Section 002 to comply with requirements of Section 67-5229, Idaho Code, to incorporate material by reference in administrative rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact associated with this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions about this pending rule, contact Tricia Hebdon, Assistant Chief of Wildlife, 208-287-2704.

DATED this 18th day of November, 2022.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-103, 36-104, 36-701, 36-703, 36-704, 36-706, 36-708, 36-712, and 36-2201 to 36-2205 Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking has been scheduled and posted on agency website at <https://idfg.idaho.gov/about/rulemaking>.

PUBLIC MEETING

Tuesday, October 18, 2022 @ 12:00 p.m. (Mountain Time)

**In Person: IDFG Headquarters
600 South Walnut St.,
Boise, ID 83712**

Virtual by Zoom Meeting Link: <https://us06web.zoom.us/j/83077793532>

Additional public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every 5 years. This rulemaking concerns the commercial and non-commercial importation, possession, release, sale, or salvage of wildlife. The rules under consideration govern import and transport permit issuance; captive wildlife; disease of captive wildlife; recovery, possession and sale of wildlife parts; prohibition on possession, importation and

transportation of deer/moose/wild elk carcasses or parts from areas known to have animals with chronic wasting disease; private and commercial wildlife facilities; wildlife rehabilitation facilities; release of captively propagated game birds; and operation of shooting preserves. Consistent with the Governor's [Zero-Based Regulation Executive Order](#), the agency has reorganized rule sections in this chapter and revised current rule language to improve clarity and reduce duplication.

This proposed rulemaking includes changes to current rules to clarify definitions, including those for agricultural/domestic animals, conventional pets, bona fide pet stores, captive wildlife facilities, private parks, commercial wildlife facilities, large commercial wildlife facilities, shooting preserves, and several acronyms. Proposed changes to current rule also: clarify that allowances for release of native wildlife without a permit does not apply to non-native wildlife; restrict the release of captured wild native reptiles and amphibians back into the wild in certain circumstances; and make the sale of rattlesnake parts consistent with other native reptile possession requirements. Proposed changes modify primary wolf characteristics to include both male and female weights and eliminate eye shine color as a characteristic. Proposed changes include language to distinguish a requirement for captive wildlife facilities to provide an inventory of animals yearly to the Department from a requirement that animal health records must be available for Department inspection upon request. Proposed changes shift reporting of animal deaths to the appropriate IDFG Regional Office from the Wildlife Health Laboratory. Proposed changes clarify requirements applicable to wildlife rehabilitation facilities. Proposed changes clarify requirements applicable to captively propagated game birds intended for release in Idaho, and delete a requirement for habitat verification for the Department's permitting of game bird shooting preserves.

Proposed change to the current rule would eliminate facility construction cost in the calculation of financial assurance requirements (via cash or surety bonds) for large commercial wildlife facilities. The proposed change would rely on a \$2,000 per animal held, or \$50,000 whichever amount is greater, financial assurance to guarantee performance of license conditions and to reimburse the Department for any costs incurred for cleanup of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control.

FEE SUMMARY: There is no fee associated with this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-4, page 22](#) under Docket No. 13-0110-2201. No persons identified themselves as interested in participating in negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Tricia Hebdon, Assistant Chief of Wildlife, 208-287-2704.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0110-2201

Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

**13.01.10 – RULES GOVERNING 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, 36-712, and 36-2201-2205, Idaho Code. ()

001. SCOPE.

These rules govern commercial and non-commercial importation, possession, release, sale, and salvage of wildlife. ()

002. INCORPORATION BY REFERENCE.

The code of federal regulations, title 9, part 2, section 131 (handling of animals), and part 3, sections 125-142 (specifications for humane handling, care, treatment, and transportation of certain warm-blood animals), (effective July 1, 2022) are incorporated by reference and available at <https://www.ecfr.gov/current/title-9/chapter-I/subchapter-A/>. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

In this chapter, “wildlife” excludes bullfrogs, fish, or crustaceans whose possession, transport, release, and sale are regulated by IDAPA 13.01.11 and 13.01.12 or by ISDA, unless they are or will be maintained in a zoo or aquarium for live exhibit to the public. ()

01. Agricultural/Domestic Animals. Animals or eggs normally considered to be of agricultural or domestic types currently common to Idaho that: (1) do not meet the definition of wildlife in Section 36-202, Idaho Code and (2) are not intended for release into the wild in Idaho. These include but are not limited to livestock, domestic bison, domestic cervids, and domestic furbearing animals regulated by ISDA under Title 25, Idaho Code. ()

02. Bona Fide Pet Store. Legitimate retail store that engages in the selling of conventional pets with a set location and regular business hours. ()

03. Captive Wildlife Facility. Facility where the operator obtains, possesses, or propagates wildlife for any purpose, including commercial, rehabilitation, private ownership (including private park) or sale. ()

04. Commercial Wildlife Facility. Facility where the operator obtains, possesses, or propagates wildlife for any commercial purpose, including exhibition, education, entertainment, or sale. ()

05. Commercial Wildlife Farm. Commercial wildlife facility where operator propagates big game animals not regulated by ISDA. ()

06. Conventional Pets. Privately owned companion animals not intended for research or resale that are not native wildlife captured from the wild in Idaho: dogs, cats ferrets, rabbits, rodents, non-venomous or non-dangerous reptiles and amphibians, non-poultry birds, hedgehogs, tenrecs, and sugar gliders. ()

07. CWD. Chronic Wasting Disease. ()

08. ISDA. Idaho State Department of Agriculture. ()

09. Large Commercial Wildlife Facility. Commercial wildlife facility housing three or more species or encompassing display or exhibit areas larger than one (1) acre. ()

10. NPIP. National Poultry Improvement Program for state-federal cooperative testing and certification. ()

11. Private Park. Facility where the owner or operator obtains, possesses, or propagates wildlife in captivity for personal pleasure and not for any commercial purpose. ()

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

13. Shooting Preserve. Privately owned or leased premises operated for hunting of captively propagated upland game birds. ()

14. Traveling Circus, Menagerie, or Trained Act of Wild Animals. Mobile wildlife display or exhibit maintained for instructional, educational, entertainment, or other commercial purposes that is not located within Idaho more than two (2) months during any calendar year. ()

011. -- 099. (RESERVED)

100. POSSESSION OR SALE OF WILDLIFE KILLED LAWFULLY.

In addition to the restrictions and permissions set forth in Sections 36-106, 36-501, 36-502, and 36-1107, Idaho Code: ()

01. Edible Flesh. No person may sell, purchase, or barter the edible flesh of game animals or other wildlife protected by classification under IDAPA 13.01.06. ()

02. Rattlesnakes. Skins or rattles of rattlesnakes lawfully killed in defense of people or property, or dying in lawful captivity, may be possessed, purchased, or sold, provided the person taking rattlesnake(s) from the wild or owning in captivity does not sell more than four (4) rattlesnakes per year. ()

03. Written Statement for Possession by Another. A written statement showing the taker's name, address, license and tag/permit numbers, date and location of kill, the part(s) possessed, and signed by the taker, must accompany wildlife or its parts when possessed by another person. Any buyer of black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts) must send a copy of the sales statement, or a Department Form CE-50, to the Department within ten (10) days after such purchase. ()

04. Lawfully Taken under other Jurisdiction. Wildlife or parts thereof that have been legally killed, collected, or salvaged under the laws of other states, Indian tribes, or countries may be possessed or sold in Idaho unless Idaho prohibits such possession or sale. ()

101. – 119. (RESERVED)

120. RECOVERY OF PROTECTED WILDLIFE.

Protected species of wildlife that have died naturally (not human-caused) or by accidental or unlawful human causes, remain in public trust to be disposed of by the Department. However, a person may recover, possess, sell or purchase parts protected wildlife dying of natural causes or accidental vehicle collision as follows: ()

01. Bighorn Sheep. ()

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

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

02. Big Game other than Bighorn Sheep. Antlers, hides, bones, horns, or teeth of big game animals other than bighorn sheep 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 Section 100.03 of these rules. ()

03. Wildlife Salvaged from Vehicle Collision. Big game animals, upland game animals, upland game birds, or furbearing animals, which may be lawfully hunted or trapped in Idaho, or predatory or unprotected wildlife that have been killed or dispatched as a result of accidental vehicle collision and salvaged in compliance with Section 36-506, Idaho Code, may be recovered, possessed, provided that such taking is not in violation of state or federal law. Parts of said wildlife, excluding any meat and excluding any part of bighorn sheep, may also be purchased, bartered, or sold, where sale is not specifically prohibited by federal statute or regulation or state statute, provided a written statement as described in IDAPA 13.01.10.100.03 accompanies the wildlife part. ()

121. – 139. (RESERVED)

140. TAXIDERMY AND FUR BUYER LICENSE RECORDS.

Persons possessing a taxidermist or fur buyer license must keep a record of any wildlife received for mounting or preservation; and of any purchase of furbearers, or of raw skins or parts of black bear, mountain lion or wolves, with said record to be kept for two (2) years from the respective date of receipt or purchase. Records may be written or preserved by media complying with Section 9-328, Idaho Code; copies of completed Department Form CE-50 are also considered adequate records. ()

141. – 149. (RESERVED)

150. CWD MANAGEMENT RESTRICTIONS.

01. Designation of CWD Management Zone. The Commission may designate CWD Management Zone(s) where wildlife is subject to increased risk of acquiring CWD based on presence of CWD-infected animals and information on wildlife movement. The Director may designate CWD Management Zone(s) 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 deer, elk, or moose from another state, Canadian province, or country (other than Canada) with any documented CWD; ()

b. Transport the carcass or any part of 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 deer, elk, or moose that: has been imported from another state, Canadian province or country with a documented case of CWD; or transported out of any CWD Management Zone to or across 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.** 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. ()

151. – 199. (RESERVED)

200. LIVE WILDLIFE.

01. General. No person may import into Idaho, export from Idaho, transport, possess or otherwise hold in captivity, propagate, sell or release into the wild any live wildlife, except those animals exempted by Idaho Code or these rules, without a corresponding import, export, transport, captive possession (individual animal license or multiple animal license at a private, commercial or rehabilitation facility), sale or release license/permit from the Department. Use of raptors in falconry is governed by IDAPA 13.01.14, Rules Governing Falconry. ()

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 ISDA or USDA requirements. ()

03. Restrictions on License Issuance. The Department will not issue any license/permit for import, export, transport, captive possession, sale, or release of live wildlife or eggs thereof, if the wildlife or eggs would pose a threat to the state of Idaho, including public safety, threat of disease, genetic contamination or displacement or of competition with existing species. Because of CWD, the Department will not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by ISDA. ()

04. Marking Big Game. All captive big game animals (excluding domestic cervids regulated by ISDA) must be uniquely marked via Department-approved method and numbering. ()

05. Inspections and Records. As a condition to any facility or individual captive animal license, 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. ()

06. Exemptions for Import, Export, Transport, Possession or Sale. No permit is needed from the Department to import, export, transport, possess or sell the following animals, provided they are not intended for release into the wild (although another state or federal agency may regulate such activity): ()

- a.** Agricultural/domestic animals. ()
- b.** Conventional pets. ()

07. Exemptions for Unprotected and Predatory Wildlife. ()

a. Wildlife classified as Unprotected Wildlife or 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 exported, transported, possessed, or sold 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. ISDA may restrict the possession,

sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code. ()

b. Native unprotected or predatory wildlife lawfully captured alive 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. ()

08. Exemptions 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, no more than four (4) individuals per species of Idaho native reptiles or amphibians at one time, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. Because of disease concerns, native reptiles or amphibians held in captivity with another reptile or amphibian obtained from any other location may not be released back into the wild unless the Department provides advance authorization. ()

201. DISEASE OF CAPTIVE WILDLIFE.

The Department and ISDA will mutually determine diseases and parasites of concern and mechanisms and procedures for control of diseases and parasites in captive wildlife. 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. ISDA authorizes such disease and parasite control measures under Title 25, Chapter 2, Idaho Code. ()

202. LIVE WILDLIFE IMPORT OR TRANSPORT.

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 or individual animal possession license. ()

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. ()

203. LIVE WILDLIFE IN TRANSIT.

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

204. POSSESSION OF UNLAWFUL IMPORT.

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

205. – 249. (RESERVED)

250. CAPTIVE WILDLIFE POSSESSION.

01. Application. Application for a license to possess captive wildlife on an individual basis will be on a form prescribed by the Department. ()

02. Inspection and Examination. Upon Department request, the applicant or license holder must make animal(s) available to the Department for inspection during business hours or provide a valid Certificate of Veterinary Inspection for any captive wildlife possessed. ()

251. CAPTIVE WOLVES.

01. License and Tattoos. No person may possess a live wolf or other canine exhibiting primary wolf characteristics without proper identification and a license on an annual calendar year basis from the Department, to be obtained by no later than three days of commencing possession of the animal. Proper identification is a microchip and

tattoo inside the flank or ear for any animal six (6) months of age or older. Application for license will be on a form prescribed by the Department, and the applicant will provide written and photographic confirmation of tattooing. ()

- 02. Primary Wolf Characteristics.** ()
- a.** Rounded ears smaller in proportion to those of the coyote; ()
- b.** Broad snout with nose pad wider than one (1) inch; ()
- c.** Long legs, approximately twenty-six (26) to thirty-two (32) inches at the shoulder in adult height; ()
- d.** Four and one-half (4.5) to six (6) feet long from tip of nose to tip of tail; ()
- e.** Adult male weight at least eighty (80) pounds; adult female weighs at least sixty (60) pounds adult; ()
- f.** Tail carried high or straight out when running; ()
- g.** Long, coarse fur, variable from white to black (generally grayish). ()

252. – 259. (RESERVED)

260. 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 attention *by a licensed veterinarian* or destroyed in a humane manner. ()
- 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. ()
- 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.** Enclosures will be kept in a clean and sanitary condition consistent with good animal husbandry. ()
- e.** Any animals with a propensity to fight or which are otherwise incompatible are kept segregated. ()
- f.** Suitable shelter or shields will be provided for all captive animals for protection from the elements, shelter and privacy. ()
- g.** Cages or enclosures will attempt to mimic the natural climate and habitat of the species being held, as nearly as possible. ()

261. PREVENTION OF ESCAPE OF CAPTIVE WILDLIFE.

All wildlife held in captivity must 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 (*including by flying, climbing, jumping, or digging*), meeting the following minimum specifications. The Department may *identify additional specifications for* enclosures by considering standards or guidelines *for the particular species of* the Association of Zoos and Aquariums *or other captive wildlife facility accreditation entities.* ()

- 01.** For ursids (bears), canids, or felids, the enclosure will: ()
- a.** Have a chain link fence at least eight (8) feet in height with *permanently anchored stakes, a chain link enclosure top, and buried fencing or a concrete apron to preclude escape by digging; or* ()
- b.** Have any other Department-approved configuration that will preclude escape. ()
- 02.** 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. ()
- a.** 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. ()
- b.** The width will be at least three-fourths (3/4) of the cage length. ()
- c.** 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. ()
- d.** 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. ()
- 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. ()

262. RESPONSIBILITY OF POSSESSOR OF CAPTIVE WILDLIFE.

Any person possessing live wildlife in captivity is 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. ()

263. – 299. (RESERVED)

300. CAPTIVE WILDLIFE FACILITIES (PRIVATE, COMMERCIAL, REHABILITATION).

- 01. General.** No person may own or operate or maintain a private park, commercial wildlife, or rehabilitation facility without obtaining the appropriate license for each facility from the Department. ()
- 02. Applications.** Application to operate a private, commercial or rehabilitation wildlife facility 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 and any owner(s) other than the applicant. ()
- b.** Proof of compliance with city/county zoning ordinance or zoning permit application. ()
- c.** The location of the proposed facility, including a legal description of the land, identification of property ownership, the approximate space devoted to the facility. ()
- d.** The number and kinds of wildlife being or to be kept. ()
- e.** The licensed veterinarian(s) *attending* the facility. ()

- f. Specifications of pens and shelters furnished for each kind of animal. ()
- g. Specifications of the guard fence or other security measures to prevent escape or protect the public from injury by the animals. ()
- h. For private and commercial facilities, the date upon which each animal was or is to be obtained. ()
- i. For private and commercial facilities, 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 license under which each animal is possessed. ()

03. *Renewal Applications.* *If the information is unchanged, renewal applications may incorporate by reference specifications in prior applications for enclosures, fences, or other security measures.* ()

04. **Records.** Persons operating a captive wildlife facility must provide the Department, at least once each license year, a list of wildlife by numbers of animals, and species, and keep a record of any wildlife received, born, dying, sold, exported or transported from the facility, with said record to be kept for five (5) years from the respective date of the action and available for Department inspection upon request. For private parks or commercial facilities, records must include documentation of legal possession of all wildlife kept at the facility including licenses, permits, receipts, invoices, bills of lading, or other satisfactory evidence of ownership. ()

301. – 399. (RESERVED)

400. COMMERCIAL WILDLIFE FACILITIES.

In addition to the rules for captive wildlife facilities in Section 300, the following apply to commercial wildlife facilities. ()

01. *USDA License.* *No person may operate a commercial wildlife facility exhibiting warm-blooded animals to the public without a USDA Exhibitor license.* ()

02. *Veterinary Care and Reporting.* *The facility must maintain adequate veterinary care, under a written care program with the attending licensed veterinarian(s). The licenseholder must maintain a complete record of veterinary examinations, illness, treatment and disposition for each permitted animal and make such record available to the Department upon request. Any warm-blooded animal death at the facility must be reported to the Department Regional Office where the facility is located within ten (10) days of the death, with veterinary inspection to occur for any such death unless it is reasonably expected based on care received under the veterinary care program.* ()

03. *Care Specifications.* *Any commercial wildlife facility must comply with requirements of 9 CFR 3.125-142 for warm-blooded animals specified in those regulations. Possession of warm-blooded animals under a valid USDA Exhibitor license is regulated by USDA under 9 CFR and is exempt from this subsection 03.* ()

04. *Public Handling or Feeding.* *Any commercial wildlife facility must comply with requirements of 9 CFR 2.131 for public handling or feeding of wildlife at commercial wildlife facilities not possessed under a valid USDA Exhibitor permit, including warm-blooded and non-warm-blooded wildlife. Public handling or feeding of warm-blood animals possessed under a valid USDA Exhibitor license is regulated by USDA under 9 CFR and is exempt from this subsection 04.* ()

05. **Sale of Animal Meat or Parts.** ()

i. 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. ()

ii. The licensee may sell commercial wildlife facility animals for meat upon compliance with all applicable health laws, USDA, and ISDA regulations. ()

401. – 409. (RESERVED)

410. LARGE COMMERCIAL WILDLIFE FACILITIES.

In addition to the rules for captive and commercial wildlife facilities in Section 300 and 400, the following apply to large commercial wildlife facilities: ()

01. Animal Display and Security. Commercial wildlife facilities that are of a size large enough or with a large number of animals incompatible with the cage or enclosure requirements of Section 260 may, in the Director's discretion, be addressed with facility-specific license terms to prevent escape of the captive wildlife, or damage to native wildlife through habitat degradation, genetic contamination, competition, or disease. In identifying facility-specific license terms, the Department may consider standards or guidelines *of captive wildlife facility accreditation entities* for cage, open space, shelter, enclosure, and display in a natural-appearing environment and in such a way as to preserve animal dignity. Terms may include, but are not limited to, fence specifications, electric fence specifications, pits or moats, buried fencing, and display features to enhance appreciation for the species and its natural history. ()

411. LARGE COMMERCIAL WILDLIFE FACILITY BOND.

Any large commercial wildlife facility must provide a bond to the Department in the amount of fifty thousand dollars (\$50,000), or two thousand dollars (\$2,000) per animal, whichever is greater, executed by a qualified surety duly authorized to do business in the state of Idaho, to guarantee performance of license conditions and to reimburse the Department for any costs incurred for cleanup of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control. With prior approval, the applicant may instead submit a cash bond to the Department including, but not limited to, certificates of deposit, registered checks, certified funds, and money orders. ()

412. – 449. (RESERVED)

450. REHABILITATION FACILITIES.

In addition to the rules for captive wildlife facilities in Section 300, the Director has discretion to limit the species or numbers of wildlife accepted at or released from a wildlife rehabilitation facility, and may identify other specific license conditions to address relatively unique needs of rehabilitation, release into the wild or transfer or non-releasable animals. In identifying facility-specific license terms, the Department may identify standards or guidelines, such as those specific by the International Wildlife Rehabilitation Council for providing humane care. ()

451. – 499. (RESERVED)

500. CAPTIVELY PROPAGATED GAME BIRDS.

01. Import. No person may import captively propagated game birds into Idaho intended for release into the wild or on a shooting preserve in Idaho without a permit from the Department. ()

02. Permit for Field Release. No person may use captively propagated game birds at a shooting preserve or in field training for dogs or falconry unless the owner of the shooting preserve, or owner of any dog or raptor being field trained at a location other than a shooting preserve: ()

a. Has a valid shooting preserve or Bird-Dog/Falconry Training permit and makes it available to the Department in the field upon request. ()

b. Has documentation of the commercial supplier's compliance with the NPIP and, if imported into Idaho, a certificate of veterinary inspection, and makes it available to the Department in the field upon request. ()

501. – 549. (RESERVED)

550. SHOOTING PRESERVES.

01. Shooting Preserves. No person may operate a shooting preserve without a license from the Department and a vendorship contract with the Department under which the operator maintains a supply of shooting preserve hunting licenses for issuance to clients of the preserve. ()

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

03. Species Permitted. Only those species of upland game birds specified on the permit may be held or released on the shooting preserve. ()

04. Holding Facilities. The provisions of Sections 260 and 261 of these rules pertaining to bird enclosures apply to all rearing pens, holding pens, and other rearing or holding facilities. ()

05. 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, birds in hunters' possession, and records pertaining to the operation of said shooting preserve. ()

551. – 699. (RESERVED)

700. VIOLATION GROUNDS FOR LICENSING ACTION AND ANIMAL REMOVAL.

The Department may revoke any existing license for possession of captive wildlife or operation of any captive wildlife facility, and may refuse to issue any future license based on failure to remove or eliminate violations of Title 36 or these rules. Prior to revocation, non-renewal or non-issuance on such basis, the Department will give written notice of such violation(s) to the license-holder or applicant, and specify a reasonable timeframe of not less than ten (10) days to correct such violation(s). The Department's revocation or refusal to issue a future license may be in addition to any criminal charges or civil action that may be filed. All animals held under license(s) so revoked or held without appropriate license are subject to removal at owner's expense, with disposition as determined by the Department. ()

701. – 999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.14 – RULES GOVERNING FALCONRY
DOCKET NO. 13-0114-2201 (ZBR CHAPTER REWRITE)
NOTICE OF 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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104, 36-409, and 36-1102, Idaho Code.

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

State regulation of falconry (the private possession of birds of prey in captivity for use in hunting) occurs under authority delegated by the U.S. Fish and Wildlife Service under the Migratory Bird Treaty Act. This rule is being presented for authorization as part of the agency's plan to review each rule chapter every five years, consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#).

The agency invited public participation in negotiated rulemaking and held a negotiated rulemaking meeting with participation by representatives of the Idaho Falconry Association. The agency also provided opportunities for public comment on proposed rules. The complete text of the proposed rule was published in the October 5, 2022 Idaho Administrative Bulletin, [Vol. 22-10, pages 287-292](#). As described in the Notice of Proposed Rulemaking, the U.S. Fish and Wildlife Service must be satisfied with Idaho's regulatory framework to delegate authority for falconry regulation to the state. The U.S. Fish and Wildlife Service reviewed the proposed rule and required the agency to make changes to incorporate certain federal regulations more clearly to receive continued federal authorization for state regulation of falconry. The agency received no other comment on the proposed rules.

The text of the pending rule has been changed from the text of the proposed rule in accordance with Section 67-5227, Idaho Code. After reviewing the proposed agency rule, the U.S. Fish and Wildlife Service required the agency to adopt certain federal regulations by reference for continued federal authorization of Idaho's state-regulated falconry program. The agency modified Section 100 to satisfy the U.S. Fish and Wildlife Service, and added Section 002 to comply with requirements of Section 67-5229, Idaho Code, to incorporate material by reference in administrative rule.

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

There is no fiscal impact associated with this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions about this pending rule, contact Jeff Knetter, Upland Game & Migratory Bird Coordinator, 208-287-2747.

DATED this 18th day of November, 2022.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-409, and 36-1102, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every five years. The rule chapter under consideration governs falconry (the private possession of birds of prey in captivity for use in hunting). Consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#), the agency has reorganized rule sections in this chapter and revised current rule language to improve clarity and reduce duplication.

The U.S. Fish and Wildlife Service must be satisfied with Idaho's regulation of falconry to delegate authority for falconry regulation to the state under the federal Migratory Bird Treaty Act. IDFG will be reviewing the proposed rule with the Service and may have to make changes to the proposed rule to address federal requirements.

Proposed changes to the current IDAPA chapter 13.01.14 include: restructuring of the chapter to divide possession, import, sale, and propagation activities into separate rule sections; providing clarity on the classes of falconry permits; and revising reporting requirements for change in possession/ownership status for captive birds of prey. The proposed changes also consolidate requirements for release of captively propagated game birds associated with falconry into general requirements for captively propagated game birds in IDAPA 13.01.10, "Rules Governing Importation, Possession, Release, Sale or Salvage of Wildlife."

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

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-4, pages 23-24](#) under Docket No. 13-0114-2201. The Department held a public meeting on May 5, 2022, in which members of the Idaho Falconers Association participated and were generally unified in their perspective on rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Jeff Knetter, Upland Game & Migratory Bird Coordinator, 208-287-2747.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0114-2201

Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

13.01.14 – RULES GOVERNING FALCONRY

000. LEGAL AUTHORITY.

Sections 36-104 (b), 36-409, and 36-1102, Idaho Code. ()

001. SCOPE.

These rules establish a falconry program in the state of Idaho for federal certification. ()

002. INCORPORATION BY REFERENCE.

The code of federal regulations, title 50, part 21, sections 21.76, 21.82, and 21.85 (effective July 1, 2022) are incorporated by reference, and are available at: <https://ecfr.gov/current/title-50/chapter-I/subchapter-B/part-21>.

()

003. – 009. (RESERVED)

010. DEFINITIONS.

01. Captive-Bred. Raised in captivity from eggs laid by captive raptors. ()

02. Falconry. Capturing, possessing, caring for, transporting, training, or using raptors to take wild or artificially propagated animals as recreation. ()

03. Immature Raptor. A raptor that is less than one (1) year old. ()

04. New U.S. Resident. Any person who has moved legally into the United States or a recognized U.S. Territory to reside. ()

05. Non-Resident. Any person who does not qualify as an Idaho resident under Section 36-202(s), Idaho Code. ()

- 06. Raptor.** Any bird in the Order Falconiformes or Strigiformes. ()
- 07. Transfer.** To import, export, transport, convey, deliver, loan, gift, give, barter, or sell a raptor or raptor parts or any permit from one person, place, or situation to another. ()
- 08. Visitor.** Any person not residing in the United States or a recognized territory, and who is temporarily in the U.S. as a visitor. ()
- 09. Wild-Caught.** Bird originally captured from the wild, no matter how long held in captivity. ()

011. – 099. (RESERVED)

100. MIGRATORY BIRD TREATY ACT AND REGULATIONS.

As provided by Section 36-1102, Idaho Code, no person may take or possess any migratory birds, including raptors, except as provided by the Migratory Bird Treaty Act and implementing regulations (including 50 CFR, Parts 21 and 22), and in accordance with related rules and proclamations promulgated by the Commission. *Falconry must comply with 50 CFR 21.82 (Falconry Standards and Falconry Permitting), 50 CFR 21.85 (Raptor Propagation Permits), and 21.76 (Rehabilitation permits); these federal regulations apply to falconry, even when this chapter 13.01.14 does not address the activity or when this chapter is construed as less restrictive.* ()

101. TAKING WILDLIFE BY FALCONRY.

Idaho and federal laws regulating taking of wildlife, including possession of appropriate licenses, tags, permits, stamps, and validations; seasons and limits; and possession of wildlife apply to any species taken by falconry. ()

102. FALCONRY PERMIT.

01. Falconry Permit. No person may possess, capture, or transfer, any raptor for the purpose of falconry, or use a raptor for taking other wildlife, unless that person has an Idaho Falconry Permit. Idaho Falconry Permits are not transferable to another person. ()

02. Permit Classification. Three (3) classes of Idaho Falconry Permit are available: Apprentice, General, and Master. Only holders of Master Falconry permits are eligible to obtain Eagle Falconry or Peregrine Capture permits. Permits may be obtained by completing application on a form prescribed by the Department. Permit issuance is subject to the Department's verification the applicant meets federal age, experience, and other prerequisites for the respective permit class. Passage of the Idaho Falconry Examination administered by the Department by a score of at least eighty percent (80%) is a permit prerequisite for persons who have not held an Idaho falconry permit or equivalent authorization within the past five (5) years, or who are a new U.S. resident or visitor. The numbers and species authorized for possession by each class of Idaho Falconry Permit are subject to federal restrictions. ()

03. Exemption for Temporary Use. Nonresident falconers who do not intend to become Idaho residents, who have valid authorization from a federal, tribal, or another state, territory, or country's agency equivalent to an Idaho Falconry or federal Raptor Propagation Permit, may temporarily import from another state, possess, or transport raptor(s) listed under such authorization: ()

- a.** For not more than thirty (30) days in a calendar year, without purchasing an Idaho Falconry Permit. ()
- b.** For more than thirty (30) days in a calendar year, provided they have passed the Idaho Falconry Examination administered by the Department within the past five (5) years with a score of at least eighty percent (80%) and obtain a Temporary Idaho Falconry Permit (which is valid for up to four (4) months, and may be renewed). ()

04. Falconers Moving to Idaho. Any nonresident falconer moving into Idaho who intends to become an Idaho resident must: obtain an Idaho Falconry Permit within thirty (30) days of such move; provide signed verification of intent to become an Idaho resident; and surrender any equivalent permit issued by another state. The Department will determine the appropriate class of Idaho Falconry Permit equivalent to the non-Idaho authorization

held by the falconer, based on the documentation provided in the permit application. ()

103. INTERNATIONAL IMPORT.

No person may import into Idaho a raptor originating from a foreign country without first obtaining an Idaho Wildlife Import Permit, and complying with federal laws for raptor importation or pet passports under the Conference on International Trade in Endangered Species. ()

104. – 149. (RESERVED)

150. CAPTURE OF WILD RAPTORS.

01. Capture Permits. No person may capture a raptor from the wild unless that person has a valid Idaho Falconry Permit; or is a nonresident who has both: an equivalent falconry authorization from a federal, state, territorial, or tribal authority; and an Idaho Nonresident Falconry Capture Permit (valid on a calendar year basis). ()

02. Approved Species and Limitations. The Commission, pursuant to Section 36-105 (3), Idaho Code, may establish seasons, geographic areas, and limits for capture of wild raptors by proclamation, including limitations on permits available to nonresidents. ()

a. No person may capture or possess any wild-caught bald or golden eagle, any raptor classified under federal or state law as threatened or endangered, or any peregrine falcon without obtaining an individual species-specific capture/possession permit from the Department in addition to complying with federal permit regulations and limits. Bald eagles may not be used for falconry. ()

b. Subject to federal restrictions for the holder's permit class, an Idaho Falconry Permit authorizes the holder to capture (with subsequent possession) not more than a total of two (2) wild raptors each calendar year, which may be adult American kestrels or great horned owls; or immature raptors of species that are not referenced in the preceding Subsection 02.a. or that are otherwise closed or limited by Commission proclamation. ()

c. Non-resident falconers intending to capture any wild Idaho raptor using authorization from a non-Idaho Falconry Permit/Authorization are eligible to purchase only one (1) Nonresident Falconry Capture Permit for each calendar year and are authorized to only capture and possess the species of raptor specified on the permit. ()

d. A nonresident who successfully captures a raptor for intended removal from Idaho must notify the Department Regional Office of the capture location before transporting the raptor out of Idaho, not later than ten (10) days after capture. ()

03. Approved Capture Dates. ()

a. Immature raptors open to capture may be captured year-round. ()

b. American kestrels and great-horned owls that are one (1) year of age or older are only open to capture from August 1 through the last day of February. ()

151. – 159. (RESERVED)

160. CAPTIVE PROPAGATION PERMIT.

No person may propagate raptors in captivity, or take, possess, or transfer any raptor, raptor egg, or raptor semen for propagation purposes without a valid federal Raptor Propagation Permit. Holders of a federal Raptor Propagation Permit may only sell, purchase and barter raptor eggs and semen produced and originating from raptor propagation or captive breeding programs under valid permit. ()

161. TRANSFER OR SALE.

01. Lawfully Obtained. No person may sell, purchase, or barter any raptor or parts thereof, or possess raptors or parts unless the bird or parts have been lawfully obtained. ()

02. Captive-bred. Only live captive-bred raptors banded or micro-chipped in compliance with Section 400 of this rule and 50 CFR 21.82 may be sold, purchased or bartered. Any party to the transaction must hold a valid state, federal, tribal, territory or another country's Falconry or Raptor Propagation Permit. ()

03. Transfers. ()

a. Resident falconers/captive breeders may not transfer any raptor wild-caught in Idaho to a nonresident unless they obtain an Idaho Wildlife Export Permit from the Department. ()

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 federal Raptor Propagation Permit. ()

04. Temporary Care. An authorized person may temporarily care for the raptor of another in compliance with federal regulations. ()

162. – 199. (RESERVED)

200. FACILITIES AND INSPECTIONS.

01. Appropriate Holding Facilities. No person may begin possession of any raptor(s) under authority of an Idaho Falconry Permit or Propagation Permit unless the Department has inspected holding facilities and equipment to verify compliance with federal (50 CFR 21.82) and Idaho standards. Appropriate facilities may be indoor, including a personal residence, outdoor falconry facilities, or a combination of both. Persons changing the location of raptor holding facilities to any physical address other than that recorded on the Falconry permit must notify the Department before or within five (5) business days of any such move. ()

02. Temporary Housing. The Department has discretion to authorize temporary housing for not more than one hundred twenty (120) days. ()

03. Inspections. All raptors, facilities, equipment, falconry, and captive propagation records are subject to reasonable inspection during business hours in the presence of the permit holder or facility owner, or as arranged with the permit holder. ()

201. – 299. (RESERVED)

300. RAPTOR HACKING AND REHABILITATION.

01. Hacking. Idaho Falconry Permits authorize the holder to conduct hacking, subject to federal laws and landowner permission. ()

02. Rehabilitation. Persons with valid General or Master Falconry permits may assist the Department, or Department-licensed raptor rehabilitators, with rehabilitation activities, provided the taking of any raptor into possession for rehabilitative conditioning or training is pre-approved by the appropriate Department Regional Office. ()

301. – 349. (RESERVED)

350. EXEMPTION FROM RELEASE RESTRICTIONS.

Permanent release of wild-caught raptors of species native to Idaho by Idaho Falconry permit holders complying with 50 CFR are exempt from release restrictions of IDAPA 13.01.10.200, "Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife." ()

351. – 399. (RESERVED)

400. RAPTOR BANDING AND RADIO-TRANSMITTERS.

Falconers and captive breeders must use bands, microchips, or radio-transmitters, singly or in combination, that comply with federal regulations (50 CFR 21.82) for any raptor possessed. ()

401. – 499. (RESERVED)

500. REPORTING.

A person owning or otherwise responsible for a raptor must complete and submit a Form 3-186A (federal Migratory Bird Acquisition and Disposition Form) into the United States Fish and Wildlife Service electronic records database not later than ten (10) days after any raptor is acquired, captured, re-captured, transferred, lost, escaped, stolen, released, banded, re-banded, micro-chipped, or deceased. ()

501. – 599. (RESERVED)

600. TRAINING WITH CAPTIVELY PROPAGATED GAME BIRDS.

IDAPA 13.01.10.500, “Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife,” applies to anyone who possesses, releases, or uses artificially propagated game birds for field training raptors. ()

601. – 799. (RESERVED)

800. REVOCATION.

In addition to penalties set forth in Chapter 14, Title 36, conviction of a violation of these rules is grounds for revocation of an Idaho falconry permit or denial of any pending applications for an Idaho falconry permit, and corresponding seizure of raptor(s) identified in the permit. ()

801. – 999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.18 – RULES GOVERNING FEEDING OF WILD CERVIDS
DOCKET NO. 13-0118-2201 (ZBR CHAPTER REWRITE)
NOTICE OF 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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104, 36-105, and 36-111, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanation 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 rule is being presented for authorization as part of the agency’s plan to review each rule chapter every five years, consistent with the Governor’s [Executive Order 2020-01: Zero-Based Regulation](#). This rulemaking relates to criteria for determining emergencies warranting agency feeding of wild cervids (including wild elk, deer, and pronghorn), and restrictions on private feeding of wild cervids. This rulemaking includes changes to integrate current Idaho Department of Fish and Game (IDFG) and Idaho State Department of Agriculture (ISDA) restrictions on private feeding of wild cervids for continued protection of the health of livestock, domestic cervids, domestic bison, and wildlife. ISDA has concurrently adopted pending rules to repeal IDAPA 02.04.25, “Rules Governing Private Feeding of Big Game Animals,” published in this bulletin on page 14 under docket 02-0425-2201. In combination, the pending rulemakings by IDFG and ISDA would consolidate regulation related to private feeding of wild cervids into a single rule chapter under IDFG’s authority. This rulemaking does not impact domestic cervidae, which are regulated by ISDA (Section 25-3702, Idaho Code.)

The agency received no comment on the proposed rules. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 293-295](#).

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

There is no fiscal impact because of the repeal of this rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tricia Hebdon, Assistant Chief of Wildlife at 208-287-2704.

DATED this 18th day of November, 2022.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-105, and 36-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

In the event a hearing is scheduled, 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 rule is being presented for authorization as part of the IDFG plan to review each rule chapter every 5 years. This rulemaking relates to criteria for determining emergencies warranting agency feeding of wild cervids (including wild elk, deer, and pronghorn), and restrictions on private feeding of wild cervids. Consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#), the agency has revised current rule language to improve clarity and reduce duplication.

IDFG and the Idaho State Department of Agriculture (ISDA) have evaluated the potential to consolidate regulation of private feeding of wild cervids under IDFG's authority in this rule chapter, such that IDAPA 02.04.25, "Rules Governing Private Feeding of Big Game Animals," may be repealed, as proposed concurrently in this bulletin under Docket No. 02-0425-2201.

This proposed rulemaking includes changes to integrate current IDFG and ISDA restrictions into a single rule chapter under IDFG's authority to regulate the feeding of wildlife, to continue protection of the health of livestock, domestic cervids, domestic bison, and wildlife. For example, the proposed rule specifically identifies geographic areas identified in ISDA's current rule to prevent brucellosis transmission between wildlife and livestock. IDFG proposes to change rule wording (previously "pronghorn, elk, and deer") to distinguish "wild cervids" managed under IDFG authority from "domestic cervids" regulated under ISDA authority. The agency also proposes to present the statement of rule intent in the cover sheet published in the Administrative Code, instead of in the rule chapter itself as done currently. The rule also incorporates language related to the Commission's management of Chronic Wasting Disease in wild cervids.

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

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, page 25](#) under Docket No. 13-0118-2201. No persons identified themselves as interested in participating in negotiated rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Tricia Hebdon, Assistant Chief of Wildlife, 208-287-2704.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 24th day of August, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0118-2201

13.01.18 – RULES GOVERNING FEEDING OF WILD CERVIDS

000. LEGAL AUTHORITY.

Sections 36-104, 36-105 and 36-111, Idaho Code. ()

001. SCOPE.

These rules govern Department and private feeding of wild cervids. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. CWD Management Zone. Chronic Wasting Disease Management Zone designated by the Commission under IDAPA 13.01.10.150. ()

02. DSA. Designated Surveillance Area for brucellosis designated by ISDA order or rule. ()

03. ISDA. Idaho State Department of Agriculture. ()

04. Supplemental Feed. Harvested hay, grain, or straw, or feed pellets. ()

05. Wild Cervids. Deer, elk, or other members of the family Cervidae not owned by a person. ()

011. – 099. (RESERVED)

100. EMERGENCY FEEDING CRITERIA.

01. Declaration of Feeding Emergency. The Department may declare a feeding emergency 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 weather. ()

02. Additional Guidelines. Regional Supervisors may develop additional emergency feeding guidelines within the listed criteria, based on disease transmission risk, local conditions, and local public input. ()

101. FEED STOCKPILES.

The Department has identified locations for stockpiling emergency feed where it is impractical and cost-prohibitive to purchase and transport feed after snowfall. The Commission and Director declare stockpile maintenance constitutes a feeding emergency and authorize expenditure of funds for stockpile maintenance. ()

102. – 199. (RESERVED)

200. PRIVATE FEEDING OF WILD CERVIDS.

01. Private Feeding. It is unlawful to purposely or knowingly provide supplemental feed to wild cervids within any CWD Management Zone, within any county partially or entirely within any DSA, or within Clark, Madison, or Jefferson county east of Interstate 15, or in violation of any Commission, Department, or ISDA order, except supplemental feeding conducted or authorized by the Department. ()

02. Incidental Grazing. Incidental grazing by wild cervids on private rangeland forage, standing agricultural crops, or crop residue left on the ground following typical harvest practices does not violate this section. ()

03. Incidental Feeding. Incidental feeding of wild cervids during the normal practice of providing feed to livestock does not violate this section, provided the owner or operator of the premises feeding livestock cooperates with the Department to facilitate conducting wild cervid management activities to avoid feeding wild cervids. ()

201. – 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

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

DOCKET NO. 20-0214-2201 (ZBR CHAPTER REWRITE)

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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled for a comprehensive review in 2022 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter.

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 7, 2022, Idaho Administrative Bulletin, Vol. 22-9, pages 205-208. An unofficial strikethrough version of the proposed rule, which shows the changes made through the rulemaking process, is available on the agency website at <https://www.idl.idaho.gov/rulemaking/docket-20-0214-2201/>.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeremy Shawver at (208) 666-8672 or jshawver@idl.idaho.gov.

DATED this 18th day October, 2022.

David Greenwood
Timber Management Bureau Chief
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, Idaho 83815
Phone: (208) 769-1525
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 Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2022 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The regulatory burden has been reduced by decreasing both the total word count (-19%) and the number of restrictive words (-11%) in the proposed rule. No changes were made that change the context of the previous rule.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022, Idaho Administrative Bulletin, [Vol. 22-3, pages 22-23](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeremy Shawver at (208) 666-8672 or jshawver@idl.idaho.gov.

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 28, 2022.

DATED this 7th day of September 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 20-0214-2201

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

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 38-1201, et seq.; 58-104(6); 58-105; 67-5201, et seq.; Idaho Code. ()

001. SCOPE.

These rules govern the selling of forest products from state endowment lands. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Land Commissioners. ()

02. Contract. Timber sale contract in a form prescribed by the Department. ()

03. Department. The Idaho Department of Lands. ()

04. Development Credits. A stumpage credit received by the purchaser for road construction and improvements. ()

05. Director. The director of the Idaho Department of Lands or his designee. ()

06. Forest Products. Marketable forest materials. ()

07. Net Appraised Value. The minimum estimated sale value of the forest products after deducting the development credit. ()

08. Net Sale Value. The final sale bid value of the forest products after deducting the development credit. ()

09. Purchaser. A successful bidder for forest products from a state sale who has executed a timber sale contract. ()

011. -- 018. (RESERVED)

019. FIREWOOD AND OTHER PERSONAL USE PRODUCT PERMITS.

Forest product permits for personal use will be sold on a charge basis. The Director will determine permit rates and maximum permit values. ()

020. DIRECT SALES.

The sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. The duration of a direct sale is six (6) months. The purchaser must furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars (\$100). ()

021. TIMBER SALES.

Timber sales exceed the net appraised value or volume for direct sales established by the Board. ()

022. -- 025. (RESERVED)

026. ANNUAL SALES PLAN.

The Department's annual sales plan will be presented to the Board for approval annually and upon approval made

available to all interested parties. The plan may be altered to respond to changing market conditions or to expedite the sale of damaged or insect-infested forest products. ()

027. -- 030. (RESERVED)

031. TIMBER SALE AUCTIONS.

- 01. Requirements.** Timber and Delivered Products sales must be sold at public auction. ()
- 02. Requirements for Bidding.** Bidders must: ()
 - a.** Present a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. ()
 - b.** Not be delinquent on any payments to the State at the time of sale. ()
 - c.** Not be a minor as defined in Section 32-101, Idaho Code. ()
 - d.** If a foreign corporation, have a completed and accepted foreign registration statement with the secretary of state and comply with Title 30, Chapter 21, Part 5, Idaho Code in order to do business in Idaho and be eligible to bid on and purchase State timber. ()

032. INITIAL DEPOSIT AND BONDS.

- 01. Initial Deposit.** The initial deposit (ten percent (10%) of net sale value) is paid in cash and retained by the state as a cash reserve for the duration of the contract; the purchaser is not entitled to any interest earned thereon. All or a portion of the initial deposit may be applied to charges as the contract nears completion. Any remaining initial deposit will be forfeited in the event the contract is terminated without being completed. ()
- 02. Performance Bond.** A bond of sufficient amount to ensure compliance with the terms and conditions of the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) must be executed within thirty (30) days from the date of sale and prior to contract execution. Failure to fully perform the contract may result in forfeiture of all or part of the performance bond. ()
- 03. Payment Bond.** Prior to cutting any forest products, the purchaser must provide a bond acceptable to the Department as assurance of payment for products to be cut or removed, or both, within the succeeding ninety (90) days. The Department will determine the payment bond amount on delivered product sales. Failure to make full and timely payment per contract terms may result in forfeiture of all or a portion of the payment bond. ()

033. -- 040. (RESERVED)

041. STUMPAGE AND INTEREST PAYMENT.

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

042. TIMBER SALE CANCELLATION.

It is the purchaser's responsibility to initiate cancellation by submitting a written request to the applicable supervisory area office. Once the cancellation process has finished, any credit balances and all cash bonds will be returned and/or transferred to other timber sale accounts within forty-five (45) days, as requested by the purchaser. ()

043. PREMATURE TIMBER SALE TERMINATION.

01. Request. A timber sale purchaser may, for reasons of hardship, make written request to terminate a timber sale contract before harvesting is completed. In such cases, the Board will determine if a hardship exists and if

the contract should be terminated. ()

02. Termination Policy. ()

a. The Board may authorize premature termination of any sale under any terms considered reasonable and appropriate. Any remaining amount of the ten percent (10%) initial deposit will be retained in full and applied towards assessed damages and may not be used as payment for forest products cut and/or removed. Assessed damages in excess of the initial deposit will be applied against the performance bond. ()

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

i. Of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars (\$5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine remaining on the sale area, the purchaser will be assessed five hundred dollars (\$500) upon termination. ()

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

iii. For any credits given for developments that remain incomplete at the time of termination. ()

iv. For estimated Department costs associated with reoffering the timber sale. ()

v. For other expenses including, but not limited to, legal costs and Department staff time. ()

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

d. The purchaser who has terminated a timber sale contract is not eligible to rebid that particular sale unless specifically authorized to do so by the Board. ()

044. -- 999. (RESERVED)

IDAPA 24.35 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 24-3501-2201 (ZBR CHAPTER REWRITE)

NOTICE OF 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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at sine die 2023, 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 67-2604, Idaho Code, and Sections 39-4113, 39-8007, 67-2614, 67-9406, and 67-9409, 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.

Changes between the text of the proposed rule and the text of the pending rule:

- Section 200 – Amended language regarding license production to update and clarify language in current rule.
- Section 201 – changed “shall” to “will”
- Section 202 – changed “shall” to “will”
- Section 259.01 – updated BO2 River section to allow 4 float outfitters, 2 of which may be licensed for fishing in addition to float boating.
- Section 259.01 – updated PN1 River section to remove the no fishing restriction.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 217-240](#).

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 negative fiscal impact on the State General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7th, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
11341 W. Chinden Boulevard, Building #4
Boise, ID 83714
P.O. Box 83720
Boise, ID 83720-0063
tim.frost@dopl.idaho.gov

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 67-2604, Idaho Code, and Sections 39-4113, 39-8007, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

***MEETINGS SET FOR PUBLIC PARTICIPATION
IN PERSON, TELEPHONE, AND WEB CONFERENCING***

24.35.01 – Rules of the Outfitters and Guides Licensing Board

Tuesday, September 20, 2022

Monday, October 3, 2022

**DOPL Board Conference Room
Chinden Campus – Building #4
11341 W Chinden Blvd Boise ID 83714
*Scheduled time is 9:00 a.m. (MT) for the meeting***

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

Under Executive Order 2020-01, Zero-Based Regulation, the Outfitters and Guides Licensing Board (OGLB) is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and [Executive Order 2020-01: Zero-Based Regulation](#).

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

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 24-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 73-77](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tim Frost, Deputy Administrator at (208) 577-2491.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 5, 2022.

DATED this 1st day of September, 2022.

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 ZBR DOCKET NO. 24-3501-2201

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

000. LEGAL AUTHORITY.

These rules have been promulgated pursuant to authority granted in the Outfitters and Guides Act. ()

001. SCOPE.

The rules implement, administer, and enforce the Act to establish uniform standards for licensing outfitted and guided activities to protect the public and protect, enhance, and facilitate management of Idaho's fish, wildlife, and recreational resources. ()

002. DEFINITIONS.

The definitions set forth in Section 36-2102, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: ()

01. Act. Title 36, Chapter 21, Idaho Code, commonly known as the Outfitters and Guides Act, as amended. ()

02. Authorized Person. An investigator or inspector in the employ of the Board, a conservation officer of the IFGC, or any local, state, or federal law enforcement officer. ()

03. Classified River. For the purpose of these rules, specific sections of some whitewater river or streams which are considered more hazardous than others have been designated "classified." Classified rivers are denoted by an asterisk (*) in the list of rivers contained in Subsection 259.01. ()

04. Compensation. The receipt, exchange or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party is not deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. ()

05. Facilities and Services. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. ()

06. Fishing. Fishing activities on those waters and for those species described in the rules of the IFGC, ()

IDAPA 13.01.11, “Rules Governing Fish,” general fishing seasons and any anadromous fishing rules and as authorized in the Outfitter’s Operating Plan. ()

07. Float Boats. Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. ()

08. Hazardous Desert or Mountain Excursions. Outfitted or guided activities conducted in a desert or mountainous environment that may constitute a potential danger to the health, safety, or welfare of participants involved and are known to involve inherent risk. These activities include day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, animal pack trips, snowmobiling, ATV, paragliding, motored and non-motored cycling, wagon rides, sleigh rides, and dog sled rides. ()

09. Hunting. The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. ()

10. IFGC. The Idaho Department of Fish and Game or the Idaho Fish and Game Commission. ()

11. Major Activity. A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. ()

12. Major Amendment. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. ()

13. Minor Amendment. All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. ()

14. Operating Area. The area assigned by the Board to an outfitter for the conduct of outfitting activities. ()

15. Operating Plan. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. ()

16. Out-of-Pocket Expenses. The direct expenses attributable to a recreational activity. Such direct expenses do not include: ()

- a. Compensation for either sponsors or participants; ()
- b. Amortization or depreciation of debt or equipment; or ()
- c. Costs of non-expendable supplies. ()

17. Power Boats. All motorized watercraft used on Idaho waters open to commercial outfitting activities. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. ()

18. Watercraft. A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. ()

003. – 099. (RESERVED)

100. OUTFITTER OR DESIGNATED AGENT LICENSE OR AMENDMENT APPLICATION.

A complete application for a new outfitter or designated agent license, outfitter license major amendment, or new landowner statement in existing areas must, in addition to all other requirements, include: ()

01. Name. The name(s) registered with the Idaho Secretary of State as an assumed business name, the name of the business entity, or both. ()

02. Other Signatures. Signed landowner or land manager statement from: ()

a. The affected state and federal land managers in all areas where an outfitter plans to utilize lands administered by the state or federal government (this may involve memorandum of understanding procedures as applicable to proposed operation on national forest or public domain lands); and ()

b. Private land owners, or their agents, where an outfitter applicant proposes to use such private lands in his operation. ()

03. Examinations. All new applicants applying for an outfitter or designated agent license must successfully pass a Board-approved examination on the Act, the rules, and general outfitting procedures germane to the license applied for. An applicant who fails the test may retake it after a five (5) day waiting period. ()

04. Operating Plan. An operating plan required by the germane land management agency or on a Board approved form. ()

05. Insurance. Current certificate or proof of insurance covering licensed activities. ()

06. Designated Agent. When the applicant is a corporation, firm, partnership, or other organization or combination thereof, the designation at least one (1) designated agent who is a qualified outfitter, covered by the outfitter's bond, and who will be responsible for the outfitting business. The designated agent must apply for and be granted a license. ()

07. Hearing. If more than one (1) applicant submits a complete application with landowner statement(s), the Board has the discretion to decide the successful applicant. ()

08. Existing Operating Area. A licensed outfitter may be given priority for any opportunities within the outfitter's existing operating area boundaries. ()

09. Operating Area Limitations. To safeguard the health, safety, and welfare of the public and for the conservation of wildlife and fish resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. ()

101. OUTFITTER AND DESIGNATED AGENT LICENSE RENEWAL.

01. Outfitter Licensing Priority. Priority for licensure in any outfitter's operating area may be maintained by submitting a complete application for a license for the ensuing license period before the expiration date of the current license. ()

02. Renewal. All licenses expire on March 31 and every application for license renewal for an outfitter and designated agent must be complete and include a use report containing an activity, use, and harvest report on the actual use during the preceding year and other information as required by the Board. ()

03. Penalty Fee. When a completed renewal application is filed with the Board after the due date, a penalty fee must be paid before the license is issued. ()

04. License Expired and Reinstatement. Reinstatement of an expired license will be governed by Section 67-2614, Idaho Code. If an application for reinstatement is not received within six (6) months of expiration of the license, the Board may consider the operating area and activities as an available opportunity. ()

102. OUTFITTER OR DESIGNATED AGENT RESPONSIBILITIES.

An outfitter or designated agent is responsible for maintaining the standards set forth in the Operating Plan and for the actions of all guides and other employees while in the scope of their employment. ()

103. GUIDE LICENSE APPLICATION REQUIREMENTS.

All new applicants for a Guide license must submit a completed application on Board approved forms along with the required fee. ()

01. General Qualifications. The applicant must provide the following: ()

a. Documentation of requisite training and experience sufficient to perform the services and activities provided on the license; and ()

b. A current American Red Cross first aid certification or other comparable certification that is acceptable to the Board; ()

02. Activity-Specific Qualifications. In addition to the general qualifications, the applicant must provide evidence of activity-specific training submitted with application or amendment. ()

a. Hunting. ()

i. Experience in the outfitter's operating area(s) for at least ten (10) days and is knowledgeable of trails, terrain, drainages, and game habits and habitat. ()

ii. Ability to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. ()

iii. Training and experience caring for meat and trophies, including the ability to correctly cape an animal and ability to instruct and assist clients in the proper care of meat. ()

b. Float Boating on Classified Water. ()

i. Three (3) complete float boat trips on each of the classified rivers applied for under the supervision of an outfitter or guide licensed for that river. Allowances may be made for experience gained as a commercial boat operator on selected whitewater rivers with characteristics similar to Idaho's classified rivers, provided the applicant has logged at least five hundred (500) miles as a commercial float boat operator on one (1) or more of those rivers. ()

ii. To document this experience, a statement signed by the applicant under oath or affirmation be recorded on a Board-approved form that includes precise put-in and take-out points, miles logged for each trip, and the names and addresses of the boat operators who have employed them. ()

c. Power Boating on Classified Water. ()

i. Fifty (50) hours on the total length of the river or section of water applied for. ()

d. Float or Power Boating on Unclassified Water. ()

i. At least one (1) complete commercial float or power boat trip on each of the sections or lakes applied for. ()

e. ATV-UTV-Snowmobiling. ()

i. Experience in the outfitter's operating area for at least ten (10) days and is knowledgeable of the area's drainages, rideable terrain, and unique avalanche or other hazards as well as the machines being utilized by the outfitter. ()

ii. When operating in winter conditions in terrain with avalanche potential, must have Recreation level 1 avalanche training, American Avalanche Association or similar consisting of twenty-four (24) hours of training with over fifty percent (50%) in the field, and Avalanche Rescue through American Avalanche Association or similar, consisting of eight (8) hours of training with a minimum of five (5) hours in the field. ()

f. Snow-Based Non-Motorized Travel in Avalanche Terrain (backcountry skiing, Nordic skiing, or snow shoeing on non-groomed trails). ()

i. Experience in the outfitter’s operating area(s) for at least ten (10) days and is knowledgeable of the area’s drainages, rideable terrain, and unique avalanche hazards. ()

ii. Recreation level 1 avalanche training, American Avalanche Association or similar consisting of twenty-four (24) hours of training with over fifty percent (50%) in the field, and Avalanche Rescue through American Avalanche Association or similar, consisting of eight (8) hours of training with a minimum of five (5) hours in the field. ()

g. Rock Climbing/Mountaineering. ()

i. Experience in the outfitter’s operating area for at least ten (10) days and is knowledgeable of the area’s routes, navigable terrain, and unique hazards. ()

ii. When operating in winter conditions in terrain with avalanche potential, must have Recreation level 1 avalanche training, American Avalanche Association or similar consisting of twenty-four (24) hours of training with over fifty (50%) in the field, and Avalanche Rescue through American Avalanche Association or similar, consisting of eight (8) hours of training with a minimum of five (5) hours in the field. ()

h. Equestrian Activities. ()

i. Experience in the outfitter’s operating area for at least ten (10) days and is knowledgeable of horsemanship and the area’s routes, trails, terrain, drainages, and unique hazards. ()

03. Validity. A guide license is valid only while the guide is under the employment of an Idaho licensed outfitter. ()

04. Amendment. To add authorized activities to the license, a guide must submit a completed license amendment request on a Board-approved form, along with supplemental documentation of training and experience for each newly requested activity. ()

05. Renewal. A license must be renewed before it expires by submitting a complete application for renewal on Board-approved forms together with the renewal fee. A license expires biennially on the license holder’s birth date. Licenses not timely renewed will be immediately canceled in accordance with Section 67-2614, Idaho Code. ()

104. – 199. (RESERVED)

200. LICENSE PRODUCTION.

Upon request of an authorized person, a licensee must provide proof of licensure when engaged in licensed activities and identify a guide’s employing outfitter. ()

201. THIRD-PARTY AGREEMENT.

An outfitter *will* not allow, condone, or abet any third-party agreement involving activities for which they are licensed. An employee of the licensed outfitter acting in the scope of employment is not a third party. ()

202. STANDARDS FOR NON-USE.

The Board may annually review the outfitter’s use reports for the preceding three (3) years to determine whether any licensed activity or operating area fall within non-use. If the outfitter falls within non-use, a “notice of non-use” may

be issued to the outfitter. ()

01. Definitions. ()

a. Non-use. When an outfitter is making zero (0) or negligible use of major licensed activities for any two (2) of the three (3) preceding years unless the lack of use is due to an act of nature or because of state or federal agency restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients; ()

b. Zero (0) use. No recorded use by an outfitter of their licensed area or activities; ()

c. Negligible use. An unreasonable lack of use as determined by the Board for any one (1) or more of the particular activities in the assigned operating area. Typically, use may be determined by comparison of use levels for the same activity(s) in similar operating areas. ()

02. Required Records. Outfitters *will* maintain records sufficient to demonstrate to the Board use of their licensed activities and areas. ()

203. OPERATING AREA.

An outfitter's operating area may be adjusted for reasons of wildlife and fish conservation, where territorial conflict exists, or for the safety of persons utilizing the services of outfitters. Special circumstances may also warrant short term modification of an outfitters operating area. ()

01. Environmental Considerations. Any changes in wildlife population health, environmental conditions and/or new government regulation may result in the adjustment of an outfitter's operating area. ()

02. Conflict Considerations. An incident(s) of territorial conflict, particularly one that leads to public safety concerns, may result in the adjustment of an outfitter's operating area. ()

03. Safety Considerations. Any change(s) in the environmental condition(s), in the manner or amount of public use of the operating area and/or in a licensee's manner of operation within the operating area, that pose a threat to the health and safety of persons using the operating area may result in a change in the outfitters operating area. ()

04. Hot Pursuit. The Board may approve a minor amendment of an outfitters license to allow an outfitter licensed for bear and cougar hunting to enter into an adjacent area with a client for hot pursuit of bear and cougar hunting when hunting with hounds, provided that the pursuit starts inside the outfitter's licensed area. ()

05. Controlled Hunts Outside Operating Area. The Board may authorize an outfitter who is licensed for hunting moose, bighorn sheep, or mountain goat to conduct a one-time hunt outside of the outfitter's licensed area when the outfitter submits a request on a Board-approved form. ()

a. For changes of operation under Subsections 04 and 05 of this Rule, written permission from all outfitters licensed for the species in the hunt area being requested and all applicable landowners or land managers will be provided to the Board. ()

b. For changes under Subsection 04 and 05 of this Rule, under special circumstances the Board may waive the requirement of approval from the overlapping outfitter(s). ()

c. For changes under Subsection 05 of this Rule, no compensation is permitted between outfitters participating in the conduct of a controlled hunt in another outfitter's area, unless the outfitter supplies a service for that compensation. ()

06. Overlap Predator Areas. The Board may authorize outfitters to enter into a standing agreement with each other and the appropriate land manager(s) allowing the outfitters to hunt wolf, mountain lion, or black bear across multiple operating areas. ()

204. OUTFITTER BUSINESS PURCHASE, LICENSE CONSIDERATIONS.

The sale of an outfitting business requires an application for a new outfitter license by the purchaser, provided that the Board may give priority for licensure to an applicant who has negotiated an agreement related to a sale with a licensee if the applicant meets all other requirements or upon documentation from a court. The Board may consider prior non-use of licensed operating area or activities when evaluating priority for licensure or placing conditions on a license.

()

205. AVAILABILITY OF OUTFITTING OPPORTUNITIES.

Except as provided in other sections of this chapter, when a new opportunity or existing opportunity which had previously been licensed to another outfitter becomes available, the Board may use a competitive application process through a waiting list, public notice, or both to select a qualified applicant. A competitive application process may be coordinated with another governmental agency that has management or permitting authority over the opportunity.

()

01. Waiting List. The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 259 and for each specific IFGC unit listed in IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals."

()

02. Placement on Waiting List. A written request, in a form specified by the Board, must be submitted to be placed on the waiting list, and a name on the waiting list will be maintained for a period of five (5) years or until December 31 of the fifth year that the name is placed on the list, whichever comes first.

()

03. Notification. When public notice is used when an opening occurs, a public announcement will be made via the Board's website and may be made in conjunction with notice by another governmental agency. Persons on the waiting list will be notified of the available opportunity in any competitive application process.

()

04. Application Period and Consideration. Anyone wishing to apply for the opportunity must submit a complete application or amendment, including all applicable fees, by the date specified in the notice. The Board will consider the qualifications of all applicants and in its discretion select the best qualified applicant.

()

206. BOAT EQUIPMENT REQUIREMENTS.

Each float or power boat used by an outfitting operation must be identified as follows:

()

01. Identification. Identification recorded with the Board on the outfitter application consisting of words, names, or letters not less than three (3) inches in height and be of a contrasting color indicating the current licensed outfitter and that is placed above the water line on each side of the bow or stern of the boat utilized by that outfitter in letters.

()

02. Clearwater. On Sections CL2 and CL3 of the Clearwater River, a sticker affixed to the surface of any boat used for anadromous fishing that is not less than eight (8) inches in height and placed immediately adjacent to the identification words, names or letters on each side of the boat towards the bow, identifying the boat as operated by a licensed outfitter. Stickers will be provided and sold annually by the Board or a vendor designated by the Board.

()

207. BOAT TRANSPORT OF HUNTING CLIENTS.

A boatman licensee (either power or float) must not transport big game hunters to any big game hunting area unless licensed to outfit for big game hunting in that area or has entered into an agreement with the licensed outfitter hunting for that area.

()

208. – 256. (RESERVED)

257. DESIGNATION OF ALLOCATED DEER AND ELK TAGS.

For the purposes of this section, an outfitting operation is an outfitter licensee whose licensed activities include hunting for the species in the area of the allocated tag being designated. When IFGC allocates tags, the allocated tags will be designated pursuant to Section 36-2120, Idaho Code, and this rule. The designation applies for the next season unless IFGC adjusts the number of allocated tags for the hunt.

()

01. Notification. All notices, orders, or other documents may be made to the email address on file with the Board. ()

02. Outfitted Hunter Tag Use History. Each outfitter's hunter tag use history will be determined from the use recorded by IFGC pursuant to Section 36-408(4), Idaho Code, and as may be adjusted as a result of a tag transfer or hardship request that is approved by the Board. ()

a. Transfers. An outfitting operation is credited for use of an allocated tag that it transfers to another outfitting operation for use that year in the same hunt. The receiving outfitting operation is not credited for using the transferred tag. ()

b. Surrenders. An outfitting operation may surrender a designated allocated tag(s) to the undesignated tag pool for use by any outfitting operation in the same hunt. The surrendering outfitting operation is not credited for use of the surrendered tag unless it later uses the tag from the pool. ()

03. New Hunt Allocated Tag Designation. When the IFGC allocates tags for a newly capped or controlled hunt, the allocated tags will be designated proportionately as follows: ()

a. Divide each outfitting operation's base allocation by the total of all base allocations in the hunt, resulting in a percentage of total use. Truncate the decimal at the hundredths place. ()

b. Multiply the percentage of total use from Subsection 257.03.a. of these rules by the total number of allocated tags for the hunt, which determines the number of allocated tags designated to the outfitting operation. ()

04. Use of Previously Designated Allocated Tags. For established capped or controlled hunts, allocated tags will first be designated to each outfitting operation in an amount equal to the outfitting operation's use of the allocated tags previously designated to it for the same hunt. ()

a. In a capped hunt, the use of previously designated allocated tags is the average use of allocated tags in the preceding two (2) years; in the event that IFGC adjusts the number of allocated tags in a hunt where there is only one (1) year of allocation, the Board will not average the use. ()

b. In a controlled hunt, the use of previously designated allocated tags is the highest year of use of allocated tags in the preceding two (2) years. ()

05. Remaining or Additional Allocated Tags. Allocated tags not designated above will be designated proportionately as follows: ()

a. Subtract each outfitting operation's use of previously designated allocated tags from Subsection 257.04 from its base allocation number to determine the number of non-allocated tags it used for a capped hunt or the matching hunt with non-allocated tags for a controlled hunt, when necessary to determine non-allocated tag use; then ()

b. Divide the result by the total number of non-allocated tags used by all outfitting operations, resulting in a percentage of the total non-allocated tags used by outfitting operations in that hunt. Truncate the decimal at the hundredths place; and finally ()

c. Multiply the percentage of total use from Subsection 257.05.b. by the number of allocated tags yet to be designated, which determines the number of allocated tags designated to the outfitting operation. ()

06. Rounding. If allocated tag designation results in a partial tag, the calculation will be rounded up when a decimal equals or exceeds six tenths (0.6) and rounded down when a decimal is less than six tenths (0.6). When calculating after a reduction of allocated tags pursuant to Section 36-2120(4), Idaho Code, the calculation will be rounded up when a decimal equals or exceeds five tenths (0.5) and rounded down when a decimal is less than five tenths (0.5). ()

07. Tie-breaker. If, after applying Subsections 257.03 through 06, there is a surplus or deficit of allocated tags to be designated, the unrounded proportion from Subsection 257.05, with as many decimal places as necessary, will be used, and then as follows: ()

a. After a reduction in allocated tags, surplus tags will first be designated in amounts to restore outfitter operations to the number of tags that would have otherwise been designated pursuant to Subsection 257.04 or as close thereto as practicable. ()

b. If a surplus, the outfitting operation whose unrounded proportion is the greatest will be designated one (1) tag, and if there are additional surplus tags, the outfitter with the next greatest unrounded proportion will be designated one (1) allocated tag, and repeated in descending unrounded proportions until all surplus tags are designated. In the event there is more than one outfitting operation with the same unrounded proportion and there are insufficient undesignated tags to designate to each outfitter, the undesignated tag will be designated based on a random drawing between those outfitting operations. ()

c. A deficit will be resolved from the outfitting operation whose unrounded proportion is closest to six tenths (0.6), and then next closest to six tenths (0.6) when there is a deficit of more than one (1) allocated tag. If there is more than one (1) outfitting operation with the same unrounded proportion, a random drawing will be held between those outfitters. ()

08. Stipulation by Outfitters. Outfitting operations in a hunt may submit to the Board a written stipulation determining the number of allocated tags designated to each outfitting operation in that hunt. The stipulation must be signed by all eligible outfitting operations for the hunt; however, under special circumstances, the Board may waive the requirement of approval from all other outfitting operations. If the Board approves the stipulation, the stipulation will be effective until the next designation of allocated tags for the hunt. On or before November 1 preceding the hunt, any outfitting operation may petition the Board to vacate the stipulation for good cause that would make it unconscionable or unjust to enforce the stipulation. If the Board vacates the stipulation, the allocated tags in that hunt will be designated pursuant to Section 36-2120, Idaho Code, and this rule. ()

09. Undesignated Tag Pool. Any designated allocated tags that are surrendered or have not been utilized by an outfitting operation on or before July 16 or the next business day for a capped hunt, or on or before September 10 or the next business day for a controlled hunt, will be available in an undesignated pool for any outfitting operation, as follows: ()

a. Beginning April 10 preceding the hunt, an outfitting operation may submit a request for an allocated tag from the pool. The request must be on a Board-approved form. ()

b. Beginning April 20 preceding the hunt or next business day, an allocated tag will be designated from the pool on a first-come, first-served basis to an outfitting operation without any designated allocated tags or which has utilized all of its designated allocated tags, using a waiting list when necessary. A maximum of two (2) allocated tags will be designated to each requesting outfitting operation until all other requesting outfitting operations have been served, then a requesting outfitting operation is eligible to receive a maximum of two (2) additional allocated tags from the pool, repeated until all requesting outfitting operations are served or until no tags remain. ()

10. Objection to Calculation. If an outfitting operation believes the calculation is incorrect, it may object by filing a petition with the Board within fourteen (14) days from the date the notification was sent and in accordance with the Idaho Administrative Procedures Act. The petition will include any supporting information or documentation. ()

a. All outfitting operations in the hunt in question will be notified of the petition. ()

b. The outfitting operation bears the burden of establishing that the calculation was incorrect. ()

11. Hardship Request. An outfitting operation may submit a written hardship request to maintain all or a portion of previous outfitted hunter tag use history when the outfitting operation shows good cause that its use of allocated designated tags was impacted by circumstances beyond the outfitting operation's control. The request must

be submitted on or before a deadline set by the Board. The outfitting operation must provide information or documentation as requested by the Board to substantiate the request. ()

12. Change in Operating Area or Owner of Business. When an outfitting operation is sold or when an operating area is adjusted through a sale and designated allocated tags are associated with the affected operating area, the associated designated allocated tags and tag use history will transfer to the new owner. ()

258. NUMBER OF OUTFITTERS AND GUIDES LIMITED.

Big Lost and Little Lost Rivers and the Big Wood and the Little Wood Rivers – All reaches from headwaters to the termination of the flow of the Big Lost and the Little Lost Rivers and all reaches of the Big Wood and Little Wood Rivers are limited to a maximum of five (5) outfitters on both rivers combined. ()

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

For the express purpose of safeguarding the health, safety and welfare of the public, for the conservation of wildlife and range resources, and to enable the outfitted and non-outfitted public to enjoy the recreational value of Idaho’s rivers, streams, lakes, reservoirs and other natural resources, the Board has discretion to limit the number of outfitters licensed on waters that lie totally or partially within the State of Idaho. Pursuant to Section 36-2107(e), Idaho Code, the Board may cooperate with federal and state government to evaluate relevant factors in decisions related to setting outfitter licensure limits on navigable waterways. The following rivers and streams or sections that lie totally or partially within the state of Idaho are open to commercial boating operations by outfitters and guides. ()

01. Licensable Waters – River Sections (BL1) Blackfoot River through (PR1) Priest River – Table:

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
<p>(BL1) Blackfoot River - Blackfoot Reservoir/Government Dam to Trail Creek Bridge. For each license/permit issued, no more than two (2) boats per section/ per day may be used by any outfitter at any one time in each of the following river sections:</p> <p>a) Blackfoot Reservoir/Government Dam to Sage Hen Flats/Cutthroat Camp-ground b) Sage Hen Flats/Cutthroat Campground to Morgan Bridge c) Morgan Bridge to Trail Creek Bridge</p> <p>No outfitter may have more than six (6) boats on the BL1 in any one (1) day.</p> <p>OGLB licenses are for the entire BL1 segment; a section of BL1 cannot be separated from BL1 for the purposes of selling a portion of an outfitter's business.</p>	none	2
<p>(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman. No overnight camping or walk-and-wade fishing allowed.</p>	none	2
<p>(BO1A) Boise River - Eckert Road Bridge to Main Street Bridge.</p>	none	
<p>(BO1B) Boise River - Main Street Bridge to West side of Garden City limits.</p>	none	

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. <i>A maximum of two (2) outfitters may be licensed for fishing in addition to float boating.</i> Each outfitter may use at any time a maximum of four (4) boats for boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	4
(CF1) Clark Fork River - Montana state line to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
(CL1) Clearwater River - Lowell to the Lower Bridge at Kooskia. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. Fishing may not be conducted downstream from the Upper Bridge at Kooskia by CL1 outfitters. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5
(CL2) Clearwater River - The Upper Bridge at Kooskia to the Orofino Bridge. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	6	10
(CL3) Clearwater River - The Orofino Bridge to the mouth of the Clearwater River with the Snake River at Lewiston. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	10	10
* (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
(CDNF) Headwaters of North Fork Coeur d'Alene - Including tributaries (Independence and Tee Pee Creeks) upstream from Devils Elbow Campground. Three (3) walk and wade only licenses. Up to four (4) clients on the river at one time per license.	none	none
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence. Fishing limit is two (2) float boats per license with a maximum of two (2) clients at a time per boat. Two (2) additional walk and wade licenses can be issued. Walk and wade limited to a maximum of two (2) clients at a time per license.	none	1
(CD2) Coeur d'Alene River - South Fork confluence downstream to Cataldo Mission Boat Ramp. Fishing limit is one (1) float boat per license with a maximum of two (2) clients or two walk and wade clients per license at a time. Walk and wade activities do not have to be initiated from a float boat.	none	1

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(CD3) Lateral (Coeur d'Alene chain) Lakes - Connected by the Coeur d'Alene River. Cataldo Mission Boat Ramp to Highway 97 Bridge. A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) guide per license and two (2) float tubes at a time or two (2) clients walking and wading. The walk and wade activities must be associated with the power boating.	3	none
* (JB1) Jarbidge/Bruneau Rivers	none	4
(K01) Kootenai River - Montana state line to Canada boundary	5	5
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.	none	2
* (LO1) Lochsa River	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
* (OW1) Owyhee River - Nevada state line to Oregon state line or South Fork to confluence with Owyhee River and continuing on to a take-out point.	none	6
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge	none	5
(PS1) Payette River, South Fork - Grandjean to Deadwood River	none	5
* (PS2) Payette River, South Fork - Deadwood River to Banks	none	5
(PA1) Payette River - Banks to Black Canyon Dam	none	5
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City	none	5

()

02. Licensable Waters – River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River – Table:

River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River

River/Section	Maximum No. Power	Maximum No. Float
*##(MF1) Salmon River, Middle Fork - Boundary Creek to Cache Bar on the Salmon River	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	5
(SA3) Salmon River - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6
(SA4A) Salmon River - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
(SA4B) Salmon River - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
(SA5) Salmon River - North Fork to Corn Creek	3	9
*##(SA6) Salmon River - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer.	14	31
* (SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26

River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River

River/Section	Maximum No. Power	Maximum No. Float
* (SA7B) Salmon River - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer.	6	12
* (SA7C) Salmon River - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
###(SA8) Salmon River - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
* (SE1) Selway River - Paradise Campground to Selway Falls	none	4
(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5

()

03. Licensable Waters – River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River – Table:

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

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

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony. Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing, no more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Stone Bridge, Stone Bridge to Ashton Dam, and Ashton Dam to Chester Dam, and Chester Dam to St. Anthony, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.</p>	none	8
<p>(SH3) Snake River, Henry's Fork - No more than three (3) boats for fishing may be used by an outfitter at any one (1) time in each of the following river sections:</p> <p>a) St. Anthony to Red Road Bridge Boat Access (i.e., Parker/Salem or Fort Henry) b) Red Road Bridge Boat Access to Warm Slough Boat Access c) Warm Slough Boat Access to Menan Boat Access</p> <p>No outfitter may have more than six (6) boats on the SH3 in any one (1) day.</p> <p>When permitted by the BLM and with the notification to and concurrence of the Board Executive Officer, each outfitter may be allowed adjustments to the maximum boat limits in order to accommodate non-fishing boating activities (e.g., canoeing, paddle boards, and kayaks) and hazardous excursions that are part of an outfitter's operating plan. These adjustments must be reviewed and approved annually.</p> <p>OGLB licenses are for the entire SH3 segment; a section of SH3 cannot be separated from SH3 for the purposes of selling a portion of an outfitter's business.</p>	none	4

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

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

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>* Each licensed float boat outfitter may use one (1) supply boat (float or power) that does not carry clients. During periods of preparing overnight camps (i.e., setting up tents and portable toilet facilities, boating in grills and other cooking supplies) for the season, usually May or June of each year; and removing the same items listed above from overnight camps at the end of the season, usually October or November; multiple supply boats may be used.</p> <p>** One (1) license additional for waterfowl hunting covering both BLM and USFS managed lands and waters for the South Fork (Palisades Dam to Wolf Flats Boat Access may be issued. This license opportunity is in addition to the eight (8) float licenses and is limited to providing waterfowl hunting during waterfowl hunting season as defined by Idaho Fish and Game Rules and where no more than two (2) float or power boat boats per day per section a and b only can be used by the outfitter at any one time for that purpose. Fishing may not be provided or conducted unless the outfitter is also licensed and permitted as one (1) of the eight (8) outfitters addressed in this rule who may not provide hunting activities. This business opportunity may be sold separately.</p>		
<p>(SN1) Snake River - For each license/permit issued, no more than four (4) boats per section/per day may be used by an outfitter at any one time in each of the following river sections:</p> <p>a) Menan Boat Access to Mike Walker Boat Access (includes Federally managed lands).</p> <p>b) Mike Walker Boat Access to Gem State Power Plant (includes non-Federal lands).</p> <p>Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor.</p> <p>OGLB licenses are for the entire SN1 segment; a section of SN1 cannot be separated from SN1 for the purposes of selling a portion of an outfitter's business.</p>	<p>3 outfitters either float or power or combination thereof</p>	

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>(SN2) Snake River - Gem State Power Plant. Idaho Falls, downstream to headwaters of American Falls Reservoir. For each license/permit issued, no more than four (4) boats per section/per day may be used by any outfitter at any one time in each of the following river sections:</p> <p>a) Gem State Power Plant to Shelley/Firth b) Shelley/Firth to Porterville c) Porterville to Blackfoot (Boating limited, walk-wade if there is access) d) Blackfoot to Tilden Bridge e) Tilden Bridge to the headwaters of American Falls Reservoir</p> <p>No outfitter may have more than twelve (12) boats on the SN2 in any one day.</p> <p>OGLB licenses are for the entire SN2 segment; a section of SN2 cannot be separated from SN2 for the purposes of selling a portion of an outfitter’s business.</p>	<p>3 outfitters either float or power or combination thereof</p>	
<p>(SN3) Snake River - American Falls Dam to Massacre Rocks State Park. For each license/permit issued, no more than five (5) boats per section/per day may be used by any outfitter at any one time in each of the following river sections:</p> <p>a) American Falls Dam to Pipeline (includes federally and non- federally managed lands) b) Pipeline to Vista (includes federally and non- federally managed lands) c) Vista to Eagle Rock (includes non-federally managed lands) d) Eagle Rock to Massacre Rocks (includes non-federally managed lands)</p> <p>No outfitter may have more than ten (10) boats on the SN3 in any one day.</p> <p>Float boats may use motors (5HP or less) for downstream steerage only. Downstream steerage does not include holding or upstream travel of watercraft with a motor.</p> <p>Sturgeon Fishing: Pipeline to Massacre Rocks, no more than five (5) boats per section/per day may be used by any outfitter at any one time in each of the river sections between Pipeline to Massacre Rocks.</p> <p>American Falls Dam to Pipeline, one (1) boat within this section/two (2) week-days per week/two (2) weekend days per month. Idaho Department of Fish and Game, Southeast Region (Pocatello) needs to be notified prior to Sturgeon Fishing.</p> <p>OGLB licenses are for the entire SN3 segment; a section of SN3 cannot be separated from SN3 for the purposes of selling a portion of an outfitter’s business.</p>	<p>3 outfitters either float or power or combination thereof</p>	
<p>(SN4) Snake River - Massacre Rocks State Park to Milner Dam</p>	<p>3</p>	<p>3</p>
<p>* (SN5) Snake River - Milner Dam to Star Falls</p>	<p>none</p>	<p>3</p>
<p>* (SN6) Snake River - Star Falls to Twin Falls</p>	<p>none</p>	<p>5</p>

River Sections (SH1) Henry's Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing, two (2) one-day float trips only	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters.)	
(SJ1) St. Joe River - St. Joe River Headwaters to Red Ives. No outfitted boating. One (1) walk and wade only fishing outfitter.	none 2	none
(SJ2) St. Joe River - Red Ives to Avery. In addition to one (1) float boat license, three (3) walk and wade only outfitters. No fishing from float boats, boat clients may fish via walk and wade.	none	1
(SJ3) St. Joe River - Avery to St. Joe City Bridge	none	2
(SJ4) St. Joe River - St. Joe City Bridge to Lake Coeur d'Alene	2	none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge, motors not to exceed 10 hp	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge, motors not to exceed 10 hp	6 outfitters for either power or float or combination thereof	

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

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

* Classified rivers

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

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

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

()

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

260. – 299. (RESERVED)

300. UNETHICAL AND UNPROFESSIONAL CONDUCT.

The Board may refuse to issue or renew a license or otherwise discipline a license holder for any of the following: ()

01. Harass. Harassment of the public in their use of Idaho’s outdoor recreational opportunities. ()

02. Endanger. Operating in a manner which endangers the health, safety, or welfare of the public. ()

03. Interfere. Interference with private landowners, public land management agencies, and/or stockmen and their rights and privileges. ()

301. – 399. (RESERVED)

400. INSPECTIONS.

The Board has the authority to inspect outfitter facilities and equipment. ()

401. – 999. (RESERVED)

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.30 – IDAHO SAFE BOATING RULES

DOCKET NO. 26-0130-2201 (CHAPTER REPEAL)

NOTICE OF 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 2023 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 67-5226, 67-4223, and Title 67 Chapter 70, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022 Idaho Administrative Bulletin, [Vol. 22-9, page 265](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Seth Hobbs at (208) 514-2427.

DATED this 28th day of November 2022.

Seth Hobbs, Rules Review Officer
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, ID 83716
Phone: 208-514-2427
Seth.hobbs@idpr.idaho.gov

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

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5226, 67-4223, and Title 67 Chapter 70 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rule rescinds IDAPA 26.01.30, “Idaho Safe Boating Rules.” All rules in this chapter were moved to Idaho statutes Title 67, Chapter 70 by the 2022 Idaho Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule confers a benefit on its citizens. The temporary rule repealing the chapter implements the duly enacted laws of the state of Idaho, provides citizens with one location for the standards for complying with those laws, and assists in the orderly execution and enforcement of those laws.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 26-ZBRR-2101. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 2, 2021, Idaho Administrative Bulletin, [Vol. 21-6, pages 59-60](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Seth Hobbs at (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 on or before September 28, 2022.

DATED this 11th day of August 2022.

IDAPA 26.01.30 IS BEING REPEALED IN ITS ENTIRETY