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**IDAPA 13
TITLE 01
CHAPTER 19**

13.01.19 – RULES FOR SELECTING, OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

000. LEGAL AUTHORITY.

Sections 36-301 and 36-307, Idaho Code authorize the Commission to adopt rules governing issuance and sale of licenses and authorization and accountability of license vendors. (6-30-19)T

001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.19, “Rules for Selecting, Operating, Discontinuing, and Suspending Vendors.” These rules set forth the Commission’s and Department’s policies and procedures regarding vendor administration. (6-30-19)T

002. WRITTEN INTERPRETATION.

Written interpretations of these rules and documentation of compliance with these rules are available at the main office. (6-30-19)T

003. ADMINISTRATIVE APPEALS.

IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” govern administrative appeals under this chapter. (6-30-19)T

004. INCORPORATION BY REFERENCE.

This chapter incorporates no documents by reference. (6-30-19)T

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

The main office of the Department and Commission is open from 8:00 a.m. to 5:00 p.m. except Saturdays, Sundays and legal holidays. The mailing address is P.O. Box 25, Boise, ID 83707. The street address is 600 S. Walnut Street, Boise, Idaho. (6-30-19)T

006. PUBLIC RECORDS ACT COMPLIANCE.

The agency promulgates rules in accordance with the Administrative Procedure Act (Title 67, Chapter 52, Idaho Code), as provided in Section 35-105, Idaho Code, and they are public records. (6-30-19)T

007. -- 099. (RESERVED)

100. VENDOR CLASSIFICATION.

The Department will classify vendor applications into the following designations for record keeping, approval, and statistical purposes. (6-30-19)T

01. Class One. Sporting goods store carrying a complete line of hunting and fishing supplies and other sporting equipment and supplies, and open a minimum of five (5) days a week year around except for major holidays. (6-30-19)T

02. Class Two. A store with a sporting goods department or section which carries a complete line of hunting and fishing supplies and other sporting equipment, and open a minimum of five (5) days a week year around except for major holidays. (6-30-19)T

03. Class Three. A store which specializes in a single aspect of hunting or fishing such as gun, archery or fly fishing shops. (6-30-19)T

04. Class Four. (6-30-19)T

a. Strategic. A business or government agency located in an area where the Department has determined there is a need for the public to have licenses available. This may be in areas where there is no or very limited license availability within a twenty-five (25) mile radius from established license vendors. (6-30-19)T

b. Exceptional Service. A business which can provide exceptional license availability in comparison to existing license vendors in the vicinity. This may include, for example, being open twenty-four (24) hours a day, seven (7) days a week, but which would not be classified as a class one, two, or three vendor. (6-30-19)T

05. Class Five. A business which is not open on a twelve (12) month basis such as summer fishing resorts, but which would otherwise qualify for classes one to four, inclusive. If the business is an outfitter or guide, it must have a permanent business location open to the public for license services. (6-30-19)T

06. Class Six. All other businesses which provide no special or exceptional service to the Department or public. (6-30-19)T

101. APPLICATION.

01. Form. Applications will be on a form prescribed by the Department. Each vendor shall enter into a written agreement with the Department. (6-30-19)T

02. Department. (6-30-19)T

a. Nonresponse by Applicant. The application sent out by the License Section will be considered void if the License Section has not received the application form and all other required information from the applicant sixty (60) days after the date of the transmittal letter. The applicant may request up to a thirty (30) day time extension to complete the form. (6-30-19)T

b. Application Review -- Quarterly. The Department will quarterly evaluate vendor applications for approval or denial. The Department will have thirty (30) calendar days after receipt of all necessary forms from the applicant and department personnel to review and investigate the application. The date received plus thirty (30) days will determine into which quarterly evaluation each vendor application will be considered. Applications from the same area will be evaluated together to determine which will best meet the needs for a vendorship in that area. The evaluations and determination of approval or denial will be made quarterly on or before March 1, June 1, September 1, and December 1. Exceptions may be made by the Department when there are overriding Department and public needs for an immediate replacement of a license vendor in an area. This will primarily occur where there would be no vendor services available to the public within a twenty-five (25) mile radius. (6-30-19)T

c. Field Review. After the License Section has received the application form and all other required information from an applicant, they will contact the Regional Conservation Officer for a recommendation on the application. The Regional Conservation Officer will have ten (10) days to provide the License Section with a recommendation on the application. (6-30-19)T

03. Applicant. (6-30-19)T

a. Application Form. A license vendor applicant must complete the application form in its entirety. Any false or misleading response will void the application. (6-30-19)T

b. Credit Rating. The applicant must submit the original copy of a current credit rating from a recognized credit bureau with the completed application form. (6-30-19)T

Form Submission. The completed vendorship application form and credit rating must be submitted to the License Section no later than sixty (60) days after the date of the application transmittal letter. (6-30-19)T

c. Approved Application. If the application is approved the required vendorship contract, agreements, deposits, and bond (if required) must be received within sixty (60) days from the date of the applicant's approval letter. Failure to meet the deadlines will void the approval except for extenuating circumstances approved by the Department. (6-30-19)T

d. Denied Application. Any applicant who has been denied a license vendorship may appeal that decision to the director. The applicant may request the director to establish a hearing in accordance with the Administrative Procedures Act. (6-30-19)T

102. SELECTION.

The following factors will be considered for selecting an applicant to become a license vendor: (6-30-19)T

01. Low Numbered Vendors. Applicants classified in lower-numbered vendor classifications will be given priority over applicants in higher-numbered classifications from the same general location. (6-30-19)T

02. Class Six Applicants. Applicants classified as class six (6) will generally not be approved. They will be approved only when they have demonstrated a major significant public benefit to have a license vendorship at their location. (6-30-19)T

03. Unsettled Debts Reported. Applicants who have unsettled debts listed with a credit bureau will not be approved. Unsettled debts that are in dispute will not be considered against the applicant. (6-30-19)T

04. Surety Bond Needed. The Department may require an applicant to provide at a minimum for each location, a ten thousand dollar (\$10,000) surety bond from a corporate surety authorized to do business in the state of Idaho, which guarantees the payment of all state funds collected as a result of licenses and tags issued by the license vendor if it appears from the application or information otherwise obtained by the Department that an undue risk might otherwise be placed upon the Department in the absence of such bonding. Applicants who would otherwise qualify for a vendorship and have been in business less than three (3) years will be required to furnish the Department a ten thousand dollar (\$10,000) surety bond in the form and length as determined by the Director. Upon request, at the completion of two (2) years of service, the Department may review the requirement and may release the vendor from the bonding requirement. (6-30-19)T

05. Permanent Place of Business Required. Applicants who do not have a permanent place of business open and accessible to all segments of the public will not be approved. (6-30-19)T

06. Number of Existing Vendors in Area. The number of existing vendors in the applicant's geographical area and their distance to the applicant. For the three (3) closest existing vendors, their hours and days of operation, classification, accessibility to the public, and other pertinent information, including their distance to the applicant, will be compared to the applicant. (6-30-19)T

07. Minimum Sales Volume Requirement. The applicant's estimated license sales volume should meet the minimum sales volume requirements. If the applicant is seeking to replace an existing vendor at the prior vendor's location, the prior vendor's sales volume will be used to estimate the applicant's sales volume. (6-30-19)T

08. Satisfactory Past Performance Record Required. If the applicant was a license vendor or the manager for a license vendor within the past five (5) years, the performance record for compliance with the requirements for license vendors must be satisfactory. (6-30-19)T

09. No Fish and Game Violations Allowed. Neither the owner(s) nor store manager (if the applicant is a corporation) shall have had a fish and game violation other than an infraction within the past five (5) years. (6-30-19)T

10. Remote Location. An applicant's location will be considered remote if there are no year-round vendors within a twenty-five (25) mile radius. (6-30-19)T

11. Need Determination. Can the public reasonably obtain licenses/tags without this vendor. (6-30-19)T

103. ACTIVE VENDOR CEILING.

The number of active vendors, including approved vendor applicants, is limited to four hundred seventy-five (475). (6-30-19)T

104. LICENSING SYSTEM.

01. Licensing System Requirements. Businesses shall issue licenses according to the License Vendor

Manual and instructions provided by the Department. (6-30-19)T

02. Deposit Schedule. Amounts collected from the sale and issuance of licenses, along with the Department's share of the license issuance fee for each license shall be deposited not less frequently than once every seven (7) calendar days in a bank account prescribed by the License Vendor. (6-30-19)T

03. Reporting Time Period. The accounting and reporting time period is a calendar week (Sunday through Saturday). All monies due for the week is to be deposited in the prescribed bank by the following Wednesday. All reports for a week are to be sent to the Department's license section on or before the following Wednesday. (6-30-19)T

105. -- 109. (RESERVED)

110. OUT-OF-STATE VENDORS.

In general, an out-of-state location will not be approved to sell nonresident licenses unless it is located in close proximity (within fifty (50) miles) to the Idaho border or deemed have a compelling benefit for the Department. (6-30-19)T

111. VENDOR LOCATION NOT MOVABLE.

No vendorship may be relocated to another area (address) without written consent from the Department. (6-30-19)T

112. TYPES OF LICENSES SOLD BY VENDOR.

The Department shall determine what licenses each vendor shall be allowed to issue. (6-30-19)T

113. VENDOR ADMINISTRATION.

01. Conflict of Interest. No official or employee of the Department who is authorized in his official capacity to take part in decisions regarding a vendorship shall have any financial or other personal interest in any such vendorship. (6-30-19)T

114. -- 119. (RESERVED)

120. CONTRACT AGREEMENT VIOLATIONS.

01. Notices of Contract Violations. Notices of contract violations will be issued by the Department, whenever a vendor shall fail to either make a license report or send in voided or canceled licenses on time or issue licenses as instructed. (6-30-19)T

02. Vendorship Performance Report. Prior to issuing a third contract violation, a vendorship performance report (BA-119) will be sent to the appropriate conservation officer. The conservation officer should discuss the problem with the vendor and recommend whether or not a third violation should be issued. The form should be submitted to the License Section through the conservation officer's supervisors for their comments. (6-30-19)T

03. Intent to Suspend. Prior to suspending a vendor upon a suspension ground, a written notice of intent to suspend shall be sent to the vendor, except where the Department determines that an emergency or a risk to the public is created by the vendor's conduct or where the vendor has failed to pay for any fund deficiency within the prescribed time, in which case the Department may terminate the vendor's agreement immediately. The vendor shall have fifteen (15) days in which to submit a written dispute to the Department. (6-30-19)T

04. Issuing Licenses. Each vendor is responsible to issue all licenses in the proper manner, and under the instructions set forth by statutes, Fish and Game rules, the contract agreement, the vendor manual, and the conservation officer. (6-30-19)T

121. TERMINATION OR SUSPENSION OF VENDOR.

01. Suspension Grounds. The Department may terminate or suspend a license vendor on the

- following grounds: (6-30-19)T
- a.** The vendor fails to have sufficient funds for the electronic funds transfer (EFT) to the Department more than once during any twelve (12) month period. (6-30-19)T
 - b.** The vendor fails to make good any fund deficiency to the Department within three (3) days of notification. (6-30-19)T
 - c.** The vendor fails to follow any procedures specified by the Department for selling or reporting sales. (6-30-19)T
 - d.** A vendor will be suspended for up to twelve (12) months following a third contract agreement violation within any twelve (12) month period. (6-30-19)T
 - e.** The vendor fails to comply with any terms of the contract agreement or fails to maintain the original criteria used in determining eligibility to become a vendor. (6-30-19)T
 - f.** The Department discovers any fraud or deception in the vendor application. (6-30-19)T
 - g.** A vendorship will be suspended immediately and may be terminated upon discovering that any license was altered by that vendorship. (6-30-19)T
 - h.** A vendorship will be terminated immediately upon conviction of any of the following: (6-30-19)T
 - i.** Violation of Fish and Game laws and/or rules. (6-30-19)T
 - ii.** Violation in the issuance of a license or in performance as a vendor. (6-30-19)T
 - i.** A vendorship will be terminated immediately upon notice from the bonding company that the vendor's bond has been canceled. (6-30-19)T
 - j.** Vendorships that have been inactive for a year will be terminated. Inactive vendors who have been terminated may reapply to become vendors, and the vendorship application will be processed in the regular manner. The application must meet all requirements for approval. (6-30-19)T
 - k.** A vendor will be terminated immediately upon receiving two (2) suspensions in any three (3) year period. (6-30-19)T
 - l.** The issuing vendor must be sure that the license information is complete and is recorded before the license sale is final. Negligence in obtaining proof of residence or completion of the application portion of the license could constitute grounds for suspension of a vendorship. (6-30-19)T
 - m.** The sale of a business voids the vendorship agreement. All licenses, unused license stock, void or canceled documents, supplies, and equipment must be returned to the Department as soon as possible. The new owner must apply for a new vendorship. Vendorships cannot be transferred. A license vendorship is not transferable and may not be used as a condition of sale. (6-30-19)T
- 02. Reapplication.** A person whose vendorship is terminated for nonpayment of license fees may not reapply to become a license vendor until all outstanding fees, including interest charged at the legal rate for judgments, have been paid in full. (6-30-19)T
- 03. Terminations-Minimum Sales.** (6-30-19)T
- a.** Incorporated City. When a vendor located within an incorporated city fails to sell at least three hundred (300) licenses during the first year of operation, or sell at least six hundred twenty-five (625) licenses during the second and subsequent years, termination will be at the end of the calendar year. (6-30-19)T

b. All Other Areas. All other vendors who fail to sell at least one hundred twenty-five (125) licenses during the first year of operation, or at least two hundred twenty-five (225) licenses during the second and subsequent year, will be terminated at the end of the calendar year. (6-30-19)T

c. A vendorship not selling the minimum number of licenses will not be terminated if the Department determines the service is necessary. (6-30-19)T

122. -- 129. (RESERVED)

130. ISSUING LICENSES AND TAGS.

01. Identification Required. A vendor shall confirm proper identification and proof of residence as defined in IDAPA 13.01.04, Rules Governing Licensing, from each individual before issuing an Idaho resident license or tag. Nonresident licenses, and daily fishing licenses do not require identification. A valid Idaho driver's license shall be required for all persons who drive. (6-30-19)T

02. Social Security Numbers. Vendor shall require disclosure of social security numbers for any person who purchases a license. The social security number shall be used only as a unique number to assist the Department with matching licenses and tags sold to an individual. Disclosure of social security numbers to the Department is required by Section 73-122, Idaho Code, and the vendor shall not use such numbers for any purpose other than that expressed herein. A person's social security number is considered confidential and the vendor will not release the number to any third party. (6-30-19)T

03. Complacency. Vendors shall otherwise ensure that they issue licenses in compliance with Idaho Code, Title 36 and Title 13, IDAPA. (6-30-19)T

131. -- 149. (RESERVED)

150. PUBLIC MONIES.

All monies collected by a vendor shall be deemed to be public monies of the state of Idaho and the state shall have a prior claim upon these monies over all creditors, assignees, or other claimants. (6-30-19)T

151. VOIDED AND CANCELLED LICENSES.

When an error is made in issuing a license, no correction, alteration, or erasure shall be made to the license. Do not destroy any voided or canceled licenses. Cancel the licenses on the IWILD terminal through the cancel function. The original voided license and cancellation receipt shall be submitted to the Department at the week's end and is to be postmarked on or before the following Wednesday. If the original license is not received when due, the vendor may be charged for the value of the license. (6-30-19)T

152. LOSS OF DOCUMENTS AND FEES.

A vendor is responsible for all lost documents and blank license stock, regardless of the reason for loss. The Department shall be notified immediately of any loss, and the vendor shall submit a detailed report of the loss. All documents and blank license stock should be kept in a safe and secure place, preferably in a fireproof box or vault. (6-30-19)T

153. INSPECTION AND AUDIT.

License records shall be available for inspection and audit at all times by an authorized employee or agent of the Department or the State Controller's Office. (6-30-19)T

154. TRANSFER AND SALE OF DOCUMENTS ISSUED TO VENDORS.

Blank license stock is issued to a vendor for sale at the place of business listed in his original application. A vendor shall not transfer blank license stock to another location nor to another license vendor without advance written permission from the Department. (6-30-19)T

155. UNUSED BLANK LICENSE STOCK, FORMS, AND SUPPLIES ON HAND.

Any unused blank license stock, forms, and supplies shall be returned to the Department immediately upon request by the Department. (6-30-19)T

156. INTERNET SERVICE PROVIDER (ISP).

Each License Vendor must provide their own Internet Service Provider (ISP) for the computerized license system. The ISP can either be dial-up or any type of high-speed. The License Vendor is responsible for all costs relating to the Internet connection. (6-30-19)T

157. -- 999. (RESERVED)

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