

Dear Senators VICK, Heider, Stennett, and
Representatives GIBBS, Lickley, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Fish and Game:

IDAPA 13.01.02 - Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges
(ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 13-0102-2201);

IDAPA 13.01.04 - Rules Governing Licensing - Proposed Rule (Docket No. 13-0104-2201);

IDAPA 13.01.04 - Rules Governing Licensing - Proposed Rule (Docket No. 13-0104-2202).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/18/2022. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/16/2022.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondoff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee
FROM: Deputy Division Manager - Katharine Gerrity
DATE: November 01, 2022
SUBJECT: Department of Fish and Game

IDAPA 13.01.02 - Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 13-0102-2201)

IDAPA 13.01.04 - Rules Governing Licensing - Proposed Rule (Docket No. 13-0104-2201)

IDAPA 13.01.04 - Rules Governing Licensing - Proposed Rule (Docket No. 13-0104-2202)

1. IDAPA 13.01.02 - Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges

Summary and Stated Reasons for the Rule

The Idaho Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.02 - Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges. This is a chapter rewrite and a fee rule. According to the department, the rule is being presented for authorization as part of the IDFG plan to review each rule chapter every five years. The department states that the fee portion of the rulemaking relates to fees the department charges for hunter, archery, and trapping education, and fees related to commission-owned or department-operated shooting ranges. The department goes on to note that the non-fee portion of the rulemaking relates to criteria for mandatory hunting, archery, trapping, and wolf-specific trapping education; and allowances for mentored hunting and the hunter passport program for first-time hunters. The department adds that the rules allow parental acknowledgment for in-person classroom instruction of their children under 18 years of age, instead of a requirement for the parent or person designated by the parent to attend mandatory education instruction. In addition, the department states that changes include a requirement for mountain goat identification (via test available online) to obtain a mountain goat tag, to support future hunt opportunity by reducing take of female goats during hunts.

Negotiated Rulemaking / Fiscal Impact

The department states that Notice of Negotiated Rulemaking was published in the April 6, 2022 Bulletin but that on one identified themselves as interested in participating in negotiated rulemaking. There is no fiscal impact anticipated as a result of the rulemaking.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-103, 36-104, 36-401, 36-409, 36-412, 36-418, and 36-1508, Idaho Code.

2. IDAPA 13.01.04 - Rules Governing Licensing

Summary and Stated Reasons for the Rule

The Idaho Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.04 - Rules Governing Licensing. According to the department, 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 department states that 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.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. No fiscal impact associated with the rulemaking is anticipated.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-104, 36-105, and 36-408, Idaho Code.

3. IDAPA 13.01.04 - Rules Governing Licensing

Summary and Stated Reasons for the Rule

The Idaho Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.04 - Rules Governing Licensing. According to the department, the 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. The department states that the rulemaking would allow a blind or visually impaired hunter to attach a simple electronic device to a scope as a viewfinder or display screen only to aid the hunter to line up on a target. The department adds that the rule would establish criteria for the exception and a permitting process.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. No fiscal impact associated with the rulemaking is anticipated.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-104, 36-105, and 36-1101, Idaho Code.

cc: Department of Fish and Game
Amber Worthington

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.02 – RULES GOVERNING MANDATORY EDUCATION, MENTORED HUNTING, AND SHOOTING RANGES

DOCKET NO. 13-0102-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – 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, 36-401, 36-409, 36-412, 36-418, and 36-1508, 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. 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.

The fee portion of the rulemaking relates to fees the Department charges for hunter, archery, and trapping education, and fees related to Commission-owned or Department-operated shooting ranges. Changes to current rule include fees the Department may charge for use of Commission/Department shooting ranges and for goods and services associated with these ranges.

The non-fee portion of the rulemaking relates to criteria for mandatory hunting, archery, trapping, and wolf-specific trapping education; and allowances for mentored hunting and the hunter passport program for first-time hunters. Proposed changes from current rules allow parental acknowledgment for in-person classroom instruction of their children under 18 years of age, instead of a requirement for the parent or person designated by the parent to attend mandatory education instruction. Proposed changes include a requirement for mountain goat identification (via test available online) to obtain a mountain goat tag, to support future hunt opportunity by reducing take of female (nanny) goats during hunts.

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

Under this rulemaking the Department would continue to charge a fee of \$8.00 for each course enrollment in hunter, archery, trapper, or wolf trapper education. This fee has been in effect since March 24, 2017. This fee rule would also allow the Director to set a daily use fee for Commission-owned or Department-operated shooting ranges, not to exceed \$10.00, and allows IDFG range program managers to set and charge reasonable fees for goods and services associated with these ranges.

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 to the general fund 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 17](#) under Docket No. 13-0102-2201. The Department held a public meeting for negotiated rulemaking on May 16, 2022. 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 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 29th day of August, 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 IS THE PROPOSED TEXT OF FEE DOCKET NO. 13-0102-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

13.01.02 – RULES GOVERNING MANDATORY EDUCATION, MENTORED HUNTING,
AND SHOOTING RANGES

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-401, 36-409, 36-412, 36-418 and 36-1508. ()

001. SCOPE.

These rules govern hunting, archery, and trapping education, mentored hunting and shooting ranges. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Accompany(ied). Close enough for conversation without shouting or using electronic devices. ()

02. Mentee. Holder of a Hunting Passport or Nonresident Junior Mentored License. ()

011. – 100. (RESERVED)

101. HUNTING PASSPORT.

01. Hunting Passport. No person holding a Hunting Passport may hunt wildlife unless accompanied by an eligible mentor. Hunting Passports are licenses for carrying and exhibition purposes under Section 36-1201, Idaho Code, and authorize holders to hunt without mandatory hunter education. Hunting Passports expire December 31 of the year for which they are valid. ()

02. Passport Eligibility. ()

a. Only persons eight (8) years of age or older, who have not previously possessed a Hunting

Passport, hunting license, or equivalent license in any state or country, may possess a Hunting Passport. Youths may possess additional Hunting Passport(s) each year until reaching ten (10) years of age. ()

b. Hunting passport holders at least ten (10) years of age are eligible to obtain general hunt big game tags available for their residency. ()

c. Hunting Passport holders are not eligible to apply for controlled hunts, except as designated by landowners for landowner permission or depredation hunts. ()

d. Hunting Passport holders under eighteen (18) years of age are eligible to participate in youth-only seasons. ()

102. HUNTING MENTOR.

01. Eligibility. No person may be a mentor unless they are eighteen (18) years of age or older and have a valid Idaho hunting license. A mentor may accompany no more than two (2) mentees at once. ()

02. Game Tag. Mentees may not hunt for species requiring game tag(s) under Section 36-409, Idaho Code, unless the mentee has a valid tag for the hunt and the mentor has a tag for that species valid somewhere in Idaho during that calendar year. ()

03. Mentor Hunting. Mentors may hunt while serving as mentors if eligible for that hunt. ()

103. – 199. (RESERVED)

200. HUNTER AND ARCHERY EDUCATION.

Certification of hunter/archery education to comply with Section 36-411, Idaho Code, means presentation of Department-issued or equivalent certification. “Equivalent certification” for hunter/archery education means completed instruction by an authorized agency or association including firearms/archery safety, wildlife management and laws, hunter ethics, first aid, survival, and practical experience in handling and shooting firearms/archery equipment. ()

201. TRAPPER EDUCATION.

Any person who did not possess an Idaho trapping license before July 1, 2011, is ineligible to obtain a trapping license unless they present Department-issued or equivalent certification of trapper education. “Equivalent certification” means completed instruction by an authorized agency or association including trapping safety, wildlife management and laws, non-target species avoidance techniques, trapper ethics and practical experience with trapping equipment. Wolf-only trapping education is not equivalent certification. ()

202. WOLF TRAPPER EDUCATION.

No person may trap for wolves without successfully completing a Department-held wolf trapping education class. ()

203. – 209. (RESERVED)

210. PARENTAL PERMISSION.

Students under age eighteen (18) who are not emancipated may only attend in-person Department mandatory education instruction with signed permission of a parent or legal guardian. ()

211. – 219. (RESERVED)

220. MOUNTAIN GOAT IDENTIFICATION.

No person may obtain a mountain goat tag unless they have completed the Department’s online mountain goat gender identification test with a passing score (eighty percent (80%) or higher). One may take this test repeatedly to pass. ()

221. – 249. (RESERVED)

250. EDUCATION FEES.

The Department will charge eight dollars (\$8) for each course enrollment in hunter, archery, trapper, or wolf trapper education. ()

251.–299. (RESERVED)

300. SHOOTING RANGE FEES.

01. Fee Schedule. The Director may set a daily use fee for Commission-owned or Department-operated shooting ranges, not to exceed ten dollars (\$10.00), which a person must pay to use the range. ()

02. Goods and Services. Department range program managers have authority to set and charge reasonable fees for goods available for resale, equipment rentals, and services provided to enhance user experience unique to the range. ()

301.–999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Department of Fish and Game

Agency Contact: Amber Christofferson

Phone: 208-334-3771

Date: 09/19/2022

IDAPA, Chapter and Title Number and Chapter Name:

[13.01.02 Rules Governing Mandatory Education and Mandatory Hunting](#)

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 13-0102-2201

STATEMENT OF ECONOMIC IMPACT:

Fees are unchanged from the previous year's fee rule for the Trapper Education Program (section 250). The fee for each student enrolling the Trapper Education Program is \$8.

A new fee schedule added is around shooting range fees (section 300) which provides for the ability of the Director to assess a fee not to exceed \$10 dollars per day. Also provided for is the Department's ability to set and charge for goods and services, and equipment rentals. At this point, if the shooting range program was fully covered by shooting range fees and recovery of resale items, service and rentals, the impact would be around \$100k.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2201

NOTICE OF RULEMAKING – 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.

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 IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-2201
(Only Those Sections With Amendments Are Shown.)

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)()
- ~~045.~~ **045. 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)()
- 056. 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 p~~ 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 m~~ Medically determinable physical impairment, which a physician has certified ~~that the~~ as a condition has ving no expectation for a fundamental or marked ~~change~~ improvement at any time in the future. (3-31-22)()
- 0811. Physician.** ~~A p~~ 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 – 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.

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
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-2202
(Only Those Sections With Amendments Are Shown.)

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)()