

Dear Senators BURTENSHAW, Adams, Semmelroth, and
Representatives MENDIVE, Shepherd, Burns:

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

IDAPA 13.01.04 - Rules Governing Licensing - Temporary and Proposed Rule (Docket No.
13-0104-2301).

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 10/20/2023. 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 11/17/2023.

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 Kondeff
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: October 04, 2023
SUBJECT: Department of Fish and Game

IDAPA 13.01.04 - Rules Governing Licensing - Temporary and Proposed Rule (Docket No. 13-0104-2301)

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of temporary and proposed rule at IDAPA 13.01.04 - Rules Governing Licensing. According to the department, the rule confers a benefit to outfitting businesses in Idaho and supports implementation of IDAPA 13.01.04 section 506 by removing from rule the limit for outfitter tag set-aside which then allows flexibility for the commission to meet the outfitter tag allocation which is based on outfitter tag verified use. The department states that the rule change permits the commission to adjust the set-aside when the verified use reflects an increase in allocation. The department also notes that the proposed rule will authorize the commission the flexibility to adopt this practice in perpetuity.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was not conducted because the change to the rule was simple in nature and necessary to maintain a limit provided through a calculation generating a limit in IDAPA 13.01.04 section 506 which was agreed upon through negotiated rulemaking and adopted by the Legislature during the 2023 legislative session. The department also confirms there is no fiscal impact to the general fund.

Statutory Authority

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

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2301

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 27, 2023.

AUTHORITY: In compliance with Section 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(s) 34-104, 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 September 20, 2023.

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 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:

The temporary rule confers a benefit to outfitting businesses in Idaho, and supports implementation of IDAPA 13.01.04 section 506, by removing from rule the limit for outfitter tag set-aside which then allows flexibility for the Commission to meet the outfitter tag allocation which is based on outfitter tag verified use. The rule change permits the Commission to adjust the set-aside when the verified use reflects an increase in allocation.

The proposed rule adopted concurrently with this temporary rule will authorize the Commission the flexibility to adopt this practice in perpetuity.

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:

The rule confers a benefit (as described in the preceding section).

FEE SUMMARY: Not applicable. The temporary and proposed rules do not impose new fees or charges.

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 to the General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change to rule was simple in nature and necessary to maintain a limit provided through a calculation generating a limit in IDAPA 13.01.04 section 506, which was agreed upon through negotiated rulemaking and adopted in Legislative Session 2023.

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:

This change to the rule does not include any incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amber Worthington at (208) 334-3771.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

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 TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 13-0104-2301
(Only Those Sections With Amendments Are Shown.)**

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

~~01. Tags. The following numbers of nonresident general hunt deer tags and nonresident general hunt elk tags will annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter licensed under Chapter 21, Title 36, Idaho Code. For each Hunting Season: (3-31-22)~~

~~a. One thousand nine hundred eighty five (1,985) deer tags (the combined total of regular and White-tailed); (3-31-22)~~

~~b. Two thousand nine hundred (2,900) elk tags (the combined total of A and B tags for all zones). (3-31-22)~~

~~021. Restrictions. Tags for use in general hunts will be sold on a first-come, first-serve basis through July 14 of each year. Application for tag purchase of these tags will be made by the outfitter for the nonresident outfitted hunter on a form prescribed by the Department. The application shall be accompanied by along with the appropriate license fees and a certification by the outfitter that the nonresident hunter has a contract to hunt with the outfitter making application. (3-31-22)(7-27-23)T~~

~~032. Unsold Tags. Any tags not sold by July 15 of each year will be sold by the Department to nonresidents on a first-come, first serve basis. (3-31-22)(7-27-23)T~~