

Dear Senators SCHROEDER, Bair & Stennett, and  
Representatives STEVENSON, Paul Shepherd & Saylor:

The Legislative Services Office, Research and Legislation, has received the enclosed  
rules of the Dept. Of Fish & Game:

IDAPA 13.01.11 - Rules Governing Fish (Docket #13-0111-0901); and

13.01.14 - Rules Governing Falconry (Docket #13-0114-0902).

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  
11-13-09. 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 12-14-09.

\_\_\_\_\_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 334-2475, or send a written request to the  
address or FAX number indicated on the memorandum enclosed.

## **MEMORANDUM**

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee  
and the House Resources & Conservation Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: October 26, 2009

SUBJECT: Idaho Department of Fish and Game

### **IDAPA 13.01.11 - Rules Governing Fish (Docket #13-0111-0901)**

### **IDAPA 13.01.14 - Rules Governing Falconry (Docket #13-0114-0902)**

#### **1. IDAPA 13.01.11 - Rules Governing Fish**

The Department submits notice of proposed rulemaking at IDAPA 13.01.11 - Rules Governing Fish. According to the Department, this rulemaking represents biennial updating and correction of fishing rules. The Department notes that the rulemaking also takes into consideration management issues and angler concerns.

The Department states that the changes include the elimination of the definition of “no bait”, corrective wording relating to two pole permits, a requirement for a sliding sinker for sturgeon fishing, an allowance for unlimited poles for boat fishing on Lake Pend Oreille in conjunction with the Angler Incentive Program, an amendment of requirements for trapping or seining minnows or crayfish, elimination of a statewide bag and possession limit to allow regional limits, a requirement of a maximum 5/8” hook gap for steelhead fishing, and corrective wording relating to steelhead and salmon permits and recording of harvested fish.

Negotiated rulemaking was not conducted. The rulemaking appears to be authorized pursuant to Sections 36-104 and 36-901, Idaho Code.

#### **2. IDAPA 13.01.14 - Rules Governing Falconry**

The Department submits notice of proposed rulemaking at IDAPA 13.01.14 - Rules Governing Falconry. According to the Department, this is a rule rewrite. The Department states that in 2008, the U.S. Fish and Wildlife Service (USFWS) implemented major revisions to federal falconry regulations designed to eliminate federal permitting requirements and increase state management authority/responsibility. Idaho has until 2014 to promulgate rules consistent

with the new federal regulations.

We contacted the Department to determine whether any of the rewritten provisions are more restrictive than those required by USFWS or include provisions not otherwise required by USFWS. The Department provided us with a very comprehensive response.

According to Department personnel, they worked with the Idaho Falconers' Association, to revise the rules in compliance with federal directions. The Department notes that states wishing to maintain sport falconry were directed to develop state rules that adopted the new federal rules along with authorization to impose more restrictive rules as appropriate. The Department's intent in developing the proposed rules was to incorporate as much of the USFWS rules as possible while minimizing additional restrictions or procedures. Based on that intent, the Department incorporated the new USFWS rules with explanation for the following more restrictive exceptions:

- The Department has also included exotic raptors that are not currently listed under the U.S. Migratory Treaty Act. The Department states that under the federal code, only raptors native to North America are regulated. Many exotic species of raptors, however, have found their way into the U.S. falconry scene. Many of the exotic species are bred commercially and recreationally flown under the umbrella of falconry. In the past, persons possessing exotic raptors were not regulated by state or federal falconry regulations. Exotics have been used to hunt wild game and they may pose some threat to native species in the form of disease and habitat competition. Based on those facts, it was concluded that exotics should be regulated the same as other migratory raptor species.
- The Department is requiring non-resident falconers to purchase a Non-resident Bird of Prey Capture Permit. This procedure has been in place for many years.
- The Department is further restricting resident falconers to not more than one (1) golden eagle for capture each calendar year. USFWS rules allowed up to two (2). USFWS restricts the capture of golden eagles to areas officially listed as active livestock depredation areas. Idaho does not have any official livestock depredation areas and has opted to allow the take of only one bird per calendar year. The rule allows the commission to modify the species open for take/capture and capture quotas/limits based on biological/management needs.
- The Department is further restricting the take of golden eagles by requiring a special state capture permit (currently a free permit) in addition to the federal regulations on take. Capture of golden eagles is a sensitive issue regulated by complex regulations. The requirement for a more restrictive permit will promote better compliance with state and federal rules by reducing public misinterpretations of the federal rules and conditions of lawful take.
- The Department has further restricted the capture of adult raptors, closing adult bird

take/capture from March 1<sup>st</sup> through July 31<sup>st</sup> of each year. USFWS rules allowed year round take of adult raptors. The take/capture closure protects wild birds during peak nesting and production periods.

- The Department requires falconers to obtain IDFG approval to take an injured raptor into possession for rehabilitation purposes. Adding one more step into the approved USFWS rule will provide a necessary regulatory step to minimize illegal activities involving the possession of too many, or unauthorized species of raptors.
- The Department further restricts raptor transfer procedures for resident falconers transferring raptors to non-residents by requiring an Idaho Export Permit. Instances of resident falconers capturing wild raptors and then immediately transferring the birds to non-residents without the non-resident purchasing a non-resident capture permit were documented. This activity circumvented existing rules. Without completely prohibiting the transfer of birds by residents to non-residents, a compromise was reached with the Idaho Falconer Association, that IDFG would require resident falconers to purchase a Wildlife Export Permit prior to any raptor transfers out-of-state.
- The Department further restricts the release of captive raptors back into the wild by requiring IDFG approval prior to release. The addition of this requirement will help ensure that only lawfully releasable birds are released into the wild, and will help ensure that birds are not diseased and have the highest chances of successful release and survival.
- The Department further restricts the reporting process by placing a five day maximum time frame to officially report any acquisition, possession, capture, death, theft, banding, re-banding, release or transfer of any raptor. The addition of this requirement was made to keep reporting requirements more consistent and less confusing.

The rulemaking appears to be authorized pursuant to Sections 36-104(b) and 36-1102(c), Idaho Code.

cc: Idaho Department of Fish and Game  
Dallas Burkhalter  
Bill Horton  
Jeff Wolfe

# IDAPA 13 - IDAHO FISH AND GAME COMMISSION

## 13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0901

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-901, 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 21, 2009.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Biennial updating and correction of fishing rules, and addressing management and anglers' concerns. The proposed changes include:

- 1) eliminating the definition of 'no bait';
- 2) correct wording regarding the two pole permit;
- 3) require a sliding sinker for sturgeon fishing;
- 4) allow unlimited poles for boat fishing on Lake Pend Oreille in conjunction with the Angler Incentive Program;
- 5) amend requirements for trapping or seining minnows or crayfish;
- 6) eliminate statewide bag and possession limits to allow regional limits;
- 7) require a maximum 5/8" hook gap for steelhead fishing;
- 8) correct wording regarding steelhead and salmon permits and recording of harvested fish.

**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 funds greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Bill Horton (208) 287-2783.

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 October 28, 2009.

DATED this 26th day of August, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0111-0901**

**004. DEFINITIONS.**

For the purposes of this chapter, the following terms will be defined as follows: (3-20-97)

**01. Artificial Fly.** Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. (3-20-97)

**02. Artificial Lure.** Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. No bait of any kind may be used with artificial lures when fishing artificial flies and lures-only waters. (3-20-97)

**03. Bag Limit.** The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day. The term "bag limit" shall be construed to be an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his "bag limit" toward filling the "bag limit" of another. The bag and possession limits are equal except for salmon and steelhead. (3-20-97)

**04. Bait.** Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. (Live fish prohibited.) (See: Subsection 004.19 - NO BAIT.) (3-20-97)

**05. Barbless Hook.** A fish hook without barbs or on which barbs have been bent completely closed. (3-20-97)

**06. Catch-and-Release.** Effort, by permitted methods, to catch or attempt to catch a fish or species of fish is lawful, with the restriction that any fish so caught must be released immediately, unharmed, back to the water. NOTE: Species of fish not specifically listed as catch-and-release may be harvested under their appropriate limits. (3-30-07)

**07. Confluence of a Stream or River.** The point where two (2) rivers or streams come together. (3-20-97)

**08. Electric Motors Only.** When fishing waters listed "electric motors only," gas (internal combustion) motors may be attached to the boat; but use of the gas motor is prohibited. (3-20-97)

**09. Fishing.** Any effort made to take, kill, injure, capture, or catch any fish, crayfish, or bullfrog. (3-20-97)

**10. Float Tube.** A floating device that suspends a single occupant, from the seat down, in the water, and is not propelled by oars, paddles, or motors. (4-6-05)

**11. Fly Fishing.** Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)

**12. Game Fish.** Brook, brown, bull (Dolly Varden), cutthroat, golden, lake (Mackinaw), rainbow (including steelhead), splake and sunapee trout; trout hybrids; Chinook, coho, Atlantic and kokanee (blueback) salmon; grayling; whitefish; cisco; crappie; perch; bass; catfish; bullheads; sunfish; sturgeon; northern pike; tiger muskie; walleye and sauger; and burbot (ling). Bullfrogs and crayfish are also defined as game fish. (4-6-05)

**13. Harvest.** Reduce a fish to possession. (3-20-97)

**14. Hook.** A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically prohibited. (3-20-97)

15. **Ice Fishing.** Fishing through an opening broken or cut through the ice. (3-20-97)
16. **Length.** The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)
17. **Motor.** Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)
18. **Mouth of River or Stream.** The place where a river or stream enters a larger body of water. (3-20-97)
- ~~19. **No Bait.** Requires the use of artificial flies or lures, with one (1) barbless hook ONLY per fly or lure. (3-20-97)~~
- ~~20. **No Motors.** Fishing from a boat with a motor attached is prohibited. (3-20-97)~~
- ~~21. **Possession Limit.** Maximum number of fish that may be lawfully in possession of any person. "Possession limit" shall apply to fish while in the field or being transported to the final place of consumption or storage. (3-20-97)~~
- ~~22. **Reservoir.** The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-20-97)~~
- ~~23. **Season Limit.** The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)~~
- ~~24. **Sliding Sinker.** A method of attaching a sinker to a device that slides freely on the main line. The line used to attach the sinker to the sliding device must be of lower breaking strength than the main line. (\_\_\_\_)~~
25. **Snagging.** Taking or attempting to take a fish by use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. Game fish which are hooked other than in the jaw or mouth must be released immediately. (4-6-05)
26. **Steelhead.** Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Lemhi and the Pahsimeroi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam, and lakes). Rainbow trout longer than twenty (20) inches in length with the adipose fin clipped (as evidenced by a healed scar) are defined as steelhead in the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam, ~~and in the Payette River from its mouth upstream to Black Canyon Dam during steelhead seasons.~~ (4-6-05)(\_\_\_\_)
27. **Tributary.** A stream flowing into a larger stream or lake. (3-20-97)
28. **Trout.** Includes the following trout family fishes: brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow, splake, Sunapee; trout hybrids; and the landlocked forms of Chinook, coho, Atlantic and kokanee (blueback) salmon. (3-30-07)
29. **Unattended Line.** A line not under the immediate surveillance by the angler. (3-20-97)
30. **Unprotected Nongame Fish.** All fish species other than game fish and protected nongame fish. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. FISHING METHODS AND GEAR.**

Unless modified by a regional exception, the following fishing methods and restrictions are applicable in all Idaho waters. (3-20-97)

**01. Archery and Spear Fishing.** Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of bullfrogs and unprotected nongame fish, and only in those waters during the season set for the taking of game fish. (7-1-99)

**02. Bait Restricted.** It is unlawful to fish with bait in waters designated as artificial flies and lures only, fly fishing only, or no bait. (3-30-07)

**03. Barbed Hooks.** It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead or Chinook salmon with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. It is unlawful to fish in no bait waters with barbed hooks. ~~(3-30-07)~~( )

**04. Fishing Gear.** It is unlawful to fish in any waters of Idaho with more than one (1) handline or pole with a line attached, except a person with a two (2) pole ~~validation permit~~ may use two (2) poles; or with more than five (5) lines while ice fishing; or by archery, spearfishing, snagging, hands, and netting except as permitted. Not more than five (5) hooks may be attached per line. The line or lines must be attended by the person fishing. In conjunction with the Angler Incentive Program, unlimited poles and lines may be used while fishing from a boat on Lake Pend Oreille. A sliding sinker must be used when fishing for sturgeon. ~~(4-6-05)~~( )

**05. Fishing Shelters.** Any enclosure or shelter which is left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. (7-1-99)

**06. Gaff Hook.** It is unlawful to land fish of any species with a gaff hook except through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species. (3-20-97)

**07. Molesting Fish.** It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. (3-20-97)

**08. Snagging.** It is unlawful to snag game fish, unless otherwise stated by Commission rules/exceptions. Snagging of unprotected nongame fish species is permitted. (3-20-97)

**09. Trapping and Seining Minnows or Crayfish.** It is lawful to take unprotected nongame fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, subject to the following restrictions: ( )

a. Unprotected nongame fish, yellow perch, and crayfish may be taken only in waters open to fishing; provided the seine or net does not exceed ten (10) feet in length or width; and nets and seines must have three-eighths (3/8) inch square or smaller mesh; and the minnow or crayfish trap does not exceed two (2) feet in length, width or height. If the trap is of irregular dimension, but its volume does not exceed the volume of an eight (8) cubic foot trap, it is also lawful to use. ( )

b. Nets and seines may not be left unattended. Traps must be checked at least every forty-eight (48) hours. All game fish (except yellow perch) and protected nongame fish incidentally taken while trapping or seining must be immediately released alive. All fish so taken must immediately be killed except where stated otherwise. ( )

c. All traps must have a tag attached bearing the owner's name and address. ( )

d. Minnows and crayfish may only be taken during the season set for the taking of game fish in those waters. Crayfish may be taken alive to be used as bait ONLY on the water where captured. ~~(5-8-09)~~( )



**10. Use of Bait.** It is unlawful to use live fish, leeches, frogs, salamanders, waterdogs or shrimp as bait, except that live crayfish and bull frogs may be used if caught on the body of water being fished. (5-8-09)

**11. Use of Hands.** It is lawful to take any fish (except bull frogs and crayfish) with ~~the~~ hands. (3-20-97)( )

**202. BAG AND POSSESSION LIMITS.**

**01. Bag Limit.** Maximum number of fish that may be lawfully taken by one (1) person in one (1) day. The bag and possession limits are equal, except where listed in region exceptions and for salmon and steelhead. (3-20-97)

**02. Possession Limit.** Maximum number of fish that may be lawfully in possession of any one (1) person. Possession limit shall apply to fish while in the field or being transported. All fish that are hooked, landed and not immediately released shall be counted in the possession limit of the person hooking the fish. (3-20-97)

**03. Transport or Gift.** No person shall transport for another or accept as a gift any game fish unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. (7-1-99)

**04. Table on Bag and Possession Limits for Specified Fish.**

<b>SPECIES</b>	<b>BAG AND POSSESSION LIMITS</b>	
<del><b>BASS</b> – Largemouth and Smallmouth North of and including the Salmon River drainage (Panhandle, Clearwater, Salmon and northern part of Southwest regions)</del>	<del><b>6</b></del>	<del><i>In the aggregate of both species.</i></del>
<del><b>BASS</b> – Largemouth and Smallmouth South and east of the Salmon River drainage (Upper Snake, Southeast, Magic Valley and southern part of Southwest regions)</del>	<del><b>6</b></del>	<del><i>In the aggregate of both species, NONE under 12 inches.</i></del>
<del><b>BROOK TROUT</b></del>	<del><b>25</b></del>	
<del><b>BULL TROUT</b> (Dolly Varden)</del>	<del><b>NONE</b></del>	<del><i>There is no harvest season for bull trout. Any bull trout caught may not be removed from the water and must be released immediately.</i></del>
<del><b>BURBOT</b> (Ling)</del>	<del><b>NONE</b></del>	<del><i>There is no harvest season for burbot. Any burbot caught may not be removed from the water and must be released immediately.</i></del>
<del><b>NORTHERN PIKE</b></del>	<del><b>6</b></del>	
<del><b>SALMON</b> (Anadromous)</del>		<del><i>See Rules 500 to 599</i></del>
<del><b>STEELHEAD</b></del>		<del><i>See Rules 400 to 499</i></del>
<del><b>STURGEON</b></del>	<del><b>NONE</b></del>	<del><i>There is no harvest season for sturgeon. Any sturgeon caught may not be removed from the water and must be released immediately. Barbless hooks required.</i></del>
<del><b>TIGER MUSKIE</b></del>	<del><b>2</b></del>	<del><i>NONE under 40 inches.</i></del>

<b>SPECIES</b>	<b>BAG AND POSSESSION LIMITS</b>
<del><b>TROUT</b>—includes the following trout family fishes brook, brown, cutthroat, golden, grayling, lake, (Mackinaw), rainbow, splake, sunapee; trout hybrids; and the landlocked forms of chinook, coho, Atlantic and kokanee (blueback) salmon.</del>	<del><b>6</b> In the aggregate of all species (see Magic Valley Southeast, Upper Snake regions for special cutthroat trout restrictions).</del>
<del><b>WALLEYE</b></del>	<del><b>No Limit</b> SEE MAGIC VALLEY and SOUTHEAST REGIONAL EXCEPTIONS</del>
<del><b>WHITEFISH</b></del>	<del><b>25</b></del>
<del><b>PROTECTED NONGAME FISH</b>—Shoshone, Wood- River and Bear Lake sculpin, sand roller, leatherside- chub, Pacific lamprey.</del>	<del><b>NONE</b> May not be taken or possessed.</del>
<del>All Species other than those listed above.</del>	<del><b>NO LIMIT</b></del>

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons and regional exceptions by proclamation, which includes regional bag and possession limits for specified fish. The proclamation is published in a brochure available at Department offices and through license vendors. (5-8-09)( )

~~**05. Family Fishing Waters.** Waters designated as Family Fishing Waters shall have a year round season: a general bag limit of six (6) trout, of six (6) bass; no length limits; and allow the use of standard fishing gear. Pursuant to Section 36-105(3), Idaho Code, the Commission sets seasons and regional exceptions, including designated Family Fishing Waters, by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (3-30-07)~~

**065. Special Limits.** No person shall fish in any waters while having fish in possession in excess of the limits for those waters. (7-1-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**310. PANHANDLE REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. (3-30-01)( )

**311. -- 314. (RESERVED).**

**315. CLEARWATER REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. (3-30-01)( )

**316. -- 319. (RESERVED).**

**320. SOUTHWEST REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. (3-30-01)( )

**321. -- 324. (RESERVED).**

**325. MAGIC VALLEY REGION, EXCEPTIONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors.  
(3-30-01)( )

**326. -- 329. (RESERVED).**

**330. SOUTHEAST REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors.  
(3-30-01)( )

**331. -- 334. (RESERVED).**

**335. UPPER SNAKE REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors.  
(3-30-01)( )

**336. -- 339. (RESERVED).**

**340. SALMON REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors.  
(3-30-01)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**403. PERMIT VALIDATION.**

When a steelhead trout has been hooked, landed, and reduced to possession, the angler hooking the fish must immediately do the following: (3-20-97)

- 01. Permit.** Completely remove one (1) numbered notch from the permit. (3-20-97)
- 02. Number Code.** Look up the number code from the location code list and write it in the space provided.

RIVER LOCATION CODES	
<b>SNAKE RIVER</b>	
Snake River, downstream from Salmon River	01
Snake River, from Salmon River to Hells Canyon Dam	02
Snake River, Hells Canyon Dam to Oxbow Dam	27
<b>CLEARWATER RIVER</b>	
Clearwater River, downstream from Orofino Bridge	03
Clearwater River, upstream from Orofino Bridge	04
North Fork Clearwater River	05
South Fork Clearwater River	07

RIVER LOCATION CODES	
<b>SALMON RIVER</b>	
Salmon River, downstream from Whitebird Creek	10
Salmon River, Whitebird Creek to Little Salmon	11
Salmon River, Little Salmon to Vinegar Creek	12
Salmon River, Vinegar Creek to South Fork	13
Salmon River, South Fork to Middle Fork	14
Salmon River, Middle Fork to North Fork	15
Salmon River, North Fork to Lemhi River	16
Salmon River, Lemhi River to Pahsimeroi River	17
Salmon River, Pahsimeroi River to East Fork	18
Salmon River, upstream from the East Fork	19
<b>OTHER</b>	
Little Salmon River	20
Panther Creek	24
Boise River	28
<del>Payette River</del>	<del>29</del>

~~(3-30-07)~~( )

03. **Date Entry.** Enter the month and day the fish was caught.

(4-6-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**405. STEELHEAD METHODS OF TAKE.**

01. **Hooks.** It is unlawful to use any hook larger than five-eighths (5/8) inch measured from the point of the hook to the shank. Steelhead may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead may be taken with barbed hooks in the Boise ~~and Payette~~ River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ~~(4-6-05)~~( )

02. **Snagging.** No person shall kill or retain in possession any steelhead which has been hooked other than in the mouth or jaw. Any steelhead hooked other than in the mouth or jaw must be immediately released unharmed. (4-6-05)

03. **Legal Catch.** Any steelhead caught in a legal manner must be either released or killed immediately after it is landed. (3-20-97)

04. **Cease Fishing.** Once an angler has attained his bag, possession or season limit on those waters with steelhead limits, he must cease fishing for steelhead, including catch-and-release fishing. (4-6-05)

05. **No Harvest or Closed to Harvest.** Effort, by permitted methods, to catch or attempt to catch a steelhead is lawful with the restriction that any steelhead so caught must be released immediately, unharmed, back to

the water. (3-20-97)

**06. Keeping Marked Fish.** Only steelhead which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage. (3-20-97)

**07. Fish Counted in Limit.** All fish that are hooked, landed, and ~~not immediately released~~ reduced to possession shall be counted in the limits of the person hooking the fish. (3-20-97)( )

**08. Special Limits.** No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (3-20-97)

**406. ~~FALL~~ STEELHEAD SEASONS AND LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (3-30-01)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**501. SALMON DEFINITIONS.**

**01. Chinook Salmon.** Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes and the North Fork of the Clearwater River above Dworshak Dam), and the Boise ~~and Payette~~ River Drainages. (4-6-05)( )

~~**02. Jack Salmon.** Chinook salmon under twenty (20) inches in total length are commonly called jack salmon.~~ (3-20-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**503. PERMIT VALIDATION.**

When a Chinook salmon has been hooked, landed, and reduced to ~~permission~~ possession, the angler hooking the fish must immediately complete the following: (4-6-05)( )

**01. Permit.** Cut out and completely remove one (1) numbered notch from the permit. (3-20-97)

**02. Number Code.** Look up the number code from the location code list in Subsection 403.02 of these rules and write it in the space provided. (4-6-05)

**03. Date Entry.** Enter in the space provided, the month, and day the fish was caught. (3-20-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**505. SALMON SPECIAL RESTRICTIONS.**

**01. Method of Take.** It is unlawful to use any hook larger than five-eighths (5/8) inch measured from the point of the hook to the shank. Salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Salmon may be taken with barbed hooks in the Boise ~~and Payette~~ River drainages, and the Snake River

between Hells Canyon and Oxbow Dams.

~~(4-6-05)~~(\_\_\_\_)

**02. Snagging.** No person shall kill or retain in possession any salmon which has been hooked other than in the mouth or jaw. Any salmon hooked other than in the mouth or jaw must be immediately released unharmed.  
(4-6-05)

**03. Legal Catch.** Any salmon caught in a legal manner must be either released or killed immediately after it is landed.  
(4-6-05)

**04. Cease Fishing.** Once an angler has attained his bag, possession, or season limit on those waters with salmon limits, he must cease fishing for salmon.  
(3-20-97)

**05. No Harvest or Closed to Harvest.** Effort, by permitted methods, to catch or attempt to catch a salmon is lawful with the restriction that any salmon so caught must be released immediately, unharmed, back to the water.  
(4-6-05)

**06. Keeping Marked Fish.** Only salmon which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages.  
(4-6-05)

**07. Fish Counted in Limit.** All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish.  
(4-6-05)

**08. Special Limits.** No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits.  
(4-6-05)

**506. SALMON SEASONS AND LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and license vendors.

~~(3-30-01)~~(\_\_\_\_)

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.14 - RULES GOVERNING FALCONRY

#### DOCKET NO. 13-0114-0902 (CHAPTER REWRITE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-1102(c), 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 21, 2009.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In 2008, the U.S. Fish and Wildlife Service implemented major revisions to federal falconry regulations designed to eliminate federal permitting requirements and increase state management authority/responsibility for regulating falconry. The state of Idaho has until 2014 to promulgate rules consistent with the new federal regulations.

**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 funds greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible. The Department of Fish and Game did consult with the Idaho Falconers Association on the draft rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Wolfe (208) 465-8470.

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 October 28, 2009.

DATED this 26th day of August, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25, Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0114-0902

**IDAPA 13, TITLE 01, CHAPTER 14**

**13.01.14 - RULES GOVERNING FALCONRY**

**000. LEGAL AUTHORITY.**

The Idaho Fish and Game Commission is authorized under Sections 36-104 (b) and 36-1102 (c), Idaho Code, to adopt rules concerning falconry in the state of Idaho. ( )

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as IDAPA 13.01.14.000, et seq., Idaho Fish and Game Commission Rules, IDAPA 13.01.14, "Rules Governing Falconry." ( )

**02. Scope.** These rules establish a falconry program in the state of Idaho. ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written statements which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter are available for public inspection and copying at cost at the headquarters office at 600 South Walnut, Boise, Idaho. ( )

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission." ( )

**004. INCORPORATION BY REFERENCE.**

Federal Regulations. All regulations pertaining to raptors as adopted by the U.S. Secretary of the Interior pursuant to the Migratory Bird Treaty Act (50 CFR, Parts 21 & 22) are incorporated herein by reference and shall have full force and effect as state rules, with additional state restrictions and applicability to raptors not listed in 50 CFR Part 10.13 as herein set forth. ( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707 ( )

**006. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Calendar Year.** January 1 through December 31, as defined by the state of Idaho to address any reference to the use of the terms twelve-month (12) period, annual, or year within this rule and federal regulations. ( )

**02. Captive-Bred.** Any raptor raised in captivity from eggs laid by captive raptors. ( )

**03. Commission.** Idaho Department of Fish and Game Commissioners appointed by the governor to administer state fish and game rules and policy. ( )

**04. Department.** Idaho Department of Fish and Game, its employees, and designated volunteers. ( )

**05. Director.** Administrative head of the Idaho Department of Fish and Game, and any person authorized to act in his name. ( )



**06. Falconry.** Capturing, possessing, caring for, transporting, training, and using raptors to hunt wild or artificially propagated birds and animals as a recreational sport, not to include any propagation, breeding or commercial use. ( )

**07. Federal.** United States Code of Federal Regulations -- CFR Title 50 Parts 21 & 22 -- administered by the United States Department of Interior and U.S. Fish and Wildlife Service. ( )

**08. Form 3-186A.** A Migratory Bird Acquisition and Disposition Report required by the United States Fish and Wildlife Service and the Department to track and record possession and status of raptors. ( )

**09. New U.S. Resident.** Any person who has legally moved into the United States or a recognized U.S. Territory to reside and who may or may not have obtained U.S. citizenship. ( )

**10. Non-Resident.** Any person who has not met the criteria to become an Idaho resident as stated in 36- 202 (s), Idaho Code, and possesses resident status and privileges from another U.S. state, territory or tribe.( )

**11. Raptor.** Any bird of prey classified under the Families Falconidae, Strigidae, Accipitridae, and hybrids thereof. ( )

**12. Resident.** Any person meeting the residency requirements set forth in 36-202 (s), Idaho Code. ( )

**13. Territory.** Recognized territories of the United States. ( )

**14. Tribe.** Any United States recognized Native American or territorial tribe, its members and federal lands designated as reservations administered under a sovereign tribal government. ( )

**15. Transfer.** To convey, deliver, loan, gift, give, barter, sell or move a raptor, raptor parts or any permit from one person, place or situation to another. ( )

**16. Visitor.** Any person not legally residing in the United States or a recognized territory, and who is temporarily in the U.S. as a visitor. ( )

**17. Wild-Caught.** Any raptor captured, removed or originating from the wild. Wild-caught raptors shall maintain wild-caught status throughout their life span in regard to capture, possession and transfer restrictions. ( )

**011. -- 099. (RESERVED)**

**100. PERMITS REQUIRED, POSSESSION, IMPORTATION, AND SALE.**

This Section addresses permits, importation, validity, temporary possession, expiration, transfer, renewal and the unlawful sale and possession of raptors. ( )

**01. Falconry Permit Required.** Except as otherwise provided by this rule, an Idaho Falconry Permit (at a fee set forth under 36-416, Idaho Code) is required before any person may possess, capture, transport, import, export or purchase any raptor for the purpose of falconry. ( )

**02. Raptor Captive Breeding Permit Required.** Except as otherwise provided by this rule, an Idaho Raptor Captive Breeding Permit (at a fee set forth under 36-416, Idaho Code) and a Federal Raptor Propagation Permit is required before any person may take, possess, transport, import, export, purchase, barter, sell or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes. ( )

**03. Non-Residents, New U.S. Residents Permit Purchase.** Non-Residents and New U.S. Residents may be issued Idaho Apprentice, General, Master Falconer, or Raptor Captive Breeding Permits without a waiting period upon permanently moving into the state of Idaho. ( )

**a.** Non-Resident and New U.S. Resident applicants shall surrender any permit(s) issued by another

state or country to the Department, and must provide a written and signed statement verifying intent to become an Idaho resident. ( )

**b.** Non-Resident applicants will be issued an equivalent Idaho class permit(s) to the permit(s) surrendered from the applicant's past resident state, territory or tribe. ( )

**c.** New Residents to the U.S. will be required to pass the Department Apprentice Falconry Examination and provide documentation to support the class of permit applied for. The Department, based on applicant experience, shall determine and assign the appropriate class of permit. ( )

**04. Non-Resident, New U.S. Resident Permit Purchase within Thirty (30) Days.** Non-Resident and New U.S. Resident falconers taking permanent residency in Idaho, shall, within thirty (30) consecutive days, purchase an Idaho Falconry Permit and a Raptor Captive Breeding Permit as required by Subsections 100.01 and 100.02 of this rule. ( )

**05. Expiration of Permits.** Idaho Falconry Permits and Raptor Captive Breeding Permits shall be valid three (3) years from date of issuance or renewal. ( )

**06. Permit Renewal.** Permit issuance or renewal shall be initiated with the completion and submission of a Department Falconry Application Form to the appropriate Department Regional Office accompanied by the appropriate fee(s) as set forth under 36-416, Idaho Code. ( )

**07. Transfer of Permits.** Idaho Falconry and Raptor Captive Breeding Permits are not transferable to another person, but may be updated to a new in-state location. ( )

**08. Permit-Class Upgrades.** ( )

**a.** Falconry Permit-class upgrades (e.g., moving from Apprentice to General status) shall be made at no cost to the applicant. Permit-class change requests shall be submitted to the appropriate Department Regional Office on a Department Falconry Permit Application Form with required documentation to verify that prerequisites for the permit-class upgrade have been satisfied. ( )

**b.** Permit Exemption for Temporary Possession. Except as otherwise provided, Non-Residents, Visitors and New U.S. Residents possessing a valid federal, territory, tribe, another state or country's equivalent Falconry or Raptor Captive Breeding/Propagation Permit, and not utilizing or possessing any Idaho resident privilege, may temporarily import, possess and transport raptors listed under their Falconry or Captive Breeding/Propagation Permits for up to thirty (30) consecutive days without purchasing an Idaho Falconry or Raptor Captive Breeding Permit. ( )

**i.** Visitors and New U.S. Residents shall comply with federal raptor importation and registration laws and shall obtain a Department Wildlife Importation Permit before importing any raptor. ( )

**ii.** Visitors and New U.S. Residents entering Idaho with a raptor(s) under an Idaho Wildlife Import Permit shall contact the nearest Department Regional Office to take the Idaho Falconry Examination. Only applicant's correctly answering at least eighty percent (80%) of the test questions will be issued a Temporary Idaho Falconry Permit. Wildlife Import and Temporary Falconry Permits shall be carried at all times when possessing raptors. ( )

**iii.** Exceptions to extend the thirty (30) day exemption period shall be at the Department's discretion and any temporary possession in excess of one hundred twenty (120) days shall require raptor housing in a falconry facility that has been approved by the Department under an existing Falconry or Captive Breeding Permit. ( )

**iv.** Non-Residents, New U.S. Residents and Visitors in addition to possessing a valid Falconry or Captive Breeding/Propagation Permit from their home state, territory, tribe or country shall comply with all other Idaho and federal rules regulating hunting and the possession of wildlife to include possession of appropriate non-resident licenses, tags, permits, stamps and validations. ( )

**09. Unlawful Sale and Possession of Raptors.** Except as otherwise provided by this rule, no person shall sell, purchase or barter any raptor or parts thereof, or possess raptors or parts that have been unlawfully obtained, sold, purchased or bartered. ( )

**a.** Only live captive-bred raptors banded or micro-chipped in compliance with section 400.01 of this rule may be sold, purchased or bartered between holders of valid state, federal, tribal, territory or another country's Falconry and Raptor Captive Breeding or Propagation Permit. ( )

**b.** Holders of valid Idaho Raptor Captive Breeding Permits and federal Raptor Propagation Permits may only sell, purchase and barter raptor eggs and semen produced and originating from raptor propagation or captive breeding programs under valid permit. ( )

**101. -- 199. (RESERVED)**

**200. INSPECTION OF RAPTORS, FACILITIES, POSSESSION AND RECORDS.**

**01. Facilities Covered by Permits.** All raptors, facilities, equipment and falconry records required in accordance with federal and Idaho rules shall be subject to reasonable business-hour inspection, any day of the week, in the presence of the applicant or permit holder. All raptors, equipment, and related records required by law shall be produced for inspection upon Department request. ( )

**02. Inspection Prior to Possession of Raptors.** ( )

**a.** Except as otherwise provided by Section 100 of this rule, no person shall possess any raptor(s) under the issuance of an Idaho Falconry or Raptor Captive Breeding Permit, until holding facilities and equipment have been inspected and approved by the Department to verify that facilities and equipment meet federal and Idaho standards. ( )

**b.** Facility inspections shall be required any time a permit holder moves his holding facilities to any physical address location that is not recorded on his current Falconry or Raptor Captive Breeding Permits. Facility location changes shall be reported to the Department within five (5) days. ( )

**03. Facilities Accepted.** Either indoor, including a personal residence, or outdoor falconry facilities, or a combination of both meeting federal standards of care, shall be authorized. ( )

**201. -- 299. (RESERVED)**

**300. APPROVED SPECIES, WILD CAPTURE, LIMITS, PERMITS, HACKING, AND REHABILITATION.**

**01. Approved Raptor Species.** Except as otherwise provided by this rule, any species of raptor defined under Subsection 010.11 of this rule shall be authorized for use in falconry or captive breeding. ( )

**02. Capture Permits Required.** Raptors may only be captured from the wild by persons possessing a valid Idaho Falconry Permit, or a Non-resident federal, state, territory or tribal Falconry Permit. Non-residents must also possess an Idaho Bird of Prey Capture Permit. ( )

**03. Capture of Wild Raptors, Approved Species and Limitations.** ( )

**a. Resident Falconers.** Except as otherwise provided by this rule, residents possessing a valid Idaho Falconry Permit shall be authorized to capture no more than two (2) wild raptors, as their permit class authorizes, each calendar year. ( )

**i.** Not more than one (1) Golden Eagle shall be captured in any calendar year. ( )

**ii.** Capture and possession of any raptor classified under federal or state law as threatened or endangered is unlawful without Department approval and a special permit. ( )

- iii. The issuance of an Idaho Eagle Falconry Permit is required to capture or possess golden eagles. ( )
- iv. Capture and possession of Bald Eagles is unlawful. ( )
- v. Capture and possession of wild Peregrines, as listing status allows, shall be restricted to a limited number of resident Peregrine Capture Permits. ( )
- vi. The Commission, pursuant to Section 36-105 (3), Idaho Code, may establish capture quotas, and a capture permit allocation system by proclamation. ( )
- b. Non-Resident Falconers.** Non-resident falconers intending to capture any wild Idaho raptor shall comply with the following: ( )
  - i. Apply to the Department Licensing Bureau in Boise for a Non-Resident Bird of Prey Capture Permit at a fee set forth under 36-416, Idaho Code. Permits shall be issued on a calendar year basis. ( )
  - ii. The Commission, pursuant to Section 36-105 (3), Idaho Code, will designate raptor species approved for capture, capture quotas, and a capture permit allocation system by proclamation. ( )
  - iii. Non-residents shall be limited to the purchase of only one (1) Bird of Prey Capture Permit per calendar year. ( )
  - iv. Non-residents receiving a Bird of Prey Capture Permit shall be authorized to only capture and possess the species of raptor specified on their permit. ( )
  - v. Non-resident Capture Permit holders, successful with the capture of a raptor shall, within seventy-two (72) hours of capture, have their Capture Permit validated by the Department at any Regional Office prior to transporting any captured raptor out of Idaho. ( )
- 04. Approved Capture Dates – Resident and Non-Resident Falconers.** ( )
  - a.** Immature raptors (birds less than one (1) year of age) shall be open to capture all year with no restrictions in regard to days of the week or times of capture. ( )
  - b.** Kestrels and Great-horned Owls may be captured as immature or adult birds (birds that are one (1) year of age or older). The take of adult birds shall be prohibited from March 1<sup>st</sup> through July 31<sup>st</sup>. ( )
- 05. Capture Area Restrictions.** ( )
  - a.** No person shall capture or attempt to capture any raptor when such activity is unlawful under federal, state, tribal, county or city law or ordinance. ( )
  - b.** Raptors taken in violation of any federal, state, tribal, county or city law shall be unlawful to possess. ( )
- 06. Capture and Possession Limits.** No person shall exceed approved state and federal raptor possession and capture limits. ( )
- 07. Raptor Hacking.** Raptor hacking in compliance with federal rules, by holders of a valid Idaho Falconry or Rehabilitation Permits, is authorized. ( )
- 08. Assisting with Raptor Rehabilitation.** General or Master Class Falconers possessing a valid Idaho Falconry Permit may assist the Department and permitted raptor rehabilitators with the rehabilitation, conditioning and hacking of raptors. Any raptor taken into possession for rehabilitative conditioning or training shall be coordinated and pre-approved by the appropriate Department Regional Office. ( )

**301. -- 399. (RESERVED)**

**400. RAPTOR BANDING, RADIO TRANSMITTERS REQUIRED, TRANSFERS, REPORTING, AND RELEASE.**

**01. Raptor Banding.** Except as otherwise provided for temporary possession and housing under federal rule and Section 100 of this rule, falconers and captive breeders possessing raptors shall comply with all federal banding and micro-chipping regulations. ( )

**a.** Wild-caught Peregrines, Harris' Hawks, Gyrfalcons and Goshawks shall be banded with a black federal, non-reusable leg band or an approved micro-chip (ISO compliant at 134.2 kHz). ( )

**b.** All Captive-bred raptors shall be banded with a seamless band within two (2) weeks of hatching. Federally approved micro-chips or yellow federal, non-reusable leg bands may be used to replace seamless bands that are broken or have become unreadable. ( )

**c.** Raptors that suffer injury or develop health issues caused by leg bands, or routinely remove or damage bands, shall be micro-chipped. Based on unusual circumstances, the Department may approve a special written exemption to banding or micro-chipping. ( )

**d.** Bands or micro-chips shall be attached or placed on all federally required wild-caught raptors within five (5) days of acquisition or capture. ( )

**e.** Bands shall be provided by the Department. Micro-chips shall be provided by the falconer. ( )

**02. Radio Transmitters Required.** At least two (2) functioning radio transmitters shall be attached to any raptor hybrid, or any raptor not listed under CFR 50, Part 10.13, when being free flown. ( )

**03. Raptor Transfers.** Resident falconers/captive breeders shall not transfer any species of wild-caught raptor to a non-resident until the transfer is approved under an Idaho Wildlife Export Permit. ( )

**a.** Idaho Wildlife Export Permits may be purchased at a fee set forth under 36-416, Idaho Code, by submitting an application to the Department Wildlife Health Lab. ( )

**b.** With Department approval, wild-caught raptors, possessed less than two (2) years from date of capture, that have been injured and can no longer be flown for falconry purposes, as determined by a veterinarian or raptor rehabilitator, may be transferred to a Captive Breeding or Propagation Permit. ( )

**04. Release of Birds.** No raptor shall be permanently released into the wild without prior Department approval. ( )

**05. Reporting Requirements.** A Form 3-186A shall be completed and electronically submitted into the United States Fish and Wildlife Service electronic records data base at <http://permits.gov/186A>, or a hard copy thereof, shall be completed and submitted to the appropriate Department Regional Office within five (5) days when any raptor is acquired, captured (including captures of already banded or telemetry equipped birds), re-captured, transferred, lost, escaped, stolen, released, banded, re-banded, micro-chipped or deceased. ( )

**401. -- 499. (RESERVED).**

**500. FALCONRY HUNTING SEASONS, BAG AND POSSESSION LIMITS.**

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, possession limits and restrictions for take by proclamation for upland game birds, upland game animals, migratory game birds, unprotected and predatory wildlife. The proclamations are published in brochures available at Department offices and through license vendors. ( )

**501. -- 599. (RESERVED).**

**600. TRAINING RAPTORS USING ARTIFICIALLY PROPAGATED GAME BIRDS.**

**01. Permit Required.** A valid Idaho Falconry Training Permit is required before any person is authorized to possess, release, or use artificially propagated game birds for purposes of training raptors in the field. Training permits shall be issued at a fee set forth under 36-416, Idaho Code, currently a free permit, and are available to residents, non-residents and visitors, and all hunting license requirements apply. ( )

**02. Permits Valid.** Permits shall be valid two (2) years from date of issuance. ( )

**03. Establishing Limitations and Guidelines.** In addition to the rules set forth, the Director is authorized to establish limitations and guidelines as to dates, locations, and conditions whereupon permits may be issued allowing the party or parties listed thereon to use, release and kill game birds obtained from a private domestic source for the purpose of field training raptors. ( )

**04. Raptor Field Training, Conditions of Use.** Raptor field training with a valid Idaho Falconry Training Permit and the use of artificially propagated game birds is lawful when the following conditions are met: ( )

**a.** The owner of the raptor(s) being trained possesses a valid Idaho Falconry Training Permit, or another state, country, territory or federal Falconry Permit. ( )

**b.** An Idaho Falconry Training Permit and required falconry permit(s) are carried in the field and available for Department inspection at the training site. ( )

**c.** Artificially propagated game birds used for training purposes are certified disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ( )

**d.** Proof of lawful game bird origin is available for inspection. ( )

**e.** Permit holder complies with all additional stipulations outlined on the permit at time of issuance. ( )

**601. -- 699. (RESERVED).**

**700. FALCONRY MEETS, PERMIT REQUIRED, NON-RESIDENTS, NEW U.S. RESIDENTS, AND VISITORS.**

Non-residents, new U.S. residents and visitors shall purchase and possess an Idaho Falconry Meet Permit, at a fee set forth under 36-416, Idaho Code, or an appropriate Non-Resident hunting license to fly or hunt any raptor as a participant in any sponsored falconry meet or contest. ( )

**701. -- 799. (RESERVED).**

**800. PENALTIES.**

**01. Federal Regulations.** All regulations pertaining to raptors as adopted by the U.S. Secretary of the Interior pursuant to the Migratory Bird Treaty Act (50 CFR, Parts 21 & 22) are incorporated herein by reference and shall have full force and effect as state rules, with additional state restrictions and applicability to raptors not listed in 50 CFR Part 10.13, as herein set forth. ( )

**02. Conviction of Violation.** Conviction of a violation of these rules or federal regulations pertaining to falconry may be grounds for revocation of an Idaho falconry permit or denial of any pending applications for an Idaho falconry permit. The revocation of any permit may be appealed within thirty (30) days of such revocation. Said appeal shall be made in writing to the Director of the Idaho Department of Fish and Game. ( )

**801. -- 999. (RESERVED).**