

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 Parks & Recreation:

IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation

Areas and Facilities – Docket No. 26-0120-0902

IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation

Areas and Facilities – Docket No. 26-0120-0903

IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation

Areas and Facilities – Docket No. 26-0120-0904

IDAPA 26.01.31 – Rules Governing the Administration of the Idaho Department of

Parks and Recreation State and Federal Grant Funds –

Docket No. 26-0131-0901.

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 12-11-09.

_____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: Katharine Gerrity, Principal Legislative Research Analyst

DATE: October 26, 2009

SUBJECT: Idaho Department of Parks and Recreation

IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities – Docket No. 26-0120-0902

IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities – Docket No. 26-0120-0903

IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities – Docket No. 26-0120-0904

IDAPA 26.01.31 – Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds – Docket No. 26-0131-0901

1. IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities

The Idaho Department of Parks and Recreation submits notice of proposed rule at IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities. According to the Department, the rule clarifies that the use of saddle or other recreational packing livestock, such as llamas, goats, etc., is prohibited on trails, roadways and other areas unless designated through signing for that purpose or with permission of the park manager or designee.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 67-4249, Idaho Code.

2. IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities

The Idaho Department of Parks and Recreation submits notice of proposed rule at IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities. According to the Department, the new provisions are necessary to effectively address more definitive guidance for agency staff when dealing with wildfire management issues. The change will speak to proper procedures to follow when large geographic areas may be affected by fire closures as mandated by statewide fire management agencies.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 67-4249, Idaho Code.

3. IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities

The Idaho Department of Parks and Recreation submits notice of proposed rule at IDAPA 26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities. According to the Department, the rule will assist the agency in properly informing the public regarding protection of wildlife within the boundaries of state park property. The Department notes that it currently enforces prohibitions related to molesting, injuring or killing any wild creatures in the parks, except as provided by specific action of the Board. However, the Department states that it is necessary to clarify that any hunting or pursuit of wildlife in a park setting must also comply with current Fish and Game rules and regulations.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 67-4249, Idaho Code.

4. IDAPA 26.01.31 – Rules Governing – Rules Governing The Administration Of The Idaho Department Of Parks And Recreation State And Federal Grant Funds

This is a fee rule. The Idaho Department of Parks and Recreation submits notice of proposed rule at IDAPA 26.01.31 – Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds. The Department notes that in 2009, the Legislature amended Section 67-7126, Idaho Code, to increase the price of an off-highway vehicle registration sticker by one dollar to fund county sheriffs to enforce off-highway vehicle related law enforcement. The Department also notes that statutory provisions also direct the Department to establish a formula in rule to distribute these funds to sheriffs of counties with a current or an actively developing off-highway vehicle law enforcement program.

We contacted the Department to determine how the formula was established. According to Department personnel, they worked with the Idaho Sheriff's Association as well as the Idaho Recreation Council in developing the formula. Department personnel indicated that it was a very positive process.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 67-7132, Idaho Code.

cc: Idaho Dept. Of Parks and Recreation
Nancy Merrill, Director

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

**26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES**

DOCKET NO. 26-0120-0902

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 Section 67-4249, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This new rule change will clarify that the use of saddle or other recreational packing livestock, such as llamas, goats, etc., is prohibited on trails, roadways, and other areas unless designated through signing for that purpose or with permission of the park manager or designee.

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

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public hearings will be scheduled prior to the upcoming legislative session if requested pursuant to Section 67-5222, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Frost, 208-514-2410.

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 28, 2009.

DATED this 23rd day of August, 2009.

Steve Frost
Interim Division Administrator, Operations
Idaho Department of Parks and Recreation
5657 Warm Springs Ave.
Boise, ID 83716
PO Box 83720
Boise, ID 83720-0065
Phone: 208-334-4199 Fax: 208-334-3741

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 26-0120-0902

500. LIVESTOCK.

Grazing of livestock is not permitted within lands administered by the Department. Exceptions may be made by the board for grazing permits or otherwise permitting the use of lands administered by the Department for livestock. The use of saddle or other recreational packing livestock, such as llamas, goats, etc., is prohibited on trails, roadways, and other areas unless designated through signing for that purpose or with permission of the park manager or designee.

~~(3-7-03)~~()

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

**26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES**

DOCKET NO. 26-0120-0903

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 Section 67-4249, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This new rule is needed to effectively address more definitive guidance for agency staff when dealing with wildfire management issues. The change will speak to proper procedures to follow when large geographic areas may be affected by fire closures as mandated by statewide fire management agencies.

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

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public hearings will be scheduled prior to the upcoming legislative session if requested pursuant to Section 67-5222, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Frost, 208-514-2410.

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 28, 2009.

DATED this 3rd day of August, 2009.

Steve Frost
Interim Division Administrator, Operations
Idaho Department of Parks and Recreation
5657 Warm Springs Ave.
Boise, ID 83716
PO Box 83720
Boise, ID 83720-0065
Phone: 208-334-4199 Fax: 208-334-3741

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 26-0120-0903

525. FIRES.

The use of fires shall be restricted to fire circles, grills or other places otherwise designated by the park manager. All fires shall be kept under control at all times, ~~and shall be extinguished before checking out of the campsite or whenever fire is left unattended.~~ Fires shall not be left unattended and must be extinguished before checking out of the campsite. Some park Areas may be closed to open fires during extreme fire danger implement restrictions in the use of open fires during extreme fire events. In certain instances, large geographic areas may be affected by fire closures as mandated by statewide fire management agencies. The Department will coordinate closely with field staff and these fire management agencies during these periods. Field staff will follow the established IDPR fire management policy and standard operating procedures. (3-13-97)()

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

**26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES**

DOCKET NO. 26-0120-0904

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 Section 67-4249, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This new rule will assist the agency in properly informing the public regarding protection of wildlife within the boundaries of state park property. We currently enforce prohibitions related to molesting, injuring, or killing any wild creatures in the parks, except as provided by specific action of the Park Board. It is necessary to clarify that any hunting or pursuit of wildlife in a park setting must also comply with current IDFG rules and regulations.

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

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public hearings will be scheduled prior to the upcoming legislative session if requested pursuant to Section 67-5222, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Frost, 208-514-2410.

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 28, 2009.

DATED this 23rd day of August, 2009.

Steve Frost
Interim Division Administrator, Operations
Idaho Department of Parks and Recreation
5657 Warm Springs Ave.
Boise, ID 83716
PO Box 83720
Boise, ID 83720-0065
Phone: 208-334-4199 Fax: 208-334-3741

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 26-0120-0904

575. PROTECTION OF WILDLIFE.

All molesting, injuring, or killing of any wild creature is strictly prohibited, except as provided by action of the Board and as established in Board Policy. Persons in possession of wildlife, which may be legally taken within state park boundaries, shall comply with all Idaho Department of Fish and Game rules and regulations. (~~3-7-03~~)(_____)

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

26.01.31 - RULES GOVERNING THE ADMINISTRATION OF THE IDAHO DEPARTMENT OF PARKS AND RECREATION STATE AND FEDERAL GRANT FUNDS

DOCKET NO. 26-0131-0901 (FEE RULE)

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 Section 67-4223, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2009 Legislature amended Section 67-7126, Idaho Code, to increase the price of an off-highway vehicle registration sticker by one dollar (\$1.00) to fund County Sheriff's to enforce off-highway vehicle related law enforcement. Idaho Code further directs the Idaho Department of Parks and Recreation Board to establish a formula in rule to distribute these funds to Sheriffs of counties with a current or an actively developing off-highway vehicle law enforcement program.

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

The 2009 Legislature amended Section 67-7126, Idaho Code, to increase the price of an off-highway vehicle registration sticker by one dollar (\$1.00) to fund County Sheriff's to enforce off-highway vehicle related law enforcement.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public meetings will be scheduled prior to the upcoming legislative session if requested.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Frost, 208-514-2410.

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 28, 2009.

DATED this 23rd day of August, 2009.

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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 26-0131-0901

251. OFF-HIGHWAY VEHICLE LAW ENFORCEMENT FUND DISTRIBUTION.

01. Deposits Into and Usage of Fund. One dollar (\$1) of every off-highway vehicle registration shall be deposited into the off-highway vehicle law enforcement fund. Moneys in this fund shall be paid out and used as follows: ()

a. Sheriffs of counties with a current or an actively developing off-highway vehicle law enforcement program recognized by the Department shall receive moneys from the fund based upon the formula provided in this rule. ()

b. A program shall be recognized as an off-highway vehicle law enforcement program if it is sponsored by a county sheriff to promote off-highway vehicle safety, education, and law enforcement and is overseen by an advisory committee of three (3) or more individuals to include at least one (1) sheriff or deputy sheriff, one (1) motorbike representative, and one (1) all-terrain vehicle or utility type vehicle representative. ()

c. The Department shall not withhold recognition of an off-highway vehicle law enforcement program unless it is clearly demonstrated that the program has not performed its off-highway vehicle enforcement duties within the past calendar year. An annual report of accomplishments of the previous calendar year by each participating sheriff shall be delivered to the Department by March 1 of each year and shall include: ()

i. The number of citations issued; ()

ii. Assistance calls responded to; ()

iii. Off-highway vehicle contacts made; and ()

iv. Safety classes held. ()

d. Money from the off-highway vehicle law enforcement fund shall be used to defray costs for enforcement by sheriffs' offices pertaining to the use of all terrain vehicles, motorbikes, specialty off-highway vehicles, and utility type vehicles as defined in section 67-7101, Idaho Code. ()

e. Money in the off-highway vehicle law enforcement fund shall be used by the Department for the purpose of defraying costs of off highway vehicle related law enforcement activities that are conducted by a county sheriff's office and for no other purpose. Defrayable costs shall include: ()

i. Wages (including overtime wages) of county sheriff's deputies directly engaged in off-highway vehicle law enforcement, as described in this Section; ()

ii. Wages for court appearances pertaining to violations of Idaho law pertaining to off-highway vehicles, as described in this Section; and ()

iii. Direct costs to the sheriff's office required to facilitate the enforcement of off-highway vehicle laws, including vehicle purchase costs, fuel costs, supply costs and vehicle maintenance costs. ()

02. Annual Notification of Qualifying Offices. Each year no later than April 1, the Department shall notify the Idaho Sheriffs' Association in writing regarding which sheriff's offices are recognized by the Department as qualifying for enforcement funding under Section 67-7126, Idaho Code, and the balance of the off-highway vehicle law enforcement fund. It shall be the responsibility of each sheriff's office to provide information regarding its off-highway vehicle enforcement program in order for the Department to determine whether it recognizes the program. A sheriff's office shall have fourteen (14) days to request reconsideration of the Department's decision withholding recognition, and the Department shall act upon such request within fourteen (14) days. ()

03. Formula for Distribution of Funds. The Department shall distribute the funds in the off-highway vehicle law enforcement fund based on the following formula: ()

a. Total federal acres with reference to the Payments in Lieu of Taxes (PILT) number for each eligible county minus large tracts of land not open to off-highway vehicle use. The result is the total off-highway vehicle opportunity on federal public land for that county. ()

b. Calculate the percentage of the total off-highway vehicle opportunity on federal public land for each eligible county as compared to the entire state. ()

c. Multiply this percentage by 0.6 to get 60% of the value. ()

d. Calculate the percentage of off-highway vehicle registration designations for each eligible county as compared to the entire state. ()

e. Multiply this percentage by point zero four (0.4) to get forty percent (40%) of the value. ()

f. Add the sixty percent (60%) value from the total off-highway vehicle opportunity on federal public land to the forty (40%) value of the off-highway vehicle registrations. This total will be the percentage of the off-highway vehicle law enforcement funds for which the individual county is eligible. ()

04. Distribution of Funds Not Used. For the off-highway vehicle law enforcement funds that are not allocated to a county because they do not have an off-highway vehicle enforcement program as described by this rule, or for funds from undesignated registrations, the funds return to the off-highway vehicle law enforcement fund. Any undistributed money shall be allocated as follows: ()

a. Fifty percent (50%) of the unallocated money shall be distributed as per the distribution formula previously listed; and ()

b. Fifty percent (50%) of the unallocated money shall be held by the Idaho Sheriff's Association to be used for emphasis areas of off-highway vehicle law enforcement. ()

05. Annual Audit. All counties that receive off-highway vehicle law enforcement funding are subject to an annual audit of the expenditure of the funds. ()

~~2542.~~ -- 299. (RESERVED).