

Dear Senators PEARCE, BAIR, Werk, and
Representatives STEVENSON, Shepherd, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Outfitters and Guides Licensing Board:

IDAPA 25.01.01 - Rules of the Idaho Outfitters and Guides Licensing Board (Docket No.
25-0101-1202).

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 10/16/2012. 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 11/14/2012.

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 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
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: Principal Legislative Research Analyst - Katharine Gerrity

DATE: September 26, 2012

SUBJECT: Outfitters and Guides Licensing Board

IDAPA 25.01.01 - Rules of the Idaho Outfitters and Guides Licensing Board (Docket No. 25-0101-1202)

The Outfitters and Guides Licensing Board submits notice of temporary and proposed rule at IDAPA 25.01.01 - Rules of the Idaho Outfitters and Guides Licensing Board. The Board notes that the purpose of the rule is to allow outfitters and guides to trap wolves incidental to big game hunts. The rule requires outfitter or designated agents to have wolf hunting and wolf trapping properly amended to their outfitter license prior to providing services to the public by submitting a major amendment along with certification of completion of the mandatory wolf trapping education class. The Board notes that guides must be properly employed by and licensed as a guide to a specific outfitter responsible for big game hunts and incidental wolf trapping. Hunting guides must have completed the mandatory wolf trapping education class and have a certificate of completion on file with the outfitter prior to the activity taking place and available for inspection by the Board. The Board adds that clients must possess the appropriate tags to participate in a hunt and may hunt and kill any free ranging animal for which they have an appropriate license and tag, but cannot kill an animal in or within 200 yards of their outfitter's or guide's trap line. The rule also provides that a trapped animal must be killed quickly and humanely and cannot be released and then "hunted" and then killed. The rule also provides that clients may not handle or be involved with handling traps or trapped animals and may only observe the handling of trapped animals by properly licensed guides.

The temporary rule became effective on September 5, 2012. Negotiated rulemaking was not conducted but the Board indicates that it consulted with the Department of Fish and Game as well as the United States Forest Service in regard to the rule. The Department of Fish and Game confirmed its participation. The Board also notes that it would modify the rule should the Forest Service modify its position due to the fact that most wolf trapping where outfitters are involved is conducted on federal land administered by the Forest Service. The rule appears to be authorized by Sections 36-2107, 36-2110 and 36-2119, Idaho Code.

cc: Outfitters and Guides Licensing Board
Jake Howard

IDAPA 25 - IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-1202

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 5, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 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) 36-2107 (b) and (d); 36-2110 and 36-2119, 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 and not later than October 17, 2012.

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:

Trapping wolves is relatively new to Idaho. There has been a need determined for licensing outfitters to help the State of Idaho and the Idaho Department of Fish and Game properly manage Idaho's wolf population. Therefore, the purpose of this rule is to allow outfitters and their guides to trap wolves during hunting trips and to allow hunting clients to accompany them.

Expanding existing rule IDAPA 25.01.01, Section 051, to allow outfitters licensed for big game hunting to provide wolf trapping as a hazardous excursion as defined under IDAPA 25.01.01, Subsection 002.20 and which would be conducted as a minor (incidental) activity as defined in 25.01.01, Subsections 002.23 and 002.28 during the course of big game hunting during any open wolf trapping season. The outfitter or designated agent must have wolf hunting and wolf trapping properly amended to their outfitter license prior to providing services to the public by submitting a major amendment along with certification of completion of the mandatory wolf trapping education class. Guides must be properly employed by and licensed as a guide to a specific outfitter responsible for big game hunts and incidental wolf trapping. In addition to other training requirements hunting guides must have completed the mandatory wolf trapping education class and have a certificate of completion on file with the outfitter prior to the activity taking place and available for inspection by the Board. Clients must possess the appropriate tags to participate in a hunt. Clients may hunt and kill any free ranging animal for which they have an appropriate license and tag, but cannot kill an animal in or within 200 yards of their outfitter's or the guide's trap line. A trapped animal must be killed quickly and humanely. Animals cannot be released and then "hunted" and then killed. Clients may accompany a properly licensed guide who is checking his outfitter's traps and must be directly accompanied by that guide at all times. Clients may not handle or be involved with handling traps or trapped animals. Clients may only observe the handling of trapped animals by properly licensed guides.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule confers a benefit to licensed outfitters and their designated agents and guides who must have wolf hunting and wolf trapping properly amended to their licenses prior to providing that service to the public. This rule allows incidental trapping of wolves during guided big game hunts by properly licensed outfitters and guides.

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 fund greater than ten thousand dollars (\$10,000) during the fiscal year:

No fiscal impact will occur as a result of changes that are being made.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because most wolf trapping where outfitters are involved is conducted on federal land administered by the United States Forest Service. This rule is the result of a “negotiated compromise” involving representatives of the Idaho Outfitters and Guides Licensing Board, the Idaho Department of Fish and Game and industry representatives with the USFS. It represents what is currently allowable by the USFS and is simply an extension of operating privileges provided to currently licensed outfitters and guides. The Board would modify this rule should the United States Forest Service modify their position.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact the Idaho Outfitters and Guides Licensing Board at 208-327-7380.

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 24, 2012.

DATED this 24th day of August, 2012.

Jake Howard
Executive Director
Idaho Outfitters and Guides Licensing Board
1365 North Orchard, Room 172
Boise, Idaho 83706
Phone: 208-327-7380; Fax 208-327-7382

**THE FOLLOWING IS THE PROPOSED TEXT AND THE TEMPORARY RULE
FOR DOCKET NO. 25-0101-1202**

051. PLACEMENT OF HUNTING CAMPS AND LEAVING OUTFITTER’S OPERATING AREA, BIG GAME HUNTING AND INCIDENTAL TRAPPING.

01. Hot Pursuit of Bear and Cougar With Hounds and Hot Pursuit Agreements. With prior Board approval, an outfitter may enter into an adjacent area with a client for hot pursuit of bear and cougar hunting when hunting with hounds. The pursuit may not be started outside of the outfitter’s licensed area. Outfitters may negotiate agreements with adjoining outfitters for hot pursuit of bear and cougar when hunting with hounds. Such agreements constitute a minor amendment. A copy of the amended agreement must be filed with the Board annually. An outfitter wishing to conduct a hot pursuit hunt outside his licensed area with a client must: (3-20-04)

- a. Obtain written permission from all outfitters whose licensed area(s) will be directly involved in the hunt; (3-20-04)
- b. Obtain written permission from all applicable landowners or land managers; (3-20-04)
- c. Obtain approval from the Outfitters and Guides Licensing Board to conduct the hunt by satisfying the following criteria: (3-20-04)
 - i. Must be licensed for bear and cougar hunting; and (3-20-04)

- ii. Submit an incidental amendment fee. (3-20-04)
- d. With prior Board approval, on a case by case basis and under special circumstances, the Board may waive the requirement for approval from the adjacent outfitter. (3-20-04)
- 02. Camps.** A hunting outfitter shall not place a camp, nor cause one to be placed, in an area for which he is not licensed, except as identified in his approved operating plan. Whenever possible, camps used for big game hunting shall be placed well within the operating area and not near the boundary line. (3-20-04)
- 03. Guide Services to Clients Outside Outfitter's Operating Area.** Clients may not be provided guided services when outside the outfitters area, including any drop camp situation except as provided in Subsection 051.01. Outfitters providing unguided hunts may be subject to Board action for clients hunting outside their operating area. (3-20-04)
- 04. Wolf Trapping Incidental to Big Game Hunts. Only Outfitters licensed for big game hunting and for hunting wolves specifically may qualify to provide wolf trapping.** (9-5-12)T
- a. Outfitters licensed for big game hunting and for hunting wolves may provide wolf trapping as a hazardous excursion as defined in Subsection 002.20 and which would be conducted as a minor (incidental) activity as defined in Subsections 002.23 and 002.28 during the course of big game hunting during any open wolf trapping season as follows:** (9-5-12)T
 - i. The Outfitter or Designated Agent must have wolf hunting and wolf trapping properly amended to their outfitter license by submitting a major amendment along with certification of completion of the mandatory wolf trapping education class.** (9-5-12)T
 - ii. The Outfitter or Designated Agent must complete the mandatory wolf trapping education class provided by the IDFG prior to allowing this activity to occur.** (9-5-12)T
 - iii. Wolf trapping may not be advertised, promoted or booked as an outfitted or guided service.** (9-5-12)T
 - iv. Outfitter or Designated Agent may not kill or allow domestic livestock or animals to be killed for use as bait while in their operating area or to use live animals as bait and will be otherwise expected to follow existing state laws regarding handling of domestic livestock.** (9-5-12)T
 - v. A trapped animal must be killed quickly and humanely. It cannot be released and then "hunted" and then killed.** (9-5-12)T
 - vi. Outfitters may not directly engage a client in trapping activities. (see Subsections 051.c.i. through 051.c.v. for direction on activities clients may be engaged in).** (9-5-12)T
- b. Guides:** (9-5-12)T
 - i. Must be properly employed by and licensed as a guide to a specific outfitter responsible for big game hunts and incidental wolf trapping.** (9-5-12)T
 - ii. Must, in addition to other training requirements of hunting guides, have completed the mandatory wolf trapping education class and have a certificate of completion on file with the employing outfitter prior to the activity taking place and available for inspection by the Board.** (9-5-12)T
 - iii. Guides may check their employing outfitter's or their own wolf traps as per state requirements as part of outfitted, big game hunts.** (9-5-12)T
 - iv. May not provide services to the same client for two different outfitters within a five (5) day period.** (9-5-12)T

- v. May not advertise or act as an independent booking agent. (9-5-12)T
- vi. All traps and other equipment used for trapping must be provided by the licensed outfitter or may be leased from the guide with a copy of the lease put on file with the Board at the time the guide is licensed to the outfitter or two days prior to the excursion. (9-5-12)T
- c. Clients: (9-5-12)T
 - i. Must possess the appropriate tags to participate in a hunt. (9-5-12)T
 - ii. May hunt and kill any free ranging animal for which they have an appropriate license and tag, but cannot kill an animal in or within 200 yards of their Outfitter's or guide's trap line. A trapped animal cannot be released and then hunted or killed. (9-5-12)T
 - iii. May accompany a properly licensed guide who is checking his outfitter's traps and must be directly accompanied by that guide at all times. (9-5-12)T
 - iv. May not handle or be involved with handling traps or trapped animals. (9-5-12)T
 - v. May only observe the handling of trapped animals by properly licensed guides. (9-5-12)T