

Dear Senators PEARCE, BAIR, Stennett, and  
Representatives DENNEY, Gibbs, Pence:

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

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho -  
Nonresident Junior Mentored Tag (Docket No. 13-0108-1302);

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho -  
Controlled Hunt Tag Designation to Minor Children or Grandchildren (Docket No.  
13-0108-1303);

IDAPA 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho (Docket No.  
13-0109-1301);

IDAPA 13.01.11 - Rules Governing Fish - Single-Point Hook and Watercraft (Docket No.  
13-0111-1301);

IDAPA 13.01.11 - Rules Governing Fish - Minimize Risk to Landed Sturgeon (Docket No.  
13-0111-1302).

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 10/15/2013. 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 11/12/2013.

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 25, 2013  
**SUBJECT:** Department of Fish and Game

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Nonresident Junior Mentored Tag (Docket No. 13-0108-1302)

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Controlled Hunt Tag Designation to Minor Children or Grandchildren (Docket No. 13-0108-1303)

IDAPA 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho (Docket No. 13-0109-1301)

IDAPA 13.01.11 - Rules Governing Fish - Single-Point Hook and Watercraft (Docket No. 13-0111-1301)

IDAPA 13.01.11 - Rules Governing Fish - Minimize Risk to Landed Sturgeon (Docket No. 13-0111-1302)

### **1. IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho (Nonresident Junior Mentored Tag)**

The Department of Fish and Game submits notice of temporary and proposed rule at IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho relating to nonresident junior mentored tags. According to the department, the purpose of the rulemaking is to eliminate the requirement that the accompanying adult have a tag valid in the same area.

The department states that the effective date of the temporary rule was August 26, 2013. The department notes that negotiated rulemaking was not conducted due to the minor nature of the change. The rule appears to be authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

### **2. IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho (Controlled Hunt Tag to Minor Child or Grandchild)**

The Department of Fish and Game submits notice of temporary and proposed rule at IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho relating to controlled hunt tag designation to minor children or grandchildren. According to the department, the purpose of the rulemaking is to make several minor wording changes to more closely align the statute and the rule for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

The department states that the effective date of the temporary rule was August 26, 2013. The department notes that negotiated rulemaking was not conducted due to the minor nature of the change. The rule appears to be authorized pursuant to Sections 36-104 and 36-405, Idaho Code.

### **3. IDAPA 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho (Controlled Hunt Tag to Minor Child or Grandchild)**

The Department of Fish and Game submits notice of temporary and proposed rule at IDAPA 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho relating to controlled hunt tag designation to minor children or grandchildren. According to the department, the purpose of the rulemaking is to make several minor wording changes to more closely align the statute and the rule for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

The department states that the effective date of the temporary rule was August 26, 2013. The department notes that negotiated rulemaking was not conducted due to the minor nature of the change. The rule appears to be authorized pursuant to Sections 36-104 and 36-405, Idaho Code.

### **4. IDAPA 13.01.11 - Rules Governing Fish (Single-Point Hook and Watercraft)**

The Department of Fish and Game submits notice of temporary and proposed rule at IDAPA 13.01.11 - Rules Governing Fish relating to single-point hooks and watercraft. According to the department, the purpose of the rulemaking is to define "single-point hook" and "watercraft." The department indicates that the terms have been used in season proclamations for some time.

The department states that the term "single-point hook" is used to limit fishing tackle to prevent snagging and that in certain situations where fish are large, visible and congregated, hooks with more than one point create a higher probability that anglers could intentionally or unintentionally snag a fish. The department states that this can lead to illegal harvest or unintended mortality and is of particular concern in fisheries for salmon and steelhead in tributary river systems. The rule change defines the term as "a bent wire device for catching fish, with one (1) shank and one (1) point."

The department also states that the term "watercraft" is used to limit angler conflict and address safety concerns. The department notes that in some reservoirs and large river fisheries with concentrated angler use, there can be conflicts and/or unsafe conditions for bank/wading anglers created by wake from watercraft. The department states that watercraft anchored in desired fishing areas can also monopolize preferred fishing locations to the point that bank/wading anglers have no opportunity to fish and, although these events are rare, they can occur in waters with high-use fisheries for salmon and steelhead. The rule change defines the term as "those devices designed as a means of transportation on water."

The department states that the effective date of the temporary rule was August 26, 2013. The department notes that negotiated rulemaking was not conducted due to the simple nature of the change and the fact that the terms have been used in season proclamations for some time. The rule appears to be authorized pursuant to Sections 36-104 and 36-901, Idaho Code.

### **5. IDAPA 13.01.11 - Rules Governing Fish (Minimization of Risk to Landed Sturgeon)**

The Department of Fish and Game submits notice of temporary and proposed rule at IDAPA 13.01.11 - Rules Governing Fish relating to the minimization of risk to landed sturgeon. According to the department, the purpose of the rulemaking is to provide that only catch-and-release angling is allowed in Idaho for sturgeon. The department states that keeping the sturgeon in the water allows the natural buoyancy of the water to support internal organs of larger fish. The department goes on to state that sturgeon have a cartilaginous skeleton which is not as supportive as a bony skeleton found in most fish species. This rule was in the Administrative Code

through 2008 and then was inadvertently removed during a chapter restructure but was never rescinded by the Fish and Game Commission.

The department states that the effective date of the temporary rule was August 26, 2013. The department notes that negotiated rulemaking was not conducted due to the simple nature of the change and the fact that the rule was inadvertently removed during a chapter restructure. The rule appears to be authorized pursuant to Sections 36-104 and 36-901, Idaho Code.

cc: Department of Fish and Game  
Sharon Kiefer  
Dallas Burkhalter

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

#### DOCKET NO. 13-0108-1302

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 26, 2013.

**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 Sections 36-104(b) and 36-1101(a), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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:

This rule revises the Nonresident Junior Mentored Tag to delete the requirement that the accompanying adult have a tag valid in the same area.

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

The temporary rule confers a benefit to certain hunters and sportsmen.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor change is simple in nature, and there were few responses to a Notice of Intent to Promulgate Rules.

**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:

Not Applicable.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

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 23, 2013.

DATED this 28th day of August, 2013.

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 TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 13-0108-1302**

**250. TAGS AND PERMITS.**

No person shall hunt big game animals without having in possession the appropriate hunting license, tags and permits. (4-7-11)

**01. Use of Tags.** (7-1-93)

**a.** Controlled hunt tags issued for moose, bighorn sheep, mountain goat and pronghorn may be used only in the controlled hunt for which the hunter was drawn. (4-7-11)

**b.** Extra tags issued for deer, elk or pronghorn may be used only in the hunt area for which the tags are issued. (4-7-11)

**c.** Any person who purchases a tag to hunt black bear, or who is unsuccessful in killing an animal, and who is subsequently drawn for a black bear controlled hunt tag, may choose to purchase a controlled hunt bear tag or exchange the general season bear tag for the controlled hunt bear tag, the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)

**d.** General season tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-7-11)

**e.** Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)

**i.** Regular Deer:

<b>TYPE OF TAG</b>	<b>SEASONS</b>
Resident	Any archery, muzzleloader or general deer season.
Resident/Senior/Disabled American Veteran (DAV)	Any archery, muzzleloader or general deer season.
Nonresident	Any archery, muzzleloader or general deer season or may be used to tag a black bear or mountain lion or gray wolf during the Regular deer season when the black bear or mountain lion, or gray wolf season is open.
Controlled Hunt Tag	Only the designated controlled hunt for which the hunter was drawn.
Controlled Depredation Hunt Tag	Only the designated controlled depredation hunt for which the hunter was drawn.
Controlled Hunt Extra Tag	Only the designated controlled extra tag hunt for which the hunter was drawn.

(4-7-11)

ii. White-tailed deer.

<b>TYPE OF TAG</b>	<b>SEASONS</b>
Resident White-tailed	To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season.
Resident Junior/Senior/Disabled American Veteran (DAV) White-tailed	To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season.
Nonresident White-tailed	To hunt white-tailed deer in any archery, muzzleloader or general white-tailed deer season or may be used to tag a black bear, mountain lion or gray wolf during the white-tailed deer season when the black bear, mountain lion or gray wolf season is open.
Nonresident White-tailed Junior Mentored	Any archery, muzzleloader or general white-tailed deer season.

(4-7-11)

iii. Elk A Tag: Valid only for A Tag elk seasons in specific elk zones.

<b>TYPE OF TAG</b>	<b>SEASONS</b>
Resident	Any archery, muzzleloader, or general season in A Tag elk seasons in specific zones.
Resident Junior/Senior/Disabled American Veteran (DAV)	Any archery, muzzleloader, or general season in A Tag elk seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A tag elk seasons in specific zones. May be used to tag a black bear or mountain lion or gray wolf during the open elk season for the zone the elk tag is valid in when the black bear, mountain lion or gray wolf season is open.
Nonresident Junior Mentored	Any archery, muzzleloader, or general season in A Tag elk season in specific zones.
Controlled Hunt Tag	Only the designated controlled hunt for which the hunter was drawn.
Controlled Depredation Hunt Tag	Only the designated controlled depredation hunt for which the hunter was drawn.
Controlled Extra Tag	Only the designated controlled and extra tag hunt for which the hunter was drawn.

(4-7-11)

iv. Elk B Tag: Valid only for B Tag elk seasons in specified zones.

<b>TYPE OF TAG</b>	<b>SEASONS</b>
Resident	Any archery, muzzleloader, or general season in B Tag elk seasons in specific zones.
Junior/Senior/Disabled American Veteran (DAV)	Any archery, muzzleloader, or general season in B Tag elk seasons in specific zones.

TYPE OF TAG	SEASONS
Nonresident	Any elk archery, muzzleloader, or general season in B tag elk seasons in specific zones. May be used to tag a black bear or mountain lion or gray wolf during the open elk season for the zone the elk tag is valid in when the black bear, mountain lion or gray wolf season is open.
Nonresident Junior Mentored	Any archery, muzzleloader, or general season in B Tag elk season in specific zones.
Controlled Hunt Tag	Only the designated controlled hunt for which the hunter was drawn.
Controlled Depredation Hunt Tag	Only the designated controlled depredation hunt for which the hunter was drawn.
Controlled Hunt Extra Tag	Only the designated controlled and extra tag hunt for which the hunter was drawn.

(4-7-11)

v. Super Tag.

TYPE OF TAG	SEASONS
Controlled Hunt "Super" Tag	Valid for either pronghorn, deer, moose, or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.

(4-7-11)

f. Nonresident Junior Mentored Deer or Elk tags are not valid for bear, mountain lion, or gray wolf. (4-7-11)

g. Any person hunting with a Nonresident Junior Mentored License or tag must be accompanied in the field by an adult license holder close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. (4-6-05)

h. Any adult accompanying the holder of a Nonresident Junior Mentored Tag must have a tag for the same species, ~~valid in the same area.~~ (4-6-05)(8-26-13)T

i. Regular tags issued for gray wolf may be used ONLY as allowed by the gray wolf seasons and quotas set by Commission proclamation under Section 36-105(3), Idaho Code. The proclamation is published in a brochure available at Department offices and license vendors. (3-29-10)

**02. Return of Tags by Unsuccessful Hunters.** Hunters who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (4-7-11)

**03. Archery and Muzzleloader Permits.** Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)



## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

#### DOCKET NO. 13-0108-1303

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 26, 2013.

**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 Sections 36-104(b) and 36-405(c)(2)(B), 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 16, 2013.

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:

2012 House Bill 457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

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

The temporary rule confers a benefit to certain hunters and sportsmen.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor wording change is simple in nature, and is in response to a Legislative request.

**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:

Not Applicable.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

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 23, 2013.

DATED this 28th day of August, 2013.

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 TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 13-0108-1303**

**260. TAGS FOR CONTROLLED HUNTS.**

**01. Use of Controlled Hunt Tags.** No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession. (4-7-11)

**a.** A controlled hunt area with an “X” suffix is an extra tag hunt. (10-26-94)

**b.** In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the hunter of the invalidation of the tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (4-7-11)

**c.** Any person who draws a controlled hunt tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

**i.** The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first deer drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

**ii.** If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

**iii.** The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for deer. (4-7-11)

**iv.** Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (4-7-11)

**d.** Any person who draws a controlled hunt tag for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

**i.** The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

**ii.** If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

**iii.** The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second

- tag and may purchase a controlled hunt extra tag for elk. (4-7-11)
- iv. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt-archery, muzzleloader, general or controlled hunt. (4-7-11)
- e. Any person who draws a controlled hunt tag for pronghorn is prohibited from hunting in any other pronghorn hunt; EXCEPT: (4-7-11)
- i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)
- ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)
- iii. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. (4-7-11)
- iv. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. (4-7-11)
- f. Any person who draws a spring controlled hunt tag for black bear, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)
- g. Any person who draws a fall controlled hunt tag may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag; EXCEPT; the hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the fall bear drawing. (4-7-11)
- h. Any resident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to ~~his or her~~ resident minor child or grandchild who is qualified to participate in the hunt. ~~(4-4-13)~~(8-26-13)T
- i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates a control hunt tag to ~~his or her~~ resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. ~~(4-4-13)~~(8-26-13)T
- ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)
- iii. Any resident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)
- iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)
- i. Any nonresident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to ~~his or her~~ nonresident minor child or grandchild who is qualified to participate in the hunt. ~~(4-4-13)~~(8-26-13)T
- i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person

who possesses and designates ~~a~~ [his or her](#) control hunt tag to a resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. ~~(4-4-13)~~(8-26-13)T

ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

iii. Any nonresident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)

iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)

**02. Nonresident Tag Limitations.** (4-7-11)

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-7-11)

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (4-7-11)

d. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose shall be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (4-4-13)

**03. Eligibility.** Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt.(4-6-05)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. EXCEPT all successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled pronghorn/deer/elk tags to hunt in any open general and/or controlled pronghorn, deer or elk hunt in the following hunting season. (4-4-13)

**c.** Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk and pronghorn controlled hunt permit sales. (4-7-11)

**d.** Any person who has killed a California bighorn ram or a Rocky Mountain bighorn ram on any controlled hunt may not apply for a tag for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram tag for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram tag for any hunt south of Interstate Highway 84. Bighorn sheep auction tag recipients under IDAPA 13.01.04.700 and lottery tag recipients under IDAPA 13.01.04.800 are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-4-13)

**e.** No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

**f.** Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the hunter ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (4-7-11)

**g.** Any person who has killed a mountain goat since 1977 may not apply for a mountain goat tag. (4-7-11)

**h.** Any person who has killed an antlered moose in Idaho may not apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a tag for antlerless moose EXCEPT that any person may apply for tags remaining unfilled after the controlled hunt draw. (4-7-11)

**i.** Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)

**j.** Any person may apply for both a controlled hunt tag and a controlled hunt extra tag. (4-7-11)

**k.** Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." (7-1-99)

**l.** Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application. (4-11-06)

**m.** The Commission establishes youth only controlled hunts by proclamation. Only hunters twelve (12) to seventeen (17) years of age with a valid license may apply for youth only controlled hunts, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth only controlled hunt permits. (5-8-09)

**04. Applications.** Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, through the Internet, over the telephone, or by mail to the Headquarters Office of the Idaho Department of Fish and Game or any Idaho Fish and Game Regional Office and shall be submitted with a postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; EXCEPT: applicants who would like to change their submitted controlled hunt

application may request the original application be cancelled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. (4-7-11)

- a. Spring black bear - Application period - January 15 - February 15. (4-6-05)
- b. Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30. (4-6-05)
- c. Deer, elk, pronghorn, fall black bear, and gray wolves - Application period for first drawing - May 1 - June 5. (4-7-11)
- d. Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15 - 25. (4-6-05)
- e. Deer, elk, pronghorn, fall black bear, and gray wolves - Application period for second drawing - August 5 - 15. (4-7-11)

**05. Applicant Requirements.** Applicants must comply with the following requirements: (7-1-93)

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (4-7-11)

b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. (4-7-11)

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. (4-7-11)

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail. (4-7-11)

e. Any controlled hunt tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any Point-of-Sale vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. (4-7-11)

i. Spring Turkey and Spring Bear - April 1. (4-7-11)

ii. Moose, Bighorn Sheep and Mountain Goat - July 10. (4-7-11)

iii. Deer, Elk, Pronghorn and Fall Bear - August 25. (4-7-11)

f. A "group application" for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and

complete applications properly. All applicants must abide by the same first and second hunt choices. (4-7-11)

**g.** A “group application” for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (3-29-10)

**h.** If a group application exceeds the number of tags available in a hunt that group application will not be selected for that hunt. (4-7-11)

**i.** Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game after July 15. (4-7-11)

**06. Refunds of Controlled Hunt Fees.** (7-1-93)

**a.** Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

**b.** Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

**c.** Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

**d.** Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

**e.** Application fees are nonrefundable. (4-7-11)

**f.** Fees for resident and nonresident adult control hunt tags that are subsequently designated to a minor child or grandchild are not refundable. (4-4-13)

**07. Controlled Hunt Drawing.** Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

**08. Unclaimed Tags.** Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag by August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (4-7-11)

**09. Second Drawing Exclusion.** The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. (3-29-10)

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

#### DOCKET NO. 13-0109-1301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 26, 2013.

**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 Sections 36-104(b) and 36-405(c)(2)(B), 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 16, 2013.

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:

2012 House Bill 457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

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

The temporary rule confers a benefit to certain hunters and sportsmen.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor wording change is simple in nature, and is in response to a Legislative request.

**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:

Not Applicable.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

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 23, 2013.

DATED this 28th day of August, 2013.



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 TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 13-0109-1301**

**100. TAGS, STAMPS, PERMITS, AND VALIDATIONS.**

**01. Sage Grouse or Sharp-Tailed Grouse.** No person shall hunt sage or sharp-tailed grouse anywhere within the state, except licensed shooting preserves, without having in his or her possession the appropriate hunting license that has been validated for sage grouse and sharp-tailed grouse. The validation shall be valid from January 1 through December 31 of each year. (5-8-09)

**02. Migratory Game Birds.** No person shall hunt ducks, geese, brant, coots, Wilson's snipe, sandhill cranes, or mourning doves anywhere within the state, without having in his or her possession the appropriate hunting license that has been validated for the Federal Migratory Game Bird Harvest Information Program. The validation shall be valid from January 1 through December 31 of each year. (3-29-12)

**a.** Tag validation and attachment: Immediately after any sandhill crane is killed, the sandhill crane tag must be validated and securely attached to the sandhill crane. (4-4-13)

**b.** To validate the tag, the hunter must cut out and completely remove two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (4-4-13)

**c.** The tag must remain attached so long as the sandhill crane is in transit or storage. (4-4-13)

**03. Wild Turkey.** No person shall hunt wild turkey without having in his or her possession the appropriate hunting license, tag, and controlled hunt permit. Persons obtaining and using tags, stamps, and permits must comply with the following requirements: (7-1-98)

**a.** There are three (3) turkey tags available each calendar year. These are the general tag, extra tag, and special unit tag. Only three (3) turkey tags of the following may be purchased each year; one (1) general and two (2) extra. In addition to the previously mentioned three (3) turkey tags, three (3) special unit tags may also be purchased. A hunter may use the general tag to hunt in any spring general season or use the general tag with a controlled hunt permit to hunt in a controlled hunt. (3-29-12)

**b.** Permits for Controlled Hunts: Any person who receives a controlled hunt permit for wild turkey is prohibited from using that permit to hunt in any other wild turkey controlled hunt. (3-29-12)

**c.** Nonresident permit limitations: On controlled hunts with ten (10) or fewer permits, not more than one (1) permit will be issued to nonresidents. On controlled hunts with more than ten (10) permits, not more than ten percent (10%) of the permits may be issued to nonresidents. (7-1-98)

**d.** Eligibility: The holders of valid hunting licenses are eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

**i.** Holders of a Type 208 Nongame Hunting License may not apply for any controlled hunt. (7-1-93)

ii In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (7-1-93)

e. Applications: Applications for spring and fall controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than February 15 for spring hunts and July 15 for fall hunts, annually. Applications must comply with the following requirements: (5-8-09)

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (7-1-93)

ii. Only one (1) application card per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (7-1-93)

iii. Fees: All applicants for controlled hunts must submit a non-refundable application fee with their application; one dollar (\$) of this fee may be donated to the Citizens Against Poaching Program. (5-8-09)

iv. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (2-7-95)

v. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (2-7-95)

vi. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (7-1-93)

vii. All spring wild turkey hunters may apply for a Fall turkey controlled hunt permit during the same calendar year. (3-30-01)

f. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (7-1-93)

g. Tag validation and attachment: Immediately after any wild turkey is killed, the turkey tag must be validated and securely attached to the wild turkey. (7-1-93)

h. To validate the tag, the hunter must cut out and completely remove two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (7-1-93)

i. The tag must remain attached so long as the turkey is in transit or storage. (7-1-93)

j. The Commission establishes youth-only controlled hunts by proclamation. Only hunters nine (9) to fifteen (15) years of age with a valid license may apply for youth-only controlled hunts, provided they are ten (10) to fifteen (15) years of age during the hunt for which they are applying, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth-only controlled hunt permits. Hunters nine (9) years of age with a valid license may apply for regular controlled hunts provided they are ten (10) years of age during the hunt for which they are applying. (4-7-11)

k. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to ~~or~~ his or her resident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. ~~(4-4-13)~~(8-26-13)T

i. Designation of the controlled hunt permit shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

ii. Any resident child or grandchild cannot be designated more than one (1) control hunt permit per calendar year. (4-4-13)

iii. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (4-4-13)

**I.** Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to ~~his or her~~ nonresident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. ~~(4-4-13)~~(8-26-13)T

i. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

ii. Any resident child or grandchild cannot be designated more than one (1) control hunt permit per calendar year. (4-4-13)

iii. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (4-4-13)

**04. Early September Canada Goose Hunts.** Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (3-29-12)

# IDAPA 13 - IDAHO FISH AND GAME COMMISSION

## 13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1301

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 26, 2013.

**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 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 16, 2013.

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:

This rule defines the terms "single-point hook" and "watercraft" which have been used for many years in fish season proclamations.

The term "single-point hook" is used to limit fishing tackle to prevent snagging. In certain situations where fish are large, visible, and congregated, hooks with more than one point create a higher probability that anglers could intentionally or unintentionally snag a fish. This can lead to illegal harvest or unintended mortality. This is of particular concern in fisheries for salmon and steelhead in tributary river systems.

The term "watercraft" is used to limit angler conflict and address safety concerns. In some reservoirs and large river fisheries with concentrated angler use, there can be conflicts and/or unsafe conditions for bank/wading anglers created by wake from watercraft. Watercraft anchored in desired fishing areas can also monopolize preferred fishing locations to the point that bank/wading anglers have no opportunity to fish. These events are rare but can occur in waters with high-use salmon and steelhead fisheries.

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

The temporary rule confers a benefit to certain anglers and sportsmen.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor change is simple in nature, and these terms have been used for many years in fish season proclamations.

**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:

Not Applicable.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

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 23, 2013.

DATED this 28th day of August, 2013.

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 TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 13-0111-1301**

**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. (3-29-12)

**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.) (3-29-12)

**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. Diversion.** A man-made structure designed to change the direction of flowing water in a stream. (3-29-12)
- 09. Diversion Pond.** A man-made pond holding water taken from a stream or reservoir. The diversion pond may be connected to the stream or reservoir by an open ditch or pipe. (3-29-12)
- 10. Drainage.** All water flowing into a common river or stream system, either above or below ground, due to area geography. (3-29-12)
- 11. 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)
- 12. Fishing.** Any effort made to take, kill, injure, capture, or catch any fish, crayfish, or bullfrog. (3-20-97)
- 13. Fish Trap.** Any man-made structure designed to capture fish. (3-29-12)
- 14. Fish Weir.** Any man-made structure placed in a water body to delay or divert migrating fish. (3-29-12)
- 15. Flat Water.** Water where there is no observable direction of flow. (3-29-12)
- 16. 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)
- 17. Fly Fishing.** Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)
- 18. 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)
- 19. General Rules.** The seasons, gear, and bag limits adopted for the Department Region where you are fishing. (3-29-12)
- 20. Harvest.** Reduce a fish to possession. (3-20-97)
- 21. 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)
- 22. Hybrid Fish.** The offspring of two (2) different species or subspecies of fish. (3-29-12)
- 23. Ice Fishing.** Fishing through an opening broken or cut through the ice. (3-20-97)
- 24. Length.** The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)
- 25. Limit is 0 (Zero).** Fishing is allowed but the species listed in the rule or proclamation must be released after landing and may not be reduced to possession. (3-29-12)
- 26. Motor.** Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)
- 27. Mouth of River or Stream.** The place where a river or stream enters a larger body of water. (3-20-97)
- 28. No Motors.** Fishing from a boat with a motor attached is prohibited. (3-20-97)

- 29. 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)
- 30. 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)
- 31. Season Limit.** The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)
- 32. Section.** An area of a river, stream, or reservoir between specific boundary locations. (3-29-12)
- 33. Single-Point Hook.** A bent wire device, for catching fish, with one (1) shank and one (1) point. (8-26-13)T
- 34. 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. (3-2-10)
- 35. 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)
- 36. Special Rule Waters.** Any water with a gear, season, or bag limit rule that is different from the regional general rules. (3-29-12)
- 37. Steelhead.** Steelhead are defined as any rainbow trout longer than twenty (20) inches in rivers and streams in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage (excluding that portion above Dworshak Dam). 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. (3-29-12)
- 38. Tributary.** A stream flowing into a larger stream or lake. (3-20-97)
- 39. 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)
- 40. Unattended Line.** A line not under the immediate surveillance by the angler. (3-20-97)
- 41. Unprotected Nongame Fish.** All fish species other than game fish and protected nongame fish. (3-30-07)
- 42. Upstream.** Moving from a lower elevation towards a higher elevation point in the same stream. (3-29-12)
- 43. Watercraft.** Those devices designed as a means of transportation on water. (8-26-13)T

# IDAPA 13 - IDAHO FISH AND GAME COMMISSION

## 13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1302

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 26, 2013.

**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 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 16, 2013.

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:

This rule is intended to minimize the risk of injury to sturgeon when landed by anglers. Only 'catch-and-release' angling is allowed in Idaho for sturgeon. Keeping the sturgeon in the water allows the natural buoyancy of the water to support internal organs of larger fish. Sturgeon have a cartilaginous skeleton which is not as supportive as a bony skeleton found in most fish species. The rule was in IDAPA through 2008 and was inadvertently removed during a chapter restructure, but the rule was not rescinded by the Commission.

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

The temporary rule confers a benefit to certain anglers, outfitters and sportsmen.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this minor change is simple in nature, and the rule was inadvertently removed during a chapter restructure.

**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:

Not Applicable.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

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 23, 2013.



DATED this 28th day of August, 2013.

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 TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 13-0111-1302**

**101. RELEASE OF FISH.**

No person shall release or allow the release of any species of live fish, or eggs thereof, in the state of Idaho without the permission of the director of the Idaho Department of Fish and Game, EXCEPT where no permission is required: (3-20-97)

**01. Same Location -- Fish.** When fish are being freed from a hook and released at the same time and place where caught. No released fish can be marked by any means, including with a tag, by removing fins or injuring with intent to leave a scar, without first obtaining a Scientific Collecting Permit. All sturgeon must be released at the same time and place where landed. Any sturgeon caught may not be removed from the water. ~~(3-29-12)~~(8-26-13)T

**02. Same Location -- Crayfish.** When crayfish are being released from a trap and released at the same time and place where caught. (3-20-97)