

Dear Senators BAIR, VICK, Stennett, and  
Representatives RAYBOULD, Gestrin, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Fish and Game:  
IDAPA 13.01.11 - Rules Governing Fish - Temporary and Proposed Rule (Docket No. 13-0111-1601);  
IDAPA 13.01.11 - Rules Governing Fish - Notice of Proposed Proclamation (Docket No. 13-0111-1602).

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 10/24/2016. 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 11/22/2016.

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 334-4834, or send a written request to the address on the memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** October 04, 2016

**SUBJECT:** Department of Fish and Game

IDAPA 13.01.11 - Rules Governing Fish - Temporary and Proposed Rule (Docket No. 13-0111-1601)

IDAPA 13.01.11 - Rules Governing Fish - Notice of Proposed Proclamation (Docket No. 13-0111-1602)

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

The Department of Fish and Game submits notice of temporary and proposed rule at IDAPA 13.01.11 - Rules Governing Fish. According to the department, the rule provides an opportunity to harvest unclipped summer Chinook salmon in the Clearwater River in 2016. The department states that the basis of the temporary rule is that it confers a benefit to anglers and outfitters. The department notes that negotiated rulemaking was not conducted because the timing of the 2016 run does not provide sufficient time for feasible negotiation. The department adds that several public meetings to collect public input were conducted. The rulemaking appears to be authorized pursuant to Sections 36-104 and 36-901, Idaho Code.

#### **2. IDAPA 13.01.11 - Rules Governing Fish - Notice of Proposed Proclamation**

Section 36-105(3), Idaho Code, provides that the Department of Fish and Game shall be excepted from the requirements of rulemaking when adopting, repealing or amending any proclamations relating to the setting of various seasons and limits, provided it publishes notice of such proposed proclamations in the Idaho Administrative Bulletin and provides notice to Legislative Services for review by the germane joint subcommittees as soon as possible after adoption by the commission. The department's proclamation relates to the establishment of 2016 - 2018 seasons and limits for fishing in Idaho. The department notes that a number of public hearings and open houses have already occurred and that the next hearing before the commission will be in Lewiston, Idaho on November 16.

cc: Department of Fish and Game  
Dallas Burkhalter

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
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# IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

## 13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1601

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 8, 2016.

**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 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 19, 2016.

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 provides opportunity to harvest unclipped summer Chinook salmon in the Clearwater River in 2016.

**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: Confers a benefit to Anglers and Outfitters.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: Not applicable.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the timing of the 2016 run does not provide sufficient time for feasible negotiation. Several public meetings to collect public input regarding the 2016 salmon season structure were conducted.

**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 Peter Hassemmer, (208) 334-3791.

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 26, 2016.

DATED this 23rd day of August, 2016.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 S. Walnut, P.O. Box 25  
Boise, ID, 83707  
Tel (208) 334-3715  
Fax (208) 334-4885

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 13-0111-1601  
(Only Those Sections With Amendments Are Shown.)

505. SALMON SPECIAL RESTRICTIONS.

01. **Method of Take.** It is unlawful to use any hook larger than five-eighths (5/8) inch measured from the point of the hook to the shank. Salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Salmon may be taken with barbed hooks in the Boise River drainages, and the Snake River between Hells Canyon and Oxbow Dams. (3-2-10)

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

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

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

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

06. **Keeping ~~M~~Unmarked Fish.** ~~Prior to September 1 each year, only salmon which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages. Beginning September 1 each year, a~~ Anglers may retain salmon with an intact adipose fin as set by Commission season proclamation. (~~3-25-16~~)(8-8-16)T

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

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

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.11 - RULES GOVERNING FISH**

**DOCKET NO. 13-0111-1602**

**NOTICE OF PROPOSED PROCLAMATION**

**AUTHORITY:** In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2016-2018 Fishing Seasons establishing seasons and limits for fishing in Idaho.

**PUBLIC HEARING SCHEDULE:** A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be:

**Wednesday, November 16, 2016 - 7:00 pm (PST)**

**Clearwater Regional Office  
3316 16th Street  
Lewiston, ID**

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at (208) 334-3715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at (208) 334-5159 or through the Idaho Relay Service at 1 (800) 377-2529 (TDD).

DATED this 23rd day of August, 2016.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 S. Walnut, P.O. Box 25  
Boise, ID, 83707  
Tel (208) 334-3715  
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