

Dear Senators HEIDER, Brackett, Stennett, and
Representatives GIBBS, Gestrin, Erpelding:

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 - Proposed
Rule (Docket No. 13-0108-1903);

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Proposed
Rule (Docket No. 13-0108-1904).

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 10/02/2019. 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 10/31/2019.

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 334-4854, 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: September 13, 2019

SUBJECT: Department of Fish and Game

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Proposed Rule (Docket No. 13-0108-1903)

IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho - Proposed Rule (Docket No. 13-0108-1904)

1. IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho. According to the department, the purpose of the rule is to allow the commission to make a controlled hunt applicant wait up to five days to buy a general hunt tag for the same species in the same calendar year for specific hunts having limited tag numbers.

Negotiated Rulemaking / Fiscal Impact

The department states that it published a Notice of Intent to Promulgate Rules - Negotiated Rulemaking in June of 2019. The department notes that it received 160 responses during the comment period and that no commenter stated interest in negotiated rulemaking. The department states that comments indicated a polarity of opinion not suited to negotiation.

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 36-104 and 36-408, Idaho Code.

2. IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho. According to the department, the purpose of the rule is

to allow the commission to limit the number of nonresident deer or elk tags available in a specific general hunt unit or zone to address hunter crowding to no less than ten percent of the average hunter participation estimated for that zone or unit during the preceding five year period. The department notes that if the commission limited the number of nonresident general hunt tags without limiting for resident hunters, the options for allocation of outfitter tags in the proposed rule would be those that currently apply to controlled hunts, including controlled hunts limited for nonresidents and unlimited for residents.

Negotiated Rulemaking / Fiscal Impact

The department states that it published a Notice of Intent to Promulgate Rules - Negotiated Rulemaking in June of 2019. The department notes that it received 366 responses during the comment period and that no commenter stated interest in negotiated rulemaking. The department states that comments indicated opinions not suited to negotiation.

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 36-104 and 36-408, Idaho Code.

cc: Department of Fish and Game
Paul Kline

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0108-1903

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-408, 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 September 18, 2019.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rule would allow the Fish and Game Commission to make a controlled hunt applicant wait up to five (5) days to buy a general hunt tag for the same species in the same calendar year for specific hunts having limited tag numbers. For example, this rule would allow the Commission to make all applicants for controlled elk hunts in 2021 wait for a period of up to five (5) days to buy a 2021 general elk tag in a zone having limited tags available, such as the Sawtooth Zone.

FEE SUMMARY: The proposed rule has no associated fee.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not Applicable

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 49](#). The agency received 160 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rule, contact Toby Boudreau at (208) 334-2920. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208)334-3771
Fax: (208)334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0108-1903
(Only Those Sections With Amendments Are Shown)

251. (RESERVED)

252. DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.

When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same calendar year for the same species is not eligible to buy a tag for that limited hunt. ()

~~253.~~ -- 254. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0108-1904

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-408, 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 September 18, 2019.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule change would allow the Fish and Game Commission to limit the number of non-resident deer or elk tags available in a specific general hunt unit or zone to address hunter crowding to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the preceding five (5) year period. If the Commission limited the number of nonresident general hunt tags without limiting for resident hunters, the options for allocation of outfitter tags in the proposed rule would be those that currently apply to controlled hunts, including controlled hunts limited for nonresidents and unlimited for residents.

FEE SUMMARY: Section 36-416, Idaho Code, identifies fees for Fish and Game licenses and tags to hunt deer and elk. This rule does not change those fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not Applicable

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 49](#). The agency received 366 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated opinions not suited to negotiation. The agency initiated proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Toby Boudreau at (208) 334-2920. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208)334-3771
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Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13.108.1904
(Only Those Sections With Amendments Are Shown)

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. (6-30-19)T

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. Outfitter allocated hunts are exempt from the limitation of this Subsection. (6-30-19)T()

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. (6-30-19)T

~~e. Outfitter allocated hunts are exempt from the limitation of this Subsection.~~ (6-30-19)T

~~d.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 ~~this~~ Subsection 255.01.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. (6-30-19)T()

d. In general hunts, the Commission may limit by proclamation the number of tags available for nonresident hunters in a zone or big game hunting unit to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the previous five (5) year period. If the Commission adopts tag limits in a zone or big game hunt unit for non-residents under this subsection 01.d, without limiting residents, the provisions of IDAPA 13.01.04.505.02, "Rules Governing Licensing," applicable to controlled hunts with limited nonresident tags and unlimited resident tags will apply to deer and elk tag allocation instead of the provisions of IDAPA 13.01.04.505.01. ()

e. 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. (6-30-19)T