

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 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho - Proposed
Rule (Docket No. 13-0109-1902);

IDAPA 13.01.10 - Rules Governing the Importation, Possession, Release, Sale, or Salvage of
Wildlife - Proposed Rule (Docket No. 13-0110-1901).

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 10/07/2019. 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 11/05/2019.

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 18, 2019

SUBJECT: Department of Fish and Game

IDAPA 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho - Proposed Rule (Docket No. 13-0109-1902)

IDAPA 13.01.10 - Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife - Proposed Rule (Docket No. 13-0110-1901)

1. IDAPA 13.01.09 - Rules Governing the Taking of Game Birds 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 13.01.09 - Rules Governing the Taking of Game Birds in the State of Idaho. According to the department, the rule will allow Hunting Passport holders ages eight through seventeen to hunt turkey in general season turkey hunts, youth-only general hunts, turkey landowner permission hunts, and depredation hunts with the appropriate tag. In addition, the rule also replaces references in the chapter related to requirements for the department's stocked pheasant program. The department goes on to state that it replaces specific references to the WMA Upland Game Bird Permit and Wildlife Management Areas with more generic references such as Upland Game Bird Permit and locations where an Upland Game Bird Permit is required to support potential expansion of the department's pheasant stocking program to locations in addition to WMAs.

Negotiated Rulemaking / Fiscal Impact

The department notes that a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in June, 2019. The department states that the agency received 131 responses via on-line submissions and that no responses stated interest in negotiated rulemaking. The department also notes that comments received indicated a polarity of opinion not suited to negotiation.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-104, 36-408, and 36-1102, Idaho Code.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

2. IDAPA 13.01.10 - Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.10 - Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife. According to the department, under the proposed rule, the department would not issue any permit to import into Idaho any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture because of the threat of chronic wasting disease. The department notes that the change would affect import of cervids under Department of Fish and Game authority, including mule deer, white tailed deer, moose, and wild-origin elk.

Negotiated Rulemaking / Fiscal Impact

The department notes that a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in June, 2019. The department states that the agency received 101 responses via on-line submissions and that no responses stated interest in negotiated rulemaking. The department also notes that comments received indicated a polarity of opinion not suited to negotiation.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 36-104, 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

13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-1902

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, 36-408, and 36-1102, 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 involves two changes. It would allow Hunting Passport holders ages eight (8) through seventeen (17) to hunt turkey in general season turkey hunts, youth-only general hunts, turkey landowner permission hunts, and depredation hunts with the appropriate tag. The proposed rule also replaces references in this chapter related to requirements for the Department's stocked pheasant program; it replaces specific references to the "WMA Upland Game Bird Permit" and "Wildlife Management Areas" with more generic references, such as "Upland Game Bird Permit" and "locations where an Upland Game Bird Permit is required," to support potential expansion of the Department's pheasant stocking program to locations in addition to WMAs.

FEE SUMMARY: Section 36-416, Idaho Code, sets fees for license, tag and permits to hunt turkeys or stocked pheasants or to obtain a hunting passport. The proposed rule does not change these 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 52](#). The agency received 131 responses via on-line submissions during a 21-day public 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 concerning the proposed rule, contact Jeff Knetter 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 / Fax: (208) 334-4885
Email: rules@idfg.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0109-1902
(Only Those Sections With Amendments Are Shown)**

102. WILD TURKEY TAGS, STAMPS, PERMITS, AND VALIDATIONS.

No person may hunt wild turkey without having in possession the appropriate hunting license, tag, and controlled hunt permit. (6-30-19)T

01. Tags. There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission. (6-30-19)T

02. Youth General Hunts. ()

a. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (6-30-19)T

b. Hunting passport holders eight (8) to seventeen (17) years of age are eligible to participate in general season hunts, youth-only general hunts, landowner permission hunts with the appropriate landowner permission tag, and depredation hunts. ()

03. Controlled Hunts. A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. (6-30-19)T

a. Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: (6-30-19)T

i. 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. (6-30-19)T

ii. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than seventy-nine (79) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (6-30-19)T

iii. Any person applying for a youth-only controlled hunt must be nine (9) to seventeen (17) years of age, provided they are ten (10) to seventeen (17) 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. (6-30-19)T

b. Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices office, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. Applications must comply with the following requirements: (6-30-19)T

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. (6-30-19)T

ii. Only one (1) application per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (6-30-19)T

iii. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (6-30-19)T

iv. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (6-30-19)T

- v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (6-30-19)T
- c. 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. (6-30-19)T
- 04. Tag Validation.** (6-30-19)T
- a. Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. (6-30-19)T
- b. To validate the tag and permit, the hunter must cut out and completely remove two (2) triangles on the border of the tag and permit, one (1) for the month and one (1) for the day of the kill. (6-30-19)T
- c. The tag and permit must remain attached so long as the turkey is in transit or storage. (6-30-19)T
- 05. Tag Designation.** (6-30-19)T
- a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to 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. (6-30-19)T
- b. 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. (6-30-19)T
- c. 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 Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (6-30-19)T
- d. Any child cannot be designated more than one (1) control hunt permit per calendar year. (6-30-19)T
- e. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (6-30-19)T
- 06. Landowner Permission Tags.** Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. (6-30-19)T

103. PHEASANT TAGS, PERMITS, AND VALIDATIONS.

No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. (6-30-19)T

- 01. ~~WMA~~ Upland Game Bird Permit.** ~~(6-30-19)T~~()
- a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, or at other locations where the Department stocks pheasants, as identified by Commission proclamation, must have a valid ~~WMA~~ Upland Game Bird Permit in possession. ~~(6-30-19)T~~()
- b. Permit Limit. Each ~~WMA~~ Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. ~~(6-30-19)T~~()
- c. Permit Validation. Any person harvesting a pheasant where a ~~WMA~~ Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. ~~(6-30-19)T~~()

02. Youth Pheasant Season. The youth pheasant season is open only to hunters ten (10) to seventeen (17) years of age with a valid hunting license and hunting passport holders eight (8) to seventeen (17) years of age, and each youth hunter must be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

300. UPLAND GAME BIRD METHODS OF TAKE.

- 01. Upland Game Birds.** No person shall take upland game birds: (6-30-19)T
- a.** With a trap, snare, net, crossbow, or firearm. (6-30-19)T
 - i.** EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, or hand-held or thrown missile; (6-30-19)T
 - ii.** or, EXCEPT, for taking forest grouse only, a crossbow may be used by a person who possesses a Disabled Persons Archery Hunting Permit or a Special Weapon Reasonable Modification Hunting Permit authorizing use of a crossbow, or by a person hunting in an area where crossbow is a lawful method of take for big game. (6-30-19)T
 - b.** From any watercraft. (6-30-19)T
 - c.** By the use or aid of any electronic call. (6-30-19)T
 - d.** By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (6-30-19)T
 - e.** When hunting on Wildlife Management Areas locations where pheasants are stocked an Upland Game Bird permit is required, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ~~(6-30-19)T~~ ()
- 02. Wild Turkey.** In addition to the methods listed above, wild turkey may not be taken: (6-30-19)T
- a.** With lead shot exceeding BB size. (6-30-19)T
 - b.** With steel shot exceeding T size. (6-30-19)T
 - c.** By the use of dogs, except during fall hunts. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

500. OFFICIAL SHOOTING HOURS.

No person shall take game birds outside of official shooting hours. (6-30-19)T

01. Migratory Game Birds and Wild Turkey. Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunrise until sunset. (6-30-19)T

02. Upland Game Birds and American Crow. Official shooting hours for upland game birds and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of a ~~WMA~~ Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ~~(6-30-19)T~~ ()

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-1901

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(b)(6), 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:

Under the proposed rule, the Department would not issue any permit to import into Idaho any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture because of the threat of chronic wasting disease. The change would affect import of cervids under Fish and Game authority, including mule deer, white-tailed deer, moose, and wild-origin elk.

FEE SUMMARY: The proposed rule does not impose or increase 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 53](#). The agency received 101 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 concerning 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
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0110-1901
(Only Those Sections With Amendments Are Shown)

100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, RELEASE, AND SALE OF LIVE WILDLIFE. No person may import into, export from, sell, or transport, cause to be transported, or release within the state of Idaho any living wildlife, including eggs thereof, without having first obtained a permit from the Department. (6-30-19)T

01. Exemptions for Import, Export, Transport, Possession or Sale. No permit is required from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): (6-30-19)T

- a.** Agricultural or domestic animals. (6-30-19)T
- b.** Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. (6-30-19)T
- c.** Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. (6-30-19)T
- d.** Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). (6-30-19)T
- e.** Domestic Game birds produced in captivity and lawfully obtained, as shown by proof maintained and presented in accordance with Section 36-709, Idaho Code. (6-30-19)T
- f.** Birds of prey, provided actions comply with IDAPA 13.01.14, "Rules Governing Falconry." (6-30-19)T

02. Exemptions for Unprotected and Predatory Wildlife. No permit from the Department is required to sell, export, or transport any unprotected or predatory wildlife legally taken in Idaho. Lawfully taken native unprotected or predatory wildlife may be released on private lands in the county of origin in accordance with Section 36-502, Idaho Code and with written landowner consent in possession while such wildlife is in transit to the release site. The Idaho Department of Agriculture may restrict the possession, sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code. (6-30-19)T

03. Restriction on Permit Issuance. The Department will not issue any permit for import, export, transport, release or sale of live wildlife or eggs thereof, if the wildlife or eggs thereof would pose a threat to the state of Idaho, including threat of disease, genetic contamination or displacement of or competition with existing species. Because of the threat of chronic wasting disease, the Department will not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture, including mule deer, white-tailed deer, moose, and wild-origin elk. (6-30-19)T()