

Dear Senators BURTENSHAW, Adams, Semmelroth, and
Representatives MENDIVE, Shepherd, Burns:

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

IDAPA 13.01.02 - Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges
- Temporary and Proposed Rule (Docket No. 13-0102-2401).

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 11/08/2024. 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 12/06/2024.

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.



Terri Kondeff
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: Legislative Drafter - Alli Olson

DATE: October 22, 2024

SUBJECT: Department of Fish and Game

IDAPA 13.01.02 - Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges - Temporary and Proposed Rule (Docket No. 13-0102-2401)

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of temporary and proposed rulemaking related to the Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges, IDAPA 13.01.02. The Department states the rule adopts a bear identification test, similar to other states, to avoid take of grizzly bears by misidentification. The Department states the temporary rule protects public safety and welfare by promoting proper identification of grizzly and black bears during hunting activities and will avoid imposition of additional regulatory burdens under the Endangered Species Act by providing state mechanisms to achieve removal of grizzly bears from the endangered and threatened species list. The rule requires hunters complete an online bear identification test, which may be taken repeatedly to pass.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was not conducted given the need to promptly address the need for mandatory bear identification. The Department also states that there are no new fees associated with this rulemaking and that there is no fiscal impact to the General Fund.

Statutory Authority

The Department appears to have the authority to promulgate this temporary and proposed rule pursuant to Sections 36-103, 36-104, 36-401, 36-409, 36-412, and 36-1101 Idaho Code.

cc: Department of Fish and Game
Amber Worthington

*** PLEASE NOTE ***

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

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 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.02 – RULES GOVERNING MANDATORY EDUCATION, MENTORED HUNTING, AND SHOOTING RANGES

DOCKET NO. 13-0102-2401

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2025.

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. The action is authorized pursuant to Section(s) 36-103, 36-104, 36-401, 36,409, 36-412, and 36-1101 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, 2024.

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:

Killing of grizzly bears as a result of misidentification by black bear hunters has involved a small number of bears in Idaho over the past 20 years, and grizzly bear populations have continued to increase and expand during that time. To reduce this limited source of human-caused mortality, the Department has conducted outreach, included bear identification in its general mandatory hunter education, and provided voluntary education measures on bear identification.

This rulemaking addresses a United States Fish and Wildlife Service (USFWS) recommendation to adopt a bear identification test (as between black bear and grizzly bear) to avoid take of grizzly bear by misidentification. The temporary rule is similar to mandatory education requirements in Washington and Montana, and Idaho's rule would recognize completion of education in those states as meeting education requirements in Idaho.

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

This temporary rule protects public safety and welfare by promoting proper identification of grizzly and black bears during hunting activities and by aligning with the recommendation of the USFWS in a timely manner, avoiding imposition of additional regulatory burden under the Endangered Species Act, and supporting reduction in federal regulatory burden under the Endangered Species Act by providing additional state regulatory mechanisms to achieve removal of grizzly bears from the federal list of endangered and threatened wildlife.

FEE SUMMARY: There is no fee associated with the change brought by this rulemaking.

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: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to promptly address the USFWS recommendation for mandatory bear identification.

INCORPORATION BY REFERENCE: This rulemaking contains no incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amber Worthington (208) 334-3771.

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, 2024.

DATED this 21st day of August, 2024.

Amber Worthington
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
(208) 334-3771

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 13-0102-2401
(Only Those Sections With Amendments Are Shown.)**

**13.01.02 – RULES GOVERNING MANDATORY EDUCATION,
MENTORED HUNTING, AND SHOOTING RANGES**

221. BEAR IDENTIFICATION.

No person may hunt black bear unless they have completed an online bear identification test (as between grizzly bear and black bear) administered by the Department of other state wildlife management agency with a passing score, as proven by printed certification. One may take a test repeatedly to pass. (1-1-25)T

224.2. – 249. (RESERVED)