

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 13.01.11 - Rules Governing Fish - Proposed Rule (Docket No. 13-0111-2401).

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 11/14/2024. 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 12/12/2024.

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 28, 2024  
**SUBJECT:** Department of Fish and Game

IDAPA 13.01.11 - Rules Governing Fish - Proposed Rule (Docket No. 13-0111-2401)

#### **Summary and Stated Reasons for the Rule**

The Department of Fish and Game submits notice of proposed rulemaking related to the Rules Governing Fish, IDAPA 13.01.11. The Department states the proposed rule adds a definition for “spearfishing” and expands opportunities for spearfishing.

#### **Negotiated Rulemaking / Fiscal Impact**

The Department states that negotiated rulemaking was conducted and noticed was published in the July 3, 2024, Idaho Administrative Bulletin, Volume 24-7, pages 78-79. The Department also states that there are no fees associated with this rulemaking and that there is no fiscal impact to the General Fund.

#### **Statutory Authority**

The Department of Fish and Game appears to have the authority to promulgate the proposed rule pursuant to Sections 36-103, 36-104, 36-401, 36-406A, 36-407, 36 410, 36-701, 36-706, 36-901, 36-902, and 36-1001 Idaho Code.

cc: Department of Fish and Game  
Amber Worthington

#### **\*\*\* 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.

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

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Boise, Idaho 83720-0054

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# IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

## 13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-2401

### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-103, 36-104, 36-401, 36-406A, 36-407, 36-410, 36-701, 36-706, 36-901, 36-902, and 36-1001, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking includes modifications of IDAPA 13.01.11.200.01.d and 13.01.11.220.04, Rules Governing Fish, Definitions and Fishing Methods and Gear sections that add a definition for “spearfishing,” expand opportunities for spearfishing to include take of certain game fish species and provide authority to the Commission through proclamation to determine seasons, fish species, and take limits for spearfishing.

**FEE SUMMARY:** There is no fee associated with this rule.

**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: There is no fiscal impact associated with this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Volume 24-7](#), pages 78-79.

**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 proposed rule, contact Amber Worthington, Deputy Director 208-334-3771.

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 October 23, 2024.

DATED this 23rd 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 PROPOSED TEXT OF DOCKET NO. 13-0111-2401  
(Only Those Sections With Amendments Are Shown.)

13.01.11 – RULES GOVERNING FISH

011. DEFINITIONS – CONDUCT OF FISHING.

- 01. Catch-and-Release.** Effort to catch fish, provided that any fish so caught is released immediately back to the water after landing and not reduced to possession. (7-1-24)
- 02. Commercial Fishing.** Fishing or transporting fish or crayfish for the purpose of selling. (7-1-24)
- 03. Fly Fishing.** Fishing with a fly rod, fly line, and artificial fly. (7-1-24)
- 04. Harvest.** Reduce a fish to possession. (7-1-24)
- 05. Ice Fishing.** Fishing through an opening broken or cut through the ice. (7-1-24)
- 06. Length.** The length between the tip of the nose or jaw and the tip of the tail fin. (7-1-24)
- 07. Snagging.** Taking 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. (7-1-24)
- 08. Spearfishing.** Taking of fish by a person while underwater, with the aid of a manually or mechanically propelled single- or multiple-pronged spear. ( )
- 089. Trollng.** Taking a fish from a moving watercraft by dragging or pushing any fly, lure, bait, or hook using a motor, oars, or other forms of propulsion. (7-1-24)
- 0910. Unattended Line.** Line not under the immediate surveillance by the angler. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

200. FISHING METHODS AND GEAR.

- 01. General Restrictions.** Unless modified by rule (such as exceptions in the following subsections), order, or proclamation, it is unlawful to: (7-1-24)
- a.** Fish in any waters of Idaho with more than one (1) handline or pole with a line attached, unless in possession of a valid two-pole permit. (7-1-24)
- b.** Leave an unattended line. (7-1-24)
- c.** Have more than five (5) hooks attached per line. (7-1-24)
- d.** Use more than five (5) lines while ice fishing. (7-1-24)
- e.** Fish by archery, spearfishing, snagging, hands, trapping, seining, or netting. (7-1-24)
- f.** Use live fish, leeches, frogs, salamanders, waterdogs, or shrimp as bait. (7-1-24)

- g.** Land any fish with a gaff hook. (7-1-24)
- h.** Molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. (7-1-24)
- i.** Fish from a watercraft with a motor attached in waters listed in proclamation as “no motors.” (7-1-24)
- j.** Use gas (internal combustion) motors on fishing waters listed in proclamation as “electric motors only,” although it may be attached to the boat. (7-1-24)

**02. Snagging, Archery, and Spear-Fishing Exceptions. ( )**

**a.** ~~The Unprotected fish may be taken by~~ use of snagging, bow and arrow, crossbow, spear or mechanical device, excluding firearms, ~~is permitted for the taking of unprotected fish,~~ provided there is an open season for game fish. (7-1-24)( )

**b.** Game fish may be taken by spearfishing as authorized by Commission proclamation. ( )

**03. Gaff Hook Exceptions.** The use of a gaff hook is permitted while ice fishing in waters which have no length restrictions or harvest closures for that species, or when landing unprotected fish species taken with archery equipment. (7-1-24)

**04. Trapping and Seining Exceptions.** It is lawful to take unprotected fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, unless there is an open season for game fish, and provided the following conditions are met: (7-1-24)

- a.** The seine or net does not exceed ten (10) feet in length or width, and the seine has three-eighths (3/8) inch square or smaller mesh; and the minnow or crayfish trap does not exceed two (2) feet in length, width or height. If the trap is of irregular dimension, but its volume does not exceed the volume of an eight (8) cubic foot trap, it is lawful to use. (7-1-24)
- b.** Nets and seines are not left unattended. (7-1-24)
- c.** Traps are checked at least every forty-eight (48) hours. (7-1-24)
- d.** All game fish and protected nongame fish incidentally captured while trapping or seining are immediately released alive. (7-1-24)
- e.** All traps have a tag attached bearing the owner's name and address, license number, or sportsman identification number. (7-1-24)

**05. Use of Bait Exceptions.** Live crayfish and bullfrog may be used for bait if caught on the body of water being fished. (7-1-24)

**06. Use of Hands Exceptions.** Bullfrog and crayfish may be taken with the hands. (7-1-24)

**07. Fishing Shelters.** Any enclosure or shelter left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address, or sportsman identification number legibly marked on two (2) opposing sides of the enclosure or shelter. (7-1-24)