



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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### MEMORANDUM

**TO:** Senators HEIDER, Brackett, Stennett and,  
Representatives GIBBS, Gestrin, Rubel

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

**DATE:** September 03, 2020

**SUBJECT:** Temporary Rule

IDAPA 24.35.01 - Rules of the Outfitters and Guides Licensing Board (Fee Rule) - Amendment to  
Temporary Rule - Docket No. 25-0101-2000F

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. Please note: this is not a typo; the original temporary rule was filed under IDAPA 25 before the board was placed under the Division of Occupational and Professional Licenses (IDAPA 24) per EO 2020-01. This amended rule will be found under the listing for DOPL on the administrative rules page of the website; the original filing of the docket will be found under Outfitters and Guides Licensing Board. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

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# **IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

## **24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**

### **DOCKET NO. 25-0101-2000F (FEE RULE)**

#### **NOTICE OF OMNIBUS RULEMAKING – AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** A temporary rule was adopted under this docket number in the April 15, 2020 Idaho Administrative Bulletin, [Vol. 20-4SE, pages 1799-1831](#). The effective date of the amendment to the temporary rule is October 1, 2020.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has amended a temporary rule. The action is authorized pursuant to Sections 36-2107 and 36-2120, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for amending the temporary rule and a statement of any change between the text of the temporary rule and text of the amended temporary rule with an explanation for any changes:

The changes to Section 057 “Designation of Allocated Deer and Elk Tags” of the temporary rules are necessary to implement House Bill 426 from the 2020 Regular Legislative Session, which changed the way that the Board designates deer and elk hunting tags that are allocated by the Idaho Fish and Game Commission for use by clients of licensed big game outfitters. The temporary rule also makes changes to other sections to remove unnecessary rules, clarify sections and make the language more concise.

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

These changes are necessary to comply with the changes to Idaho Code Sections 36-2107(j) and 36-2120 that were effective March 11, 2020 and to comply with [Executive Order 2020-01](#) (Zero-Based Regulation).

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the amendments to the temporary rule, contact Lori Thomason at (208) 327-7380.

Dated this 12th day of August, 2020.

Lori Thomason  
Executive Director  
Outfitters and Guides Licensing Board  
1365 North Orchard Street #172  
Boise, Idaho 83706  
Phone: (208) 327-7380  
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#### **THE FOLLOWING IS THE TEXT OF THE AMENDED TEMPORARY RULE FOR OMNIBUS DOCKET NO. 25-0101-2000F**

The original text of the temporary rule was published in the Idaho Administrative Special Edition Bulletin, [Volume 20-4SE, April 15, 2020, pages 1799 through 1831](#).

(Only those sections or subsections that have changed from the original text are printed in this Bulletin following this notice.)

**002. DEFINITIONS.**

~~The Act defines certain terminology applicable to its interpretation and administration (The definitions set forth in Section 36-2102, Idaho Code). Further definitions, for the purposes of enforcement of the Act and these Rules are, are applicable to these rules. In addition, the following terms have the meanings set forth below: (3-20-20)T~~ **(10-1-20)T**

**01.** **Act.** Title 36, Chapter 21, Idaho Code, commonly known as the Outfitters and Guides Act, as amended. (3-20-20)T

~~**02.** **Allocated Tag.** A hunting tag that has been allocated by the IFGC pursuant to section 36-408(4), Idaho Code. (3-20-20)T~~

~~**03.** **Authorized Person.** An investigator or enforcement agent in the employ of the Board, a conservation officer of the IFGC, or any local, state, or federal law enforcement officer. (3-20-20)T~~

~~**04.** **Booking Agent.** Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (3-20-20)T~~

~~**05.** **Capped Zone.** A game management area, unit or zone for which the Idaho Fish and Game Commission has limited or “capped” the number of deer or elk tags available for use in a general season hunt. (3-20-20)T~~

~~**06.** **Classified River.** For the purpose of these rules, specific sections of some whitewater river or streams which are considered more hazardous than others have been designated “classified.” Classified rivers are denoted by an asterisk (\*) in the list of rivers contained in Subsection 059.01. (3-20-20)T~~

~~**07.** **Compensation or Consideration.** The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party is not deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (3-20-20)T~~

~~**08.** **Controlled Hunt.** A hunt for a species that has a season structure and other conditions determined by the IFGC and that has a limited number of tags that are distributed by random drawing to hunters. (3-20-20)T~~

~~**09.** **Desert.** A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill lands and sand dunes that, in addition, may be broken by poor to well defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (3-20-20)T~~

~~**10.** **Designated Agent.** A licensed individual who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed as an outfitter and who, together with the licensed outfitter, is responsible and accountable for the conduct of the licensed outfitter's operations. (3-20-20)T~~

~~**11.** **Enforcement Agent.** An individual employed by the Board having the power of peace officers to enforce the provisions of the Act and these Rules. (3-20-20)T~~

~~**12.** **Facilities and Services.** The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. (3-20-20)T~~

~~**13.** **First Aid Card.** A valid card or other evidence demonstrating that the individual has successfully completed an applicable American Red Cross course or equivalent course that is acceptable to the Board. (3-20-20)T~~

**140. Fishing.** Fishing activities on those waters and for those species described in the rules of the IFGC, IDAPA 13.01.11, “Rules Governing Fish,” general fishing seasons and any anadromous fishing rules; for purposes of the Act, fishing is defined as follows: (3-20-20)T

- a.** Anadromous fishing means fishing for salmon or steelhead trout. (3-20-20)T
- b.** Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (3-20-20)T
- c.** Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by IFGC rules. (3-20-20)T
- d.** Incidental fishing means fishing conducted as a minor activity. (3-20-20)T
- e.** Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (3-20-20)T
- f.** Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (3-20-20)T

**151. Float Boats.** Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (3-20-20)T

**162. Hazardous Excursions.** Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment that may constitute a potential danger to the health, safety, or welfare of participants involved. These activities include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, guiding courses, rescue courses, fishing courses, motored and non-motored cycling, wagon rides, sleigh rides, and dog sled rides. (3-20-20)T

**173. Hunting.** The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (3-20-20)T

**184. IFGC.** The Idaho Department of Fish and Game or the Idaho Fish and Game Commission. (3-20-20)T

**195. Minor Amendment.** All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (3-20-20)T

**2016. Major Activity.** A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (3-20-20)T

**217. Major Amendment.** All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (3-20-20)T

**2218. Minor or Incidental Activity.** A licensed activity the nature of which is carried out in conjunction with a major activity, but is not the primary purpose of the excursion. (3-20-20)T

~~**23. Mountainous.** A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often~~

~~broken with poor to well developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steep-sided land masses of impressive size and height.~~ (3-20-20)T

**2419. New Opportunity.** A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (3-20-20)T

**250. Operating Area.** The area assigned by the Board to an outfitter for the conduct of outfitting activities. (3-20-20)T

**261. Operating Plan.** A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (3-20-20)T

~~**27. Outfitted Tag Use.** The following definitions of outfitted tag use apply for purposes of the designation of allocated tags in capped zones and controlled hunts as set forth in Section 057 of these rules. Outfitted tag use for a capped zone is the number of tags used by clients of an outfitter for the species for the type of allocated tags being designated. Outfitted tag use for a controlled hunt zone, unit, or game management area is the number of tags used by clients of an outfitter in the hunt that has a species, season structure, and other conditions most closely matching the controlled hunt for which allocated tags are being designated. Until such time as the IDFG is able to collect and verify outfitted tag use as provided in Section 36-408(4) Idaho Code, outfitted tag use shall be based on an outfitter's use reports, or the best data available, and subject to verification by documentation or other reliable information acceptable to the Board.~~ (3-20-20)T

**282. Out-of-Pocket Costs.** The direct costs attributable to a recreational activity. Such direct costs do not include: (3-20-20)T

- a. Compensation for either sponsors or participants; (3-20-20)T
- b. Amortization or depreciation of debt or equipment; or (3-20-20)T
- c. Costs of non-expendable supplies. (3-20-20)T

**293. Power Boats.** All motorized watercraft used on Idaho waters open to commercial outfitting activities. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steering. (3-20-20)T

~~**30. Relinquish.** The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license.~~ (3-20-20)T

**3124. Third Party Agreement.** The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (3-20-20)T

**3225. Trainee.** A person not less than sixteen (16) years of age pursuing the necessary experience or skill qualifications for a guide license. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (3-20-20)T

**3326. Training Log.** A form approved by the Board and completed in detail and attested to by the outfitter documenting the training completed by a person pursuing training or licensure as a guide pursuant to these rules. The log is maintained and made available for inspection by the Board or its agent by the outfitter during the time the guide is employed by the outfitter and for one (1) complete license year following the termination of employment of the guide, and for three (3) years from the date of an accident or incident jeopardizing the health, safety or welfare of a client, in which the trainee or guide is involved. (3-20-20)T

**3427. Unethical/Unprofessional Conduct.** Any activity(ies) by ~~an outfitter or guide~~ a licensee which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: (3-20-20)T(10-1-20)T

- a. Providing false, fraudulent or misleading information to the Board or another governmental entity regulating outfitting activities including the use or verification of allocated tags; (3-20-20)T
  - b. Violation of an order of the Board; (3-20-20)T
  - c. Failure to provide services as advertised or contracted; (3-20-20)T
  - d. Harassment of the public in their use of Idaho’s outdoor recreational opportunities; (3-20-20)T
  - e. Violation of state or federal fish and game laws or rules or to condone or willfully allow a client's violation of those laws and rules; (3-20-20)T
  - f. For a licensed boating outfitter or guide, violation of the Idaho Safe Boating Act (Title 67, Chapter 70, Idaho Code) and IDAPA 26.01.30 “Idaho Safe Boating Rules”; (3-20-20)T
  - g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; (3-20-20)T
  - h. Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; (3-20-20)T
  - i. Killing a client's game or catching a client’s fish. (3-20-20)T
  - j. Failure to pay a supplier of goods or services to the outfitter business; (3-20-20)T
  - k. Failure to pay state taxes; (3-20-20)T
  - l. Operating in a manner which endangers the health, safety, or welfare of the public. (3-20-20)T
  - m. Selling lifetime excursions, lifetime hunts, or selling of outfitted activities to an individual for the life of that individual and collecting fees accordingly. (3-20-20)T
  - n. Operating under a name that is not associated with the license issued by the Board; or (3-20-20)T
  - o. Interference with private landowners, public land management agencies, and/or stockmen and their rights and privileges. (3-20-20)T
- 3528. Watercraft.** A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (3-20-20)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**015. ANNUAL DATE, FEES, AND PAYMENT.**

- 01. Due Date.** All outfitter and designated agent license applications must be completed and received by the Board by January 31 of each year. (3-20-20)T
- 02. Penalty Fee.** When a completed renewal application is filed with the Board after the last day of the license year, a penalty fee must be paid before the license is issued. (3-20-20)T
- 03. License Lapsed and Relinquished Expired.** All licenses expire on March 31, and when a completed outfitter application has not been received by the Board after ninety (90) days after the last day of the license year, ~~the license is deemed relinquished, and~~ a renewal application will not be accepted for licensure. ~~(3-20-20)T~~ (10-1-20)T

- 04. Payment.** (3-20-20)T
- a.** Prior to the issuance of a license, an applicant must submit the appropriate fee. (3-20-20)T
- b.** The applicant must pay an annual license fee for each license issued, except for an outfitter licensed as a guide for the outfitter's operation. (3-20-20)T

~~05. Fees.~~

<i>Type</i>	<i>Application</i>	<i>Annual License—Online</i>	<i>Annual License—Offline</i>	<i>Late Penalty</i>	<i>Amendment—Major</i>	<i>Amendment—Minor</i>
<i>Outfitter</i>	\$400	\$400	\$450	\$150	\$200	\$35
<i>Designated Agent</i>	\$50	\$140	\$160	n/a	\$20	\$20
<i>Guide</i>	\$20	\$105	\$115	n/a	\$20	\$20

~~(3-20-20)T~~

**016. -- 017. (RESERVED)**

**018. NEW OUTFITTER OR OUTFITTER LICENSE AMENDMENT APPLICATION.**

A complete application for a new outfitter license, outfitter license major amendment, or new landowner statement in existing areas must, in addition to all other requirements include: (3-20-20)T

- 01. Name.** The name(s) registered with the Idaho Secretary of State as an assumed business name, the name of the business entity, or both. (3-20-20)T
- 02. Other Signatures.** Signed landowner or land manager statement from: (3-20-20)T
- a.** The affected state and federal land managers in all areas where an outfitter plans to utilize lands administered by the state or federal government (this may involve memorandum of understanding procedures as applicable to proposed operation on national forest or public domain lands); and, (3-20-20)T
- b.** Private land owners, or their agents, where an outfitter applicant proposes to use such private lands in his operation. (3-20-20)T
- 03. Operating Plan.** An operating plan that includes, among other things, the following: (3-20-20)T
- a.** A list of the activities to be conducted in the operating area(s) requested. (3-20-20)T
- b.** A detailed map showing the operating area(s) requested for each activity and a worded description of the boundaries of said operating area(s), described in terms of rivers, creeks, and ridges with prominent reference coordinates (section, township, and range). (3-20-20)T
- c.** An outfitter whose operation is solely on rivers, streams, lakes or reservoirs should specify put-in and take-out points but need not send maps. (3-20-20)T
- d.** A detailed description of how and when each operating area(s) will be used for each activity. (3-20-20)T
- e.** The proposed number of guests intended to be accommodated for each activity within the proposed operating area(s). (3-20-20)T



f. A list of the names and locations of camps that will be used for each activity, and whether on public or private land. (3-20-20)T

g. A list of the basic equipment, facilities, and livestock, and proof of financial capability necessary to conduct the proposed outfitted activity or business. (3-20-20)T

h. The number, title (guide, lead guide, etc.), and principal activities of individuals to be employed in the business operation. (3-20-20)T

i. A plan to assure the safety and provide for emergency medical care of guests. (3-20-20)T

**04. Public Need and Existing Use. Statement of the public need for the proposed service(s) in the area requested and the use by the general public and commercial use already licensed in the area.** (10-1-20)T

**045. Insurance.** Current certificate or proof of insurance for the following: (3-20-20)T

a. Insurance coverage against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person, excluding employees, caused by the outfitter's operation, in the minimum amount of one hundred thousand (\$100,000) per accident, with the aggregate of three hundred thousand (\$300,000), because of bodily injury or death occurring in an accident. (3-20-20)T

b. Insurance coverage on vehicles carrying passengers against loss resulting from liability for bodily injury or death or property damage suffered by any person caused by the outfitter's operation, in the amount of three hundred thousand (\$300,000) for vehicles carrying one (1) to fifteen (15) passengers, and in the minimum amount of five hundred thousand (\$500,000) for vehicles carrying sixteen (16) or more passengers. (3-20-20)T

**056. Designated Agent.** When the applicant is a corporation, firm, partnership, or other organization or combination thereof, the designation at least one (1) designated agent who is a qualified outfitter, covered by the outfitter's bond, and who will be responsible for the outfitting business. The designated agent must apply for and be granted a license. (3-20-20)T

**067. Hearing.** If more than one (1) applicant submits a complete application with landowner statement(s), a hearing will be held to decide the successful applicant. (3-20-20)T

**078. Existing Operating Area.** A licensed outfitter may be given priority for any opportunities within the outfitter's existing operating area boundaries. (3-20-20)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**021. ~~EVALUATION OF THE OUTFITTER APPLICATION. (RESERVED)~~**  
~~In evaluating an outfitter application the Board will consider, but not be limited to, the following criteria: (3-20-20)T~~

~~01. **Qualifications.** Applicant's qualifications under the Act and these rules. (3-20-20)T~~

~~02. **Need for Services.** The public need for the proposed service(s) in the area requested on the application. (3-20-20)T~~

~~03. **Other.** The extent of the applicant's experience, knowledge, and ability in the area and in the conduct of activities requested. (3-20-20)T~~

~~04. **Previous Record.** The applicant's previous record. (3-20-20)T~~

~~05. **Accessibility of Area.** The accessibility and use by the general public and commercial use already licensed in the area. (3-20-20)T~~



- ~~06. **Area Requested.** The probable impact on the area should additional licenses be issued. (3-20-20)F~~
- ~~07. **Operating Plan.** The adequacy and acceptability of the proposed operating plan. (3-20-20)F~~
- ~~a. The applicant's knowledge of financial and business management needs and practices. (3-20-20)F~~
- ~~b. The applicant's ability to manage and direct personnel and guests. (3-20-20)F~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**028. OUTFITTER BUSINESS PURCHASE, LICENSE CONSIDERATIONS.**

**01. Sale of Outfitting Business.** The sale of an outfitting business requires an application for a new outfitter license by the purchaser, provided that the Board may give priority for licensure to an applicant who has negotiated an purchase agreement related to a sale with a licensee if the applicant meets all other requirements or upon documentation from a court. ~~(3-20-20)F~~ (10-1-20)T

**02. Notification to Clients.** When an existing operation is acquired by another outfitter, all clients who have booked with the original outfitter must be promptly notified and refunded any advanced payment, unless the client is satisfied with the new arrangements. (3-20-20)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. AVAILABILITY OF OUTFITTER WAITING LISTS ~~ING OPPORTUNITIES.~~**

~~When there are more outfitter applications for an outfitter operating area than the maximum number of licenses allowing such activity, or when an individual wishes to be considered in an area to which another outfitter has historically been licensed, the Board will maintain a list of such individuals for notification of an available opening. If there is no waiting list for an area, the Board may proceed with the license application or may employ~~ Except as provided in other sections of this chapter, when a new opportunity or existing opportunity, which had previously been licensed to another outfitter, becomes available, the Board may use a competitive application process through a waiting list, public notice, or both to select a qualified applicant. ~~A~~ competitive application process may be coordinated with another governmental agency that has management or permitting authority over the opportunity. ~~(3-20-20)F~~ (10-1-20)T

**01. Waiting List.** The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 059 and for each specific IFGC unit listed in IDAPA 13.01.08, “Rules Governing the Taking of Big Game Animals in the State of Idaho.” (3-20-20)T

~~02. **Outfitter Application or Outfitter Amendment Form.** A complete new outfitter application or outfitter amendment form must be submitted for each river section, lake and reservoir and for each specific IFGC unit and all activities for which the individual desires licensure. (3-20-20)F~~

**032. Length of Time Name Is Placement on Waiting List.** A written request, in a form specified by the Board, must be submitted to be placed on the waiting list, and a name on the waiting list will be maintained for a period of five (5) years or until December 31 of the fifth year that the name is placed on the list, whichever comes first. ~~(3-20-20)F~~ (10-1-20)T

**043. When Available Outfitting Opening Occurs Notification.** ~~When, or if, an available public notice is used when an opening does occur, and a public announcement is will be made, the Board will use and may be made in conjunction with notice by another governmental agency. Persons on the waiting list for direct notification by mail of interested parties, and will select a qualified candidate from those who apply. Any person on the list who remains interested in obtaining a license following notification of availability must re-apply by submitting all necessary forms and fees during the open period as announced by the Board in order to have his application considered will be~~

~~notified of the available opportunity in any competitive application process.~~

~~(3-20-20)F(10-1-20)T~~

~~05. **When an Operating Area Is Relinquished by the Licensee.** If an existing operating area (hunting, boating, or other) is relinquished by the licensee, the Board may publicize the area's availability and accept written applications for licensure for a thirty (30) day period of time from the date of public notice. The Board will then consider the qualifications of all applicants and license the area to the candidate determined to be most qualified including the consideration of criteria used to consider new or amendment outfitter applications.~~ (3-20-20)F

**04. Application Period and Consideration.** Anyone wishing to apply for the opportunity must submit a complete application or amendment, including all applicable fees, by the date specified in the notice. The Board will consider the qualifications of all applicants and in its discretion select the best qualified applicant. (10-1-20)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**057. DESIGNATION OF ALLOCATED DEER AND ELK TAGS.**

~~Beginning with the 2021 big game season setting, the Board will designate allocated tags to eligible outfitter operations as prescribed by Section 36-2107(j), Idaho Code, and when necessary, based on an outfitter's proportional use within the capped zone or controlled hunt zone, unit, or game management area as set forth in this section. For purposes of this section, an eligible outfitter operation is an outfitter whose licensed activities include hunting the species for the type of allocated tag being designated. For the purposes of this section, an outfitting operation is an outfitter licensee whose licensed activities include hunting for the species in the area of the allocated tag being designated. When IFGC sets big game seasons all allocated tags will be designated pursuant to Section 36-2120, Idaho Code, and IDAPA 24.35.01.057. The designation applies until the next big game season setting by IFGC.~~ (3-20-20)F(10-1-20)T

~~01. **Calculation and Designation of Allocated Tags.** Pursuant to Section 36-2107(j), Idaho Code and as set forth below, an outfitter's number of designated allocated tags will be the outfitter's base allocation number plus a proportional share of any surplus allocated tags based on outfitted tag use as set forth below; or when there is an insufficient number of allocated tags to satisfy each outfitter's base allocation, the outfitter's proportional use. The result is the number of allocated tags designated for the outfitter operation. The Board will notify outfitters of the number of designated allocated tags and the underlying basis for the designation. The designation applies until the next big game season setting by the Idaho Fish and Game Commission.~~ (3-20-20)F

~~a. An outfitter's base allocation number is:~~ (3-20-20)F

~~i. For a capped zone, the average of the last two (2) years of an outfitter's outfitted tag use.~~ (3-20-20)F

~~ii. For a controlled hunt, the highest year within the last two (2) years of an outfitter's outfitted tag use.~~ (3-20-20)F

~~b. An outfitter's proportional use is calculated by dividing an individual outfitter's base allocation by the total of the base allocations of all outfitters in the capped zone or controlled hunt zone, unit, or game management area, and then multiplying by the total number of allocated tags for the capped zone or controlled hunt.~~ (3-20-20)F

~~c. When a calculation results in a partial tag, the calculation will be rounded up when a decimal equals or exceeds zero point six (0.6) and rounded down when a decimal is less than zero point six (0.6).~~ (3-20-20)F

~~d. When there are remaining allocated tags after the Board has designated tags pursuant to Paragraphs a and b of this rule, the Board will designate remaining allocated tags based on the following priorities and in the following order:~~ (3-20-20)F

~~i. All eligible outfitters whose base allocation number is zero (0) and who want to be designated allocated tags are designated at least one (1) allocated tag;~~ (3-20-20)F

~~ii. Eligible outfitters with the fewest number of designated allocated tags have an equal number of designated allocated tags when possible. (3-20-20)T~~

~~iii. Based on a random drawing between the eligible outfitters with the fewest number of designated allocated tags provided that an outfitter is not designated more allocated tags than another outfitter that has a greater base allocation number. (3-20-20)T~~

~~iv. Based on the greater base allocation number between the eligible outfitters with the fewest number of designated allocated tags. (3-20-20)T~~

~~e. When there is a deficit of allocated tags to satisfy each outfitter's proportional use, the Board will identify the group of outfitters whose base allocation number was rounded up, and the deficit will be resolved against the outfitter whose base allocation number prior to rounding is closest to zero point six (0.6). In the event there are two outfitters with the same unrounded base allocation number closest to zero point six (0.6), the deficit will be resolved against one of those outfitters based on a random drawing. (3-20-20)T~~

**01. Base Allocation.** The base allocation number is computed pursuant to Section 36-2120(b), Idaho Code. (10-1-20)T

**02. Outfitted Hunter Tag Use History.** Until the IFGC is able to collect and verify outfitted tag use pursuant to Section 36-408(4), Idaho Code, the use history will be based on each outfitter's use reports, or the best data available, and subject to verification by documentation or other reliable information acceptable to the Board showing that the outfitter provided outfitting services to the hunter using the tag. (10-1-20)T

**a.** The use history for a capped hunt is the number of tags used by clients of each outfitter for the hunt with the most similar framework to the hunt for which the allocated tag is being designated. (10-1-20)T

**b.** The use history for a controlled hunt is the number of tags used by clients of each outfitter in the hunt or hunts that have the most similar framework to the hunt for which the allocated tag is being designated. Both the hunt with allocated tags and the matching hunt with non-allocated tags will be used. (10-1-20)T

**c.** Transfers – The original outfitter may transfer a designated allocated tag(s) to another outfitting operation for use that year in the same hunt and still retain credit for the tag. (10-1-20)T

**d.** Surrenders - An outfitter may surrender a designated allocated tag(s) to the undesignated tag pool at any time after notification of its tag designation. The surrendering outfitter does not retain credit for the surrendered tag unless it later uses the tag from the pool. The surrendered tag will be available to any outfitter in the same hunt pursuant to IDAPA 24.35.01.057.09. (10-1-20)T

**03. New Hunt Allocated Tag Designation.** When the IFGC initially allocates tags for a new capped or controlled hunt, allocated tags will be designated for that hunt proportionately as follows: (10-1-20)T

**a.** Divide each outfitting operation's base allocation by the total of all base allocations in the hunt, resulting in a percentage of total use. Truncate the decimal at the hundredths place. (10-1-20)T

**b.** Multiply the percentage of total use from IDAPA 24.35.01.057.03.a. by the total number of allocated tags for the hunt, which determines the number of allocated tags designated to the outfitting operation. (10-1-20)T

**04. Use of Previously Designated Allocated Tags.** For established capped or controlled hunts, allocated tags will first be designated to each outfitting operation in an amount equal to the outfitting operation's use of the allocated tags previously designated to it for the same hunt. (10-1-20)T

**a.** In a capped hunt, the use of previously designated allocated tags is the average use of allocated tags in the preceding two (2) years. (10-1-20)T

**b.** In a controlled hunt, the use of previously designated allocated tags is the highest year of use of

allocated tags in the preceding two (2) years. (10-1-20)T

**05. Remaining or Additional Allocated Tags.** Allocated tags that were not designated pursuant to IDAPA 24.35.01.057.04 will be designated proportionately as follows: (10-1-20)T

**a.** Subtract each outfitting operation's use of previously designated allocated tags from its base allocation number to determine the number of non-allocated tags it used; then (10-1-20)T

**b.** Divide the result by the total number of non-allocated tags used by all outfitting operations, resulting in a percentage of the total non-allocated tags used by all outfitting operations in that hunt. Truncate the decimal at the hundredths place; and finally (10-1-20)T

**c.** Multiply the percentage of total use from IDAPA 24.35.01.057.05.b. by the number of allocated tags yet to be designated, which determines the number of allocated tags designated to the outfitting operation. (10-1-20)T

**06. Rounding.** If allocated tag designation results in a partial tag, the calculation will be rounded up when a decimal equals or exceeds six tenths (.6) and rounded down when a decimal is less than six tenths (.6). When calculating the reduction to the designation of allocated tags pursuant to Section 36-2120(4), Idaho Code, the calculation will be rounded up when a decimal equals or exceeds five tenths (.5) and rounded down when a decimal is less than five tenths (.5). (10-1-20)T

**07. Tie-breaker.** If after applying IDAPA 24.35.01.057.03-06 there is a surplus or deficit of allocated tags to be designated, the unrounded proportion, with as many decimal places as necessary, will be used as follows: (10-1-20)T

**a.** A surplus allocated tag will be designated to the outfitting operation whose unrounded proportion is the greatest. In the event there is more than one outfitting operation with the same unrounded proportion, the undesignated tag will be designated based on a random drawing between those outfitting operations. (10-1-20)T

**b.** A deficit will be resolved from the outfitting operation whose unrounded proportion is closest to six tenths (.6). If there is more than one (1) outfitting operation with the same unrounded proportion, a random drawing will be held between those outfitters. (10-1-20)T

**028. Stipulation by Outfitters.** ~~Outfitters in a capped zone or for a controlled hunt may submit to the Board a written stipulation determining the number of allocated tags designated for each outfitter within the capped zone or for the controlled hunt. The stipulation must be signed by all eligible outfitters for the capped zone or controlled hunt. If the Board accepts the stipulation, the stipulation will be effective until the Idaho Fish and Game Commission sets the next big game season~~ Outfitting operations in a hunt may submit to the Board a written stipulation determining the number of allocated tags designated for each outfitting operation within that hunt. The stipulation must be signed by all eligible outfitting operations for the hunt. If the Board approves the stipulation, the stipulation will be effective until the IFGC sets the next big game season. On or before November 1 preceding the hunt, any outfitting operation may petition the Board to vacate the stipulation for good cause that would make it unconscionable or unjust to enforce the stipulation. If the Board vacates the stipulation, the allocated tags in that hunt will be designated pursuant to Section 36-2120, Idaho Code, and IDAPA 24.35.01.057. (3-20-20)T(10-1-20)T

~~**a.** On or before November 1, any outfitter may petition the Board to withdraw from the stipulation for good cause. If the Board grants the withdrawal, then the Board will calculate and designate the allocated tags among the outfitters in that capped zone or controlled hunt according to Subsection 01 of this rule. (3-20-20)T~~

~~**b.** A stipulation only applies to the designation of allocated tags by the Board. (3-20-20)T~~

**09. Undesignated Tag Pool.** Any designated allocated tags that are surrendered or have not been utilized by an outfitting operation on or before the tenth (10) business day prior to July 31 for a capped hunt, or on or before September 10 or the next business day for a controlled hunt, will be available in an undesignated pool for any outfitting operation, as follows: (10-1-20)T

**a.** Beginning April 10 preceding the hunt, an outfitting operation without any designated allocated tags or who has utilized all of its designated allocated tags may submit a request for an allocated tag from the pool. The request must be in such a form as designated by the Board. (10-1-20)T

**b.** Beginning April 20 preceding the hunt or next business day, an allocated tag will be designated from the pool on a first-come, first-served basis, using a waiting list when as necessary, with a maximum of two (2) allocated tags designated to each requesting outfitting operation until all other requesting outfitting operations have been served, then a requesting outfitting operation is eligible to receive a maximum of two (2) additional allocated tags from the pool, repeated until all requesting outfitting operations are served or until no tags remain. (10-1-20)T

**103.** **Objection to Calculation.** If ~~A~~an outfitting operation believes the calculation is incorrect it may object by filing a petition with the Board within fourteen (14) days from the date the notification was sent and in accordance with the Idaho administrative procedures act. ~~with the Board along with~~ The petition will include any supporting information or documentation. (3-20-20)T(10-1-20)T

**a.** The Board will notify all other eligible outfitters in the capped zone or for the controlled hunt All outfitting operations in the hunt in question will be notified of the petition. (3-20-20)T(10-1-20)T

**b.** The outfitting operation bears the burden of establishing that the calculation was incorrect. (3-20-20)T(10-1-20)T

**0411.** **Hardship Request.** An outfitting operation may submit to the Board a written hardship request to maintain all or a portion of previous base allocation number when the outfitting operation can demonstrate hardship, including health, act of nature, state of federal restrictions on hunting or access or other good cause that prohibited or limited the outfitting operation's ability to seek and accommodate clients and impacted the outfitting operation's use of designated allocated tags. The outfitting operation must provide any information requested by the Board to assist in substantiating hardship cases. The hardship request must also be approved by the Idaho Department of Fish and Game to retain the outfitted hunter tag use history in respective outfitted hunter tag use history may be submitted to the Board on or before the November 1 preceding the biennial IFGC big game season setting. If a hardship occurs after October 21 but prior to the hunt being completed the request may be submitted within ten (10) days of the occurrence. A hardship may include health, act of nature, state or federal restrictions on hunting or access, or other good cause that prevented or limited the outfitting operation's ability to seek and accommodate clients and impacted its use of designated allocated tags. The outfitting operation must provide any information requested by the Board to substantiate the request. (3-20-20)T(10-1-20)T

**0512.** **Change in Operating Area or Owner of Business.** When an outfitting operation is sold or when an operating area is adjusted and designated allocated tags are associated with the affected operating area, the associated designated allocated tags will transfer to the new owner. (3-20-20)T