RESOURCES & ENVIRONMENT COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2010 Legislative Session

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO FISH AND GAME COMMISSION

DOCKET NO. 13-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-104(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Define the duties of the Commission Chairman and Vice-Chairman, and delete obsolete rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 50 through 53.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section 36-104(b), 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 16, 2009.

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:

Defines the duties of the Commission Chairman and Vice-Chairman, and deletes obsolete rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges being imposed through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it unfeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact W. Dallas Burkhalter (208) 334-3715.

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 September 23, 2009.

DATED this 28th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

011. COMMISSION OFFICERS.
The officers of the Commission shall be chairman, vice-chairman, and secretary. The Commission shall annually elect the chair and vice-chair for the ensuing year. The newly elected chairman and vice-chairman shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected. ( )

012. DUTIES OF CHAIRMAN.
The Chairman shall preside at all meetings, set the agenda for all meetings, and shall perform such other duties as the Commission may direct. ( )

013. DUTIES OF VICE-CHAIRMAN.
The Vice-Chairman shall perform the duties of the Chairman in the absence of the Chairman. In the event of the absence of both the Chairman and Vice-Chairman, the Commission may appoint an Acting Chairman to preside during such absence. ( )

01~~1~~4. DIRECTOR -- COMMISSION SECRETARY -- COMMUNICATIONS.
The Director of the Department is the Commission Secretary and the custodian of all public files of the Commission. The Secretary or his designee is responsible for service of all orders and notices and other documents issued by the Commission. (10-26-94)

01. Written Communications and Documents. All written communications and documents concerning any matter covered by these rules should be mailed to the headquarters office of the Commission and not to individual members of the Commission or Department. Unless otherwise provided by statutes, these rules, order or notice, documents are considered to be officially received as evidenced by the date stamp placed on all such communications and documents when received, not when mailed. (10-26-94)

02. Proceedings Information. Information concerning proceedings before the Commission or Department or the status of any matter before the Commission is available from the Commission Secretary. (10-26-94)

01~~2~~5. DELEGATION OF POWERS TO DIRECTOR.
The Commission may, by order, delegate such powers to the Director as the law will permit. (10-26-94)

01~~3~~6. INVESTIGATIONS.
The Commission may authorize any of its members, the Director, or other persons to make investigations for fact-finding purposes. The investigator or person conducting the hearing shall report the results of such investigation or hearing to the Director or if directed, to the Commission as a body. Such proceedings may be formal or informal as directed by the Commission. (10-26-94)

01~~4~~7. -- 049. (RESERVED).

050. COMMISSION MEETINGS.

01. Discrimination. Commission meetings shall not knowingly be held at any place where discrimination on the basis of race, creed, color, sex, age, or national origin is practiced. (10-26-94)

02. Commission Meetings Required. The Commission shall hold its annual meeting in Boise in January and hold other regular quarterly meetings in April, July, and October at places within the state of Idaho as the Commission may select. All meetings of the Commission are open to the public, except as provided under Idaho Code, Section 67-2345. (10-26-94)

03. Special Meetings. Special meetings may be called at any time and place by the Chairman and/or a majority of the members of the Commission. Special meetings are open to the public and are subject to the same requirements as regular meetings, except as provided under Section 67-2345, Idaho Code. (10-26-94)

~~***04. Telephone Conference Call Meetings****. In emergency situations or because of budget considerations, it may be necessary to hold special meetings by telephone conference call. Such meetings are open to the public and are subject to the same requirements as regular meetings, except as provided under Section 67-2345, Idaho Code.*~~ ~~*(10-26-94)*~~

0~~5~~4. Attendance of Director. The Director may attend all meetings and hearings of the Commission, except when ordered otherwise by the Commission, and will have the same right to speak at such meetings as the members of the Commission. However, the Director will not be permitted to vote upon any question being decided by the Commission. (10-26-94)

0~~6~~5. Request to Appear Before the Commission. Any person wishing to appear before the Commission on any matter may make a written or oral request to appear. Requests must be received by the Commission at the headquarters office at least ten (10) days prior to the regularly scheduled Commission meeting at which the appearance is requested. Written requests shall contain a general statement of the purpose of the requested appearance. (10-26-94)

051. CONDUCT OF COMMISSION MEETINGS.

01. Quorum. Four (4) members of the Commission shall constitute a quorum for the transaction of any business or in the performance of any duty or for the exercise of any power. Provided, that whenever the number of Commissioners present is less than a quorum at a regular or special meeting, they may recess from day-to-day until a quorum is present. (10-26-94)

02. Call to Order. The Chairman of the Commission or, in his absence, any member of the Commission chosen by members present to act as the Acting Chairman of the Commission, shall call the meeting to order. (10-26-94)

~~***03. Order of Business****. When the Commission has been called to order and a quorum present, the order of business shall be as follows, or such other order of business as may be determines by the Chairman or a majority of Commission members:*~~ ~~*(10-26-94)*~~

~~***a.*** *Director's report.*~~ ~~*(10-26-94)*~~

~~***b.*** *Commission discussion.* *(10-26-94)*~~

~~***c.*** *Minutes.* *(10-26-94)*~~

~~***d.*** *Fiscal.* *(10-26-94)*~~

~~***e.*** *Rules.* *(10-26-94)*~~

~~***f.*** *Lands.* *(10-26-94)*~~

~~***g.*** *Management plans and policies.* *(10-26-94)*~~

~~***h.*** *Legislation.* *(10-26-94)*~~

~~***i.*** *Reports.* *(10-26-94)*~~

~~***j.*** *Miscellaneous.* *(10-26-94)*~~

0~~4~~3. Business Before the Commission. All business before the Commission shall be by motion and shall not be debated before the Chairman has properly stated or introduced the motion. After the motion has been introduced by the Chairman, each member of the Commission, or the Director, when properly recognized, may speak on the motion. (10-26-94)

0~~5~~4. Obtaining the Floor. To obtain recognition from the Chairman, a member will raise his hand and address the Chairman and, when duly recognized, the member may proceed, provided that such request for recognition may not be made when another has the floor. (10-26-94)

0~~6~~5. Voting. (10-26-94)

a. All members shall vote upon all motions placed before the commission unless excused by the Chairman and the reason for such excuse shall be stated in the record. (10-26-94)

b. A Commissioner may change his vote on any motion up to the time the vote is finally announced by the Chairman. (10-26-94)

~~***c.*** *Any absentee Commissioner wishing to vote on any motion, after being fully informed of the facts in the motion at hand, may cast his vote by proxy. The proxy shall be in the form of a letter designating power of attorney for a Commission member present at the meeting to cast a vote in behalf of the absent member. Such letter shall indicate the vote which is desired and shall become a part of the record of the meeting.* *(10-26-94)*~~

0~~7~~6. Motion to Reconsider. A motion having been decided by the Commission, any Commissioner, having voted on the prevailing side, may on any day of the meeting at which such question was decided, move to reconsider the vote by which the same was lost or carried. If such motion to reconsider carries, the Chairman shall again put the original motion before the Commission. It will have the same status as if it had not been voted on by the Commission.

(10-26-94)

0~~8~~7. Parliamentary Rules. The rules contained in Robert's Rules of Order shall govern the Commission in all cases to which they are applicable, and in which they are not inconsistent with the rules of order of the Commission. (10-26-94)

~~***09. Suspension or Amendment of Rules**. These rules of the Commission may be amended or suspended by a vote of three (3) members of the Commission. (10-26-94)***~~

052. RECORDS OF MEETINGS.
The Director or his designee shall keep complete record of all proceedings of the Commission. Proceedings shall be kept in a permanent record book to be designated as Official Minutes of the Idaho Fish and Game Commission. ~~*Summary minutes shall be taken of all meetings, except as provided in Subsection 052.04 below. Neither a full transcript nor an electronic recording of the meeting is required. All minutes shall be available for public inspection within one (1) month after the meeting. Summary minutes shall include a minimum of: (10-26-94)*~~(____)

~~***01. Orders Issued or Authorized**. All members of the Commission present; (10-26-94)***~~

~~***02. Director Signature**. All motions, resolutions, orders, or rules proposed and their disposition; (10-26-94)***~~

~~***03. Numbering of Orders**. The results of all votes and upon the request of any member, the vote of each member, by name; (10-26-94)***~~

~~***04. Filing of Orders**. Minutes of executive sessions may be limited to material, the disclosure of which is not inconsistent with the provisions of Section 67-2345, Idaho Code, but shall contain sufficient detail to convey the general tenor of the session. (10-26-94)***~~

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.03 - PUBLIC USE OF THE LANDS OWNED OR CONTROLLED BY THE DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0103-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-104(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Allow the Director to delegate more authority to regional staff. Clarify several rules and definitions. Define 'designated roads and trails' and 'commercial use.' Prohibit certain unpermitted uses, such as: landing or launching aircraft, discharging paintball guns, placing geocaches, group events of over 15 people, and use of non-certified weed-seed-free hay. Prohibit leaving portable hunting blinds and tree stands over night.

The pending rule is being adopted as proposed. The complete text of the proposed rule published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 269 - 272.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter (208) 334-3715.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section 36-104(b), 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 21, 2009.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Allow the Director to delegate more authority to regional staff. Clarify several rules and definitions. Define 'designated roads and trails' and 'commercial use.' Prohibit certain unpermitted uses, such as: landing or launching aircraft, discharging paintball guns, placing geocaches, group events of over 15 people, and use of non-certified weed-seed-free hay. Prohibit leaving portable hunting blinds and tree stands unattended for more one-half hour.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees or charges are being imposed or changed through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tom Hemker (208) 287-2749.

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 28,

2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
The Idaho Fish and Game Commission is authorized under Sections 36-104(b) ~~*and 36-104(7)*~~, Idaho Code, to adopt rules concerning the public use of lands owned or controlled by the Department of Fish and Game. ~~*(5-3-03)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. ~~***Access Area****. Real property which is owned or controlled by the Idaho Department of Fish and Game to provide the public access to public lands and waters.*~~ **Aircraft**. Every description of aircraft that is capable of being used as a means of transportation on or in the air. ~~*(7-1-93)*~~( )

02. **Commercial Use**. Any use or activity that is related to a business venture or for which a fee is charged, or in which the primary purpose is the sale or barter of goods or services, regardless of whether the use or activity is intended to produce a profit. ( )

0~~2~~3. Department Lands and Access Areas. Real property, which is owned or controlled by the Idaho Department of Fish and Game, which is managed for public recreation and for the protection, maintenance, and enhancement of fish and wildlife. (7-1-93)

~~***03.*** ***Floating Device****. Every description of watercraft, including a seaplane used on water or capable of being used as a means of transportation on or in the water.* *(7-1-93)*~~

04. **Designated Roads and Trails**. All roads and trails posted as open or included on travel plan maps provided by the Department, or both. Roads and trails not posted as open or included on travel plan maps, or both, are closed to motorized vehicles. ( )

0~~4~~5. Motorized Vehicle. ~~*Any water, land, or air vehicle propelled by means of steam, petroleum products, electricity, or any other mechanical power.*~~ Every vehicle that is self-propelled, except vehicles that are moved solely by human power. ~~*(7-1-93)*~~( )

~~***05.*** ***Sanctuary Area****. Refers to any portion of a Wildlife Management Area which is posted as closed to fishing, hunting or trapping, or entry by the public for any other purpose.* *(7-1-93)*~~

06. **Safety Zone**. A posted area established for the safety and protection of persons, equipment, structures, or livestock and where shooting within, across, or into the area is not permitted. (____)

0~~6~~7. **Snow Machine**. Any self-propelled vehicle designed primarily for travel on snow ~~*or ice or over natural terrain, which may be*~~ that is steered by tracks or, skis~~*, or runners*~~ and propelled by tracks. ~~*(7-1-93)*~~(____)

0~~7~~8. **Unattended**. As it pertains to decoys shall mean to be over one hundred (100) yards from the decoys for a period of more than one-half (1/2) hour. As it pertains to campfires shall mean not within twenty (20) yards. ~~*(7-1-93)*~~(____)

09. **Watercraft**. Any vessel that is capable of being used as a means of transportation on or in the water. (____)

011. -- 099. (RESERVED).

100. PUBLIC USE RESTRICTIONS.

01. Activities Prohibited Without Director Authorization. ~~*Except as specifically approved by the Director as an exception or for administrative purposes, the following activities are PROHIBITED on all lands, waters, and roads under control or administration of the Department*~~ Unless specifically authorized by the Commission or under lease, permit, contract, or agreement issued by the Director, Regional Supervisor, or other authorized agent, the following activities are PROHIBITED: ~~*(7-1-93)*~~(____)

a. To enter, use, or occupy lands or water when said lands are posted against such entry, use, or occupancy. (7-1-93)

b. To camp, park a vehicle and/or a trailer in any area posted against such use or to leave unattended a camp, vehicle, and/or trailer for more than forty-eight (48) hours or to camp or park a vehicle and/or trailer for more than ten (10) consecutive days in any thirty (30) day period in any one designated area~~*; except shorter periods may be set and posted for specific areas by the appropriate regional supervisor*~~. ~~*(7-1-99)*~~(____)

c. To operate any motorized vehicles, including snow machines, except on ~~*established*~~ designated roads and trails. ~~*Operation of vehicles on established roads is prohibited when posted against such use.*~~ Designated roads and trails are posted as open or included on travel plan maps provided by the Department, or both. ~~*(7-1-93)*~~(____)

d. To use ~~*floating devices, with or without motors,*~~ watercraft on any waters which are posted against such use. ~~*(7-1-93)*~~(____)

e. To start a fire without taking necessary measures to prevent its spreading or to leave a fire unattended. All fires are prohibited in areas posted against their use. (7-1-93)

f. To use any form of fireworks or explosives at any time. (7-1-93)

g. To permit dogs or other domestic animals to run at large when the owner or guardian is not present to control or care for them or to permit dogs to be off leash or conduct dog training when prohibited by posted notice. ~~*(7-1-93)*~~(____)

h. To conduct ~~*bird*~~ dog field trials of any type during the period October 1 through July 31. All ~~*bird*~~ dog field trials and ~~*bird*~~ dog training with the use of artificially propagated game birds between August 1 and September 30 will be under department permit as authorized by the director under the rules set forth in IDAPA 13.01.15, "Rules Governing the Use of Dogs," Section 300. ~~*(5-3-03)*~~(____)

i. To construct blinds, pits, platforms, or tree stands where the soil is disturbed, trees are cut or altered, and artificial fasteners, such as wire, rope, or nails are used. All blinds shall be available to the public on a "first-come - first-served" basis. Portable manufactured blinds and tree stands are allowed but may not be left overnight. ~~*(7-1-93)*~~(____)

j. To release or abandon any domestic or exotic fish, birds, mammals, amphibians, or reptiles. (7-1-93)

k. To adjust, open, close, tamper with, or manipulate in any manner, any diversion structure, headgate, flume, recorded or flow dock or any device for water control. This shall not be construed as limiting the powers of other agencies or irrigation districts as provided by statutory law or rule. (7-1-93)

l. To discard dead fish, birds, animals, or parts or remains thereof, ~~*human excrement,*~~ waste water, metallic cans, bottles, plastic or paper cartons, shotgun shell casings, yard and agricultural wastes, garbage, machines, appliances, or other litter on or in any lands or waters. ~~*(7-1-93)*~~(____)

m. To remove, destroy, mutilate, modify, or deface any building or other structure, water control device, fence, gate, poster, notice, sign, survey or section marker, or any object of archaeological, geological, or historical value or interest. (7-1-93)

n. To ~~*discharge any firearm*~~ shoot within, across, or into posted safety zones. ~~*(7-1-93)*~~(____)

o. To leave decoys unattended. Decoys cannot be put in place any earlier than two (2) hours prior to official shooting hours for waterfowl and all decoys must be picked up and removed from the hunting site no later than two (2) hours after official shooting hours for waterfowl that particular day. (7-1-93)

~~***02. Activities Prohibited Without Other Authorization****. Unless specifically authorized by the Commission, or under lease, permit, contract, or agreement, issued by the Director, Regional Supervisor, or authorized agent, the following activities are PROHIBITED:*~~ ~~*(7-1-93)*~~

p. To discharge any paintball guns. (____)

~~n~~q. To disturb or remove any soils, gravel, or minerals. (7-1-93)

***b*r.** To turn domestic livestock into, or allow said animals to graze or trail on or across Department lands, except riding and pack animals may be used in association with hunting and for recreational uses or as posted. (7-1-93)

***c*s.** To cut, dig, or remove any crops, trees, shrubs, grasses, forbs, logs, or fuel wood. (7-1-93)

***d*t.** To place, maintain, or store any beehives or bee boards. (7-1-93)

***e*u.** To use lands for any commercial purpose. (7-1-93)

~~***f.*** *To exercise or train any dogs in posted areas or during periods closed to such uses. In conjunction with authorized field trials, participants may train dogs in the designated area one (1) day prior to and one (1) day following the trial.* *(7-1-93)*~~

~~***g.*** *To prospect or drill for oil and gas on any state owned Wildlife Management Area or other property under the supervision of the Fish and Game Department.* *(7-1-93)*~~

v. To place a geocache. ( )

w. To use for group events of over fifteen (15) people. ( )

x. To land or launch aircraft except on public airstrips. ( )

y. To use or transport any hay, straw or mulch that is not weed seed free certified. ( )

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-408, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Set the Nonresident Deer tag quotas per Commission adoption. Set outfitter deer set-aside tags. Reduce certain elk zone tags per Commission adoption, and delete obsolete elk zone tags. Set elk zone tags per Commission adoption.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 54 through 57.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) 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 September16, 2009.

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:

Sets the Nonresident Deer tag quotas per Commission adoption; sets outfitter deer set-aside tags; reduces certain elk zone tags per Commission adoption; deletes obsolete elk zone tags; and sets elk zone tags per Commission adoption.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges being imposed through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

500. NONRESIDENT DEER AND ELK TAG OUTFITTER SET-ASIDE.

01. Tags. The following number of nonresident deer tags and nonresident elk tags shall annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter who is licensed under Chapter 21, Title 36, Idaho Code. For ~~*the*~~ each Hunting Season: ~~*(3-20-04)*~~( )

a. One thousand nine hundred eighty-five (1,9~~*00*~~85) deer tags (regular or White-tailed); ~~*(4-2-08)*~~( )

~~***b.*** *Eighty-five (85) S.E. Idaho Area deer tags;* *(3-20-04)*~~

~~***c***~~**b.** Two thousand four hundred (2,400) elk tags (A or B tags for all zones; (3-20-04)

02. Restrictions. These tags shall be sold on a first-come, first-serve basis through June 30 of each year. Application for purchase of these tags shall be made by the outfitter for the nonresident on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the nonresident hunter has a contract to hunt with the outfitter making application. (7-1-93)

03. Unsold Tags. Any tags not sold by July 1 of each year shall be sold by the Department to nonresidents on a first-come, first serve basis. If there is a waiting list of individuals desiring a tag for the species available, those individuals will be first served. Application shall be made only to the Headquarters office of the Department of Fish and Game in Boise, Idaho. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

600. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. Tag Quotas. The following number of deer tags and elk tags shall be set aside annually and reserved for sale to nonresidents: (3-20-97)

a. ~~*Twelve*~~ Fourteen thousand ~~*eight hundred*~~ (~~*12,800*~~ 14,000) regular or White-tailed deer tags; ~~*(4-2-08)*~~( )

b. Twelve thousand eight hundred fifteen (12,815) A or B elk tags for all zones; (3-20-04)

c. One thousand ~~*two*~~ five hundred (1,~~*2*~~500) ~~*S.E. Idaho area*~~ White-tailed ~~*D*~~deer tags available only upon sell out of deer tags referenced in Subsection 600.01.a. of these rules.

~~*(7-1-98)*~~( )

02. Exceptions. Sales of nonresident deer and elk tags to the following persons shall not be counted in the quota: (7-1-93)

a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)

b. Designated Buyers: Nonresident tag buyers who return their unused nonresident deer or elk tag and a notarized affidavit stating that the tag buyer has not hunted may designate another nonresident to purchase an additional tag. If the original buyer does not make a designation and has retained an outfitter or guide, the outfitter or guide may make the designation. The designated buyer must pay the regular fee for the replacement tag. If no designation is made by either the original buyer or the outfitter or guide, the Department may sell the replacement tag on a first-come, first-serve basis. (7-1-93)

c. Successful nonresident controlled hunt applicants who have not purchased a tag as of the date of the controlled hunt drawing. (7-1-93)

d. Junior mentored tag holders. (3-20-04)

03. Refunds. The fee for any nonresident license (as defined in Section 36-202(z), Idaho Code) shall not be refunded for any reason except as follows. (7-1-98)

a. Hunting license and general season deer and elk tag refunds due to death, illness/injury or military deployment of licensee. Non-resident general season deer or elk tag fees and prerequisite hunting license fee and controlled hunt deer and elk tag fees may be refunded for death of licensee; illness or injury of licensee which totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict. Refund must be substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or other similar substantiating documents. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license less all issuance fees and a fifty dollar ($50) processing fee. The refund request must be postmarked on or before December 31 of the calendar year in which the license and tags were valid. (4-6-05)

b. General season and controlled hunt deer and elk tag refunds for other than death, illness/injury, or military deployment of licensee. Non-resident general season and controlled hunt deer or elk tag fees may be refunded for any reason other than death of the licensee; illness or injury of licensee which totally disables the licensee for the entire length of all applicable seasons; or military deployment of licensee due to an armed conflict. The request for the refund must be postmarked in the year in which the tag is valid. The hunting license fee will not be refunded. The refund will be based on the following sliding scale as a percent of the deer or elk tag fee.

Postmarked		Percent of Fee Refunded
Before April 1	-	75%
in April through June	-	50%
in July and August	-	25%
September through December	-	0%

(4-6-05)

c. Department Error. The Department determines that a Department employee made an error in the issuance of the license. (7-1-98)

d. Submission Requirements. All refund requests must be in writing and be accompanied with the original copy of the license or tag. (7-1-98)

e. Effective. These changes will be effective with the 1997 licenses and tags. (7-1-98)

04. Sale of Unsold Nonresident Deer and Elk Tags to Residents. Any unsold nonresident deer or elk tags may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price, beginning September 1. All privileges and restrictions associated with the use of the nonresident deer or elk tag will apply equally to residents who purchase a nonresident deer or elk tag. (3-15-02)

601. ELK ZONE TAG QUOTAS.

Zone	Units	Total Tags	General Resident Tags	General Nonresident Tags	Outfitter Allocation
Lolo B Tags	10,12	1600	1008	356	236
Selway A Tags	16A, 17, 19, 20	647	179	254	214
Selway B Tags	16A, 17, 19, 20	~~*1255*~~ 1067	~~*565*~~ 480	~~*334*~~ 284	~~*356*~~ 303
Middle Fork A Tags	20A, 26, 27	1551	1168	174	209
Middle Fork B Tags	20A, 26, 27	1636	925	267	444
~~*Boise River B Tags*~~	~~*39*~~	~~*3,300*~~	~~*3,013*~~	~~*269*~~	~~*18*~~
Elk City B Tags	14, 15, 16	1790	1414	326	50
Dworshak B Tags	10A	2380	2118	215	47

~~*(3-15-02)*~~( )

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-401 and 36-408, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Implements Senate Bill 1008 creating a Disabled Veterans Special Big Game Tag.

The text has been amended to delete the term 'regulation' and replace with the term 'proclamation.'

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 58 through 61.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 27, 2009.

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, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b), 36-401 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 16, 2009.

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/proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Implements Senate Bill 1008 creating a Disabled Veterans Special Big Game Tag.

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

The temporary rule confers a benefit to certain disabled veterans, and complies with amendments to Section 36-401 and 36-408, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

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 September 23, 2009.

DATED this 29th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

900. CHILDREN WITH SPECIAL NEEDS BIG GAME PERMIT/TAG.

01. Availability. The Department shall make ~~available no *more than ten (10)*~~ up to five (5) big game ~~*permit/*~~tags available for children with life threatening medical conditions each year. ~~*(3-8-07)*~~(____)

a. Any of the five (5) big game tags described in Section 901 that have not been issued by July 15 each year may also be available for children with life threatening conditions. (____)

02. Issuance. The Commission delegates discretionary authority to issue a special needs ~~*permit/*~~tag to the Director. ~~*(3-8-07)*~~(____)

03. Eligibility. In order to receive a special needs big game ~~*permit/*~~tag, a resident or nonresident minor (seventeen (17) years of age or younger) must have a life threatening medical condition as certified by a qualified and licensed physician. ~~*(3-8-07)*~~(____)

a. A qualified applicant must be sponsored by a nonprofit organization that is qualified under section 501(c) (3) of the Internal Revenue code. (3-8-07)

b. The primary mission of the sponsoring organization must be to offer opportunities and experiences to minor children with life threatening medical conditions. (3-8-07)

c. Minimum age requirements and hunter education requirements are waived for individuals applying for or receiving a special needs big game ~~*permit/*~~tag. ~~*(3-8-07)*~~(____)

04. Validity of Permit/Tag. The special needs ~~*permit/*~~tag shall be valid for one (1) deer, one (1) elk, one (1) pronghorn, one (1) moose, one (1) black bear, or one (1) mountain lion as allowed by Commission ~~*regulation*~~ *proclamation*. ~~*(3-8-07)*~~(____)

a. A license is not required to apply for or receive a special needs big game ~~*permit/*~~ tag. ~~*(3-8-07)*~~(____)

b. The special needs ~~*permit/*~~tag is valid in any open hunt, controlled or general, as provided by Commission ~~*regulation*~~ *proclamation*. ~~*(3-8-07)*~~(____)

c. Applicants may only receive one (1) special needs ~~*permit/*~~tag in a lifetime. ~~*(3-8-07)*~~(____)

d. In exercising hunting privileges, the holder of a special needs ~~*permit/*~~tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. ~~*(3-8-07)*~~(____)

05. **Application**. Applications shall be on a form as prescribed by the Director. (3-8-07)

a. Applications shall be submitted on behalf of applicants by an eligible nonprofit organization. (3-8-07)

b. A copy of the nonprofit organization's IRS determination letter must accompany the application. (3-8-07)

~~***c.*** *The application shall include the signature of a qualified and licensed physician stating the applicant has a life threatening medical condition.* *(3-8-07)*~~

06. **Fees**. All fees associated with applying for and receiving a special needs ~~*permit/*~~ tag shall be waived. ~~*(3-8-07)*~~(____)

07. **Hunters with Disabilities Permit Fees**. All fees associated with applying for or receiving a ~~*Handicapped*~~ Disabled Persons Motor Vehicle Hunting Permit or a ~~*Handicapped*~~ Disabled Archery Permit by the recipient of a special needs ~~*permit/*~~tag are waived. ~~*(3-8-07)*~~(____)

08. **Application of Big Game Rules**. All rules governing the taking of Big Game Animals, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply to holders of a special needs big game tag. (3-8-07)

901. DISABLED VETERANS SPECIAL BIG GAME TAG.

01. **Availability**. The Department shall make up to five (5) big game tags available for disabled veterans. (____)

a. Any of the five (5) big game tags described in Section 900 that have not been issued by July 15 each year may also be available for disabled veterans. (____)

02. **Issuance**. The Commission delegates discretionary authority to issue a disabled veterans special big game tag to the Director. (____)

03. **Eligibility**. In order to receive a disabled veterans special big game tag, a resident or nonresident must be a disabled veteran, as certified by the Department of Veterans Affairs. (____)

a. A qualified applicant must be sponsored by a nonprofit organization that is

qualified under section 501(c) (3) of the Internal Revenue Code or sponsored by a governmental agency. ( )

b. A mission of the sponsoring organization or governmental agency must be to afford opportunities, experiences, and assistance to disabled veterans. ( )

c. Hunter education requirements are waived for individuals applying for or receiving a disabled veterans special big game tag. ( )

04. **Validity of Tag**. The disabled veterans special big game tag shall be valid for one (1) deer, one (1) elk, one (1) pronghorn, one (1) moose, one (1) black bear, or one (1) mountain lion as allowed by Commission ~~*regulation*~~ *proclamation*. ~~*(7-27-09)T*~~*( )*

a. A license is not required to apply for or receive a disabled veterans special big game tag. ( )

b. The disabled veterans special big game tag is valid in any open hunt, controlled or general, as provided by Commission ~~*regulation*~~ *proclamation*. ~~*(7-27-09)T*~~*( )*

c. Applicants may only receive one (1) disabled veterans special big game tag in a lifetime. ( )

05. **Application**. Applications shall be on a form as prescribed by the Director. ( )

a. Applications shall be submitted on behalf of applicants by an eligible nonprofit organization or governmental agency. ( )

b. A copy of the nonprofit organization's IRS determination letter must accompany the application. ( )

06. **Fees**. All fees associated with applying for and receiving disabled veterans special big game tag shall be waived. ( )

07. **Hunters with Disabilities Permit Fees**. All fees associated with applying for or receiving a Disabled Persons Motor Vehicle Hunting Permit or a Disabled Archery Permit by the recipient of a disabled veterans special big game tag are waived. ( )

08. **Application of Big Game Rules**. All rules governing the taking of Big Game Animals, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply to holders of a disabled veterans special big game tag. ( )

90~~1~~2. -- 999. (RESERVED).

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-201, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Reclassify Yellowstone grizzly bears as a big game animal, and the bald eagle and peregrine falcon as protected nongame species.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 62 through 68.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) and 36-201, 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 16, 2009.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Reclassifies Yellowstone grizzly bears as a big game animal, and the bald eagle and peregrine falcon as protected nongame species.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. CLASSIFICATION OF WILDLIFE - BIG GAME ANIMALS.

01. Big Game Animals. (7-1-93)

a. Black bear -- *Ursus americanus*. (7-1-93)

b. California bighorn sheep -- *Ovis canadensis californiana*. (7-1-93)

c. Elk -- *Cervus elaphus*. (7-1-93)

d. Gray wolf -- *Canis lupus*. (4-6-05)

e. Grizzly bear -- *Ursus arctos*. ( )

~~e~~f. Moose -- *Alces alces*. (7-1-93)

~~f~~g. Mountain goat -- *Oreamnos americanus*. (7-1-93)

~~g~~h. Mountain lion -- *Puma concolor*. (4-6-05)

~~h~~i. Mule deer -- *Odocoileus hemionus*. (7-1-93)

~~i~~j. Pronghorn antelope -- *Antilocapra americana*. (7-1-93)

~~j~~k. Rocky Mountain bighorn sheep -- *Ovis canadensis canadensis*. (7-1-93)

~~k~~l. White-tailed deer -- *Odocoileus virginianus*. (7-1-93)

101. CLASSIFICATION OF WILDLIFE - UPLAND GAME ANIMALS.

0~~2~~1. Upland Game Animals. (7-1-93)

a. Mountain cottontail -- *Sylvilagus nuttallii*. (4-6-05)

b. Pygmy rabbit -- *Brachylagus idahoensis*. (7-1-93)

c. Snowshoe hare -- *Lepus americanus*. (7-1-93)

~~03~~102. CLASSIFICATION OF WILDLIFE - GAME BIRDS.
Game birds includes both upland game birds and migratory game birds. (7-1-93)

~~a~~01. Upland Game Birds. (7-1-93)

~~i~~**a**. Pheasants: Chinese or ring-necked pheasant, *Phasianus colchicus*; Mongolian pheasant; mutant pheasant; Japanese green pheasant; or any hybrids thereof-*Phasianus spp*.

(4-6-05)

~~ii~~**b**. Partridge: gray (Hungarian) partridge, *Perdix perdix*; chukar, *Alectoris chukar*; and Red-legged partridge, *Alectoris rufa*. (4-6-05)

~~iii~~**c**. Quail: northern bobwhite, *Colinus virginianus*; California quail, *Callipepla californica*; mountain quail, *Oreortyx pictus*; and Gambel's quail, *Callipepla gambelii*. (7-1-93)

~~iv~~**d**. Grouse: Blue grouse, *Dendragapus obscurus*; ruffed grouse, *Bonasa umbellus*; spruce grouse, *Falcipennis canadensis*; Greater sage grouse, *Centrocercus urophasianus*; and Columbian sharp-tailed grouse, *Tympanuchus phasianellus columbianus*. (4-6-05)

~~v~~**e**. Wild turkey: Rio Grande, *Meleagris gallopavo intermedia*; Merriam's, *M. g. merriam*; and Eastern, *M. g. silvestris*. (4-6-05)

~~b~~02. Migratory Game Birds. (7-1-93)

~~i~~**a**. American coot, *Fulica americana*. (4-6-05)

~~ii~~**b**. Mourning dove, *Zenaida macroura*. (4-6-05)

~~iii~~**c**. Ducks: American black duck, *Anas rubripes*; bufflehead, *Bucephala albeola*; canvasback, *Aythya valisineria*; gadwall, *Anas strepera*; Barrow's goldeneye, *Bucephala islandica*; common goldeneye, *Bucephala clangula*; harlequin duck, *Histrionicus histrionicus*; mallard, *Anas platyrhynchos*; common merganser, *Mergus merganser*; hooded merganser, *Lophodytes cucullatus*; red-breasted merganser, *Mergus serrator*; long-tailed duck, *Clangula hyemalis*; northern pintail, *Anas acuta*; redhead, *Aythya americana*; ring-necked duck, *Aythya collaris*; ruddy duck, *Oxyura jamaicensis*; greater scaup, *Aythya marila*; lesser scaup, *Aythya affinis*; surf scoter, *Melanitta perspicillata*; white-winged scoter, *Melanitta fusca*; northern shoveler, *Anas clypeata*; blue-winged teal, *Anas discors*; cinnamon teal, *Anas cyanoptera*; green-winged teal, *Anas crecca*; American wigeon, *Anas americana*; Eurasian wigeon, *Anas penelope*; and wood duck, *Aix sponsa*. (4-6-05)

~~iv~~**d**. Geese: Brant, *Branta bernicla*; Canada goose, *Branta canadensis*; emperor goose, *Chen canagica*; Ross's goose, *Chen rossii*; snow goose, *Chen caerulescens*; and greater white-fronted goose, *Anser albifrons*. (4-6-05)

~~v~~**e**. Swans: Trumpeter swan, *Cygnus buccinator*; and Tundra swan, *Cygnus columbianus*. (4-6-05)

~~vi~~**f**. Wilson's snipe, *Gallinago delicata*. (4-6-05)

~~vii~~**g**. Greater Sandhill Crane, *Grus canadensis*. (4-6-05)

~~c~~03. American Crow. American crow, *Corvus brachyrhynchos*. (4-6-05)

103. CLASSIFICATION OF WILDLIFE - GAME FISH.

04~~1~~. **Game Fish**. Game fish includes the following fish, bullfrog and crayfish: (2-23-94)

a. American shad -- *Alosa sapidissim*. (7-1-93)

b. Arctic grayling -- *Thymallus arcticus*. (7-1-93)

c. Atlantic salmon -- *Salmo salar.* (7-1-93)

d. Bear Lake cutthroat trout -- *Oncorhynchus clarki sp*. (4-6-05)

e. Bear Lake whitefish -- *Prosopium abyssicola*. (7-1-93)

f. Black bullhead -- *Ameirus melas*. (4-6-05)

g. Black crappie -- *Pomoxis nigromaculatus*. (7-1-93)

h. Blue catfish -- *Ictalurus furcatus*. (4-6-05)

i. Blueback trout -- *Salvelinus alpinus oquassa*. (4-6-05)

j. Bluegill -- *Lepomis macrochirus.* (7-1-93)

k. Bluegill/Pumpkinseed -- *L. macrochirus x L. gibbosus* hybrid. (4-6-05)

l. Bonneville cisco -- *Prosopium gemmiferum*. (7-1-93)

m. Bonneville cutthroat trout -- *Oncorhynchus clarki utah.* (4-6-05)

n. Bonneville whitefish -- *Prosopium spilonotus*. (7-1-93)

o. Brook trout -- *Salvelinus fontinalis*. (7-1-93)

p. Brown bullhead -- *Ameirus nebulosus*. (4-6-05)

q. Brown trout -- *Salmo trutta*. (7-1-93)

r. Bull trout -- *Salvelinus confluentus*. (7-1-93)

s. Bullfrog -- *Rana catesbeiana*. (7-1-93)

t. Burbot, Ling -- *Lota lota*. (7-1-93)

u. California golden trout -- *Oncorhynchus mykiss aguabonita.* (4-6-05)

v. Channel catfish -- *Ictalurus punctatus*. (7-1-93)

w. Chinook salmon -- *Oncorhynchus tshawytscha*. (7-1-93)

x.	Coho salmon -- *Oncorhynchus kisutch*.	(7-1-93)
y.	Crayfish -- *Pacifastacus sp*. (3 species).	(2-23-94)
z.	Cutthroat trout -- *Oncorhynchus clarki*.	(7-1-93)
aa.	Finespotted cutthroat trout (Snake River) -- *Oncorhynchus clarki sp*.	(4-6-05)
bb.	Flathead catfish -- *Pylodictis olivaris*.	(7-1-93)
cc.	Green sunfish -- *Lepomis cyanellus*.	(7-1-93)
dd.	Kokanee -- *Oncorhynchus nerka kennerlyi*.	(4-6-05)
ee.	Lahotan cutthroat trout -- *Oncorhynchus clarki henshawi*.	(4-6-05)
ff.	Lake trout, Mackinaw -- *Salvelinus namaycush*.	(7-1-93)
gg.	Lake whitefish -- *Coregonus clupeaformis*.	(7-1-93)
hh.	Largemouth bass -- *Micropterus salmoides*.	(7-1-93)
ii.	Mountain whitefish -- *Prosopium williamsoni*.	(7-1-93)
jj.	Northern pike -- *Esox lucius*.	(7-1-93)
kk.	Pumpkinseed -- *Lepomis gibbosus*.	(7-1-93)
ll.	Pygmy whitefish -- *Prosopium coulteri*.	(7-1-93)
mm.	Rainbow trout -- *Oncorhynchus mykiss*.	(7-1-93)
nn.	Redband trout -- *Oncorhynchus mykiss gairdneri*.	(4-6-05)
oo.	Rainbow/cutthroat trout -- *O. mykiss* x *O. clarki* hybrid.	(2-23-94)
pp.	Sauger -- *Stizostedion canadense*.	(7-1-93)
qq.	Smallmouth bass -- *Micropterus dolomieu*.	(4-6-05)
rr.	Splake -- *S. namaycush* x *S. fontinalis* hybrid.	(2-23-94)
ss.	Sockeye salmon -- *Oncorhynchus nerka*.	(4-6-05)
tt.	Steelhead trout -- *Oncorhynchus mykiss gairdneri*.	(4-6-05)
uu.	Tiger muskie -- *Esox lucius* x *Esox masquinongy* hybrid.	(7-1-93)

vv. Walleye -- *Stizostedion vitreum*. (7-1-93)

ww. Warmouth -- *Lepomis gulosus*. (7-1-93)

xx. Westslope cutthroat trout -- *Oncorhynchus clarki lewisi*. (4-6-05)

yy. White crappie -- *Pomoxis annularis*. (7-1-93)

zz. White sturgeon -- *Acipenser transmontanus*. (7-1-93)

aaa. Yellow bullhead -- *Ameiurus natalis*. (4-6-05)

bbb. Yellow perch -- *Perca flavescens*. (7-1-93)

ccc. Yellowstone cutthroat trout -- *Oncorhynchus clarki bouvieri*. (4-6-05)

104. CLASSIFICATION OF WILDLIFE - FURBEARING ANIMALS.

0~~5~~1. Furbearing Animals. (7-1-93)

a. American badger -- *Taxidea taxus*. (4-6-05)

b. American marten -- *Martes americana*. (4-6-05)

c. American mink -- *Mustela vison*. (4-6-05)

d. Beaver -- *Castor canadensis*. (7-1-93)

e. Bobcat -- *Lynx rufus*. (4-6-05)

f. Canada lynx -- *Lynx canadensis*. (4-6-05)

g. Common muskrat -- *Ondatra zibethicus*. (4-6-05)

h. Common raccoon -- *Procyon lotor*. (4-6-05)

i. Fisher -- *Martes pennanti*. (7-1-93)

j. Northern river otter -- *Lontra canadensis*. (4-6-05)

k. Red fox -- *Vulpes vulpes*-includes all color phases found in Idaho. (7-1-93)

10~~4~~5. -- 149. (RESERVED).

150. THREATENED OR ENDANGERED SPECIES.

01. Definitions. (7-1-93)

a. Endangered: Any native species in danger of extinction throughout all or a significant portion of its Idaho range. (4-6-05)

b. Threatened Species: Any native species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range. (4-6-05)

02. Endangered Species. (7-1-93)

a. Burbot, Ling -- *Lota lota*. (4-6-05)

b. Pacific lamprey -- *Lampetra tridentata*. (7-1-93)

c. Sockeye salmon -- *Oncorhynchus nerka*. (7-1-93)

d. White sturgeon (Kootenai River population) -- *Acipenser transmontanus*. (7-1-93)

e. Woodland caribou -- *Rangifer tarandus caribou*. (4-6-05)

03. Threatened Species. (7-1-93)

~~***a.*** *Bald eagle -- Haliaeetus leucocephalus.* *(4-6-05)*~~

~~***b***~~**a.** Bull trout -- *Salvelinus confluentus*. (7-1-93)

~~***c***~~**b.** Canada lynx -- *Lynx canadensis*. (4-6-05)

~~***d***~~**c.** Chinook salmon, spring, summer, and fall -- *Oncorhynchus tshawytscha*. (4-6-05)

~~***e.*** *Grizzly bear -- Ursus arctos horribilis.* *(4-6-05)*~~

~~***f***~~**d.** Northern Idaho ground squirrel -- *Spermophilus brunneus brunneus*. (4-6-05)

~~***g.*** *Peregrine falcon -- Falco peregrinus.* *(4-6-05)*~~

~~***h***~~**e.** Steelhead trout (Snake River) -- *Oncorhynchus mykiss gairdneri*. (4-6-05)

151. -- 199. (RESERVED).

200. PROTECTED NONGAME SPECIES.

01. Mammals. (7-1-93)

a. American pika -- *Ochotona princeps*. (4-6-05)

b. Bats -- all species. (4-6-05)

c. Chipmunks -- *Neotamias spp*. (4-6-05)

d. Columbia Plateau (Merriam's) ground squirrel -- *Spermophilus canus vigilis*. (4-6-05)

e. Golden-mantled ground squirrel -- *Spermophilus lateralis*. (7-1-93)

f. Great Basin (piute) ground squirrel -- *Spermophilus canus vigilis*. (4-6-05)

g. Kit fox -- *Vulpes macrotis*. (7-1-93)

h. North American wolverine -- *Gulo gulo luscus*. (4-6-05)

i. Northern flying squirrel -- *Glaucomys sabrinus*. (7-1-93)

j. Red squirrel -- *Tamiasciurus hudsonicus*. (7-1-93)

k. Rock squirrel -- *Spermophilus variegatus*. (4-6-05)

l. Southern Idaho ground squirrel -- *Spermophilus brunneus endemicus*. (4-6-05)

m. Wyoming ground squirrel -- *Spermophilus elegans nevadensis*. (4-6-05)

02. **Birds**. ~~*All native species. Except:*~~ ~~*(4-6-05)*~~( )

a. Bald eagle -- *Haliaeetus leucocephalus*. ( )

b. Peregrine falcon -- *Falco peregrinus*. ( )

~~**a**~~**c**. All native species, except game birds~~.~~ and ~~*(7-1-93)*~~

~~**b.**~~ ~~*T*~~threatened ~~*or*~~ and endangered wildlife. ~~*(7-1-93)*~~( )

03. **Amphibians**. All native species (4-6-05)

04. **Reptiles**. All native species. (4-6-05)

05. **Fish**. (4-6-05)

a. Bear Lake sculpin -- *Cottus extensus*. (4-6-05)

b. Leatherside chub -- *Gila copei*. (4-6-05)

c. Sand roller -- *Percopsis transmontana*. (4-6-05)

d. Shoshone sculpin -- *Cottus greenei*. (4-6-05)

e. Wood River sculpin -- *Cottus leiopomus*. (4-6-05)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN IDAHO

DOCKET NO. 13-0108-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Adds gray wolves to the big game rules in preparation for Commission season setting when wolves are delisted; authorizes the over-the-counter sale of certain leftover controlled hunt tags based on the dates of the hunt; allows certain handguns to be used in Short-Range Weapon hunts; corrects terminology for landowner permission controlled hunt applications and mandatory check and report requirements; deletes obsolete references.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 69 through 84.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) 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 September 16, 2009.

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:

Adds gray wolves to the big game rules in preparation for Commission season setting when wolves are delisted; authorizes the over-the-counter sale of certain leftover controlled hunt tags based on the dates of the hunt; allows certain handguns to be used in Short-Range Weapon hunts; corrects terminology for landowner permission controlled hunt applications and mandatory check and report requirements; deletes obsolete references.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sharon Kiefer (208) 287-2780.

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 September 23, 2009.

DATED this 29th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

200. BAG AND POSSESSION LIMITS.
No person may take more than one (1) deer, elk, antelope, moose, bighorn sheep, mountain goat, ~~or~~ black bear, or gray wolf during a calendar year EXCEPT: ~~(7-1-93)~~( )

01. Depredation Hunts. In depredation hunts, one (1) additional deer, elk or antelope may be taken by persons holding permit/tags for those hunts, EXCEPT those depredation hunt permittees who were selected for depredation hunts prior to the controlled season for the unit(s) in which they hold a controlled hunt permit must include any animal they harvest within the restrictions imposed by the controlled hunt permit (no person may take more than one (1) animal per year by using depredation and controlled hunt permit). (7-1-93)

02. Extra Tag Hunts. In extra tag hunts, one (1) additional deer, elk or antelope may be taken by persons holding tags for those hunts. (7-1-93)

03. Limits on Take -- Deer, Elk, Antelope. In no event shall any person take more deer, elk or antelope in a calendar year than the number of tags the person legally possesses for each species. (3-30-01)

04. Limits on Take -- Mountain Lion. No person may take more mountain lions during a calendar year than the number of tags the person legally possesses for mountain lions. (3-30-01)

05. Limits on Take - Black Bear. No person may take more black bears during a calendar year than the number of tags the person legally possesses for black bears. (3-30-01)

06. Limits on Take -- Gray Wolf. No person may take more gray wolves during a calendar year than the number of tags they legally possess for gray wolves. ( )

201. -- 249. (RESERVED).

250. TAGS AND PERMITS.
No person shall hunt big game animals without having in possession the appropriate hunting license, tags, stamps and permits. (7-1-93)

01. Use of Tags. (7-1-93)

a. Permit/Tags issued for moose, bighorn sheep, mountain goat and antelope may be used only in the controlled hunt for which the permittee was drawn. (7-1-93)

b. Tags issued for antelope archery hunts may be used only in general archery hunts. (7-1-93)

c. Extra tags issued for deer, elk or antelope may be used only in the hunt area for which the tags are issued. (7-1-93)

d. Any person who purchases a tag to hunt black bear, or archery antelope, who is unsuccessful in killing an animal, and who is subsequently drawn for a controlled hunt permit, including an antelope landowner preference permit, must return the unused tag to a Department office not later than August 10 to exchange the tag for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-20-97)

e. Tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-5-00)

f. Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)

i. Regular Deer:

TYPE OF TAG	SEASONS
Resident (Type 311)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
Resident (Type 330)	Extra Any antlerless deer tag season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Senior Resident (Type 330)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident	To Hunt Deer in Units 75, 76, 77, and 78 you must have your deer tag validated for use in these units. These tags are limited to one thousand two-hundred (1200) nonresident tags and will be issued by lottery. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20
Nonresident (Type 411)	Any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn, or may be used to tag a black bear or mountain lion during the Regular deer season when the black bear or mountain lion season is open.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

(4-6-05)

~~*ii. Clearwater Deer.*~~

~~*TYPE OF TAG*~~	~~*SEASONS*~~
~~*Resident Clearwater*~~	~~*To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.*~~

~~TYPE OF TAG~~	~~SEASONS~~
~~Resident Extra Clearwater~~	~~To hunt an extra any-antlerless deer tag season in Units 8, 8A, 10A, 11A, 14, and 15. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.~~
~~Senior Resident Clearwater~~	~~To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.~~
~~Nonresident Clearwater~~	~~To hunt deer in any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region and may be used to tag a black bear or mountain lion during the Clearwater deer season when the black bear or mountain lion season is open. Regular Deer tags are not valid in these units.~~

~~(4-6-05)~~

ii~~i~~. Elk A Tag: Valid only for A Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any elk archery, muzzleloader or general season in A Tag elk seasons in specific zones.
Senior Resident	Any elk archery, muzzleloader, or general season in A Tag seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A Tag elk seasons in specific zones, or controlled hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the ~~and~~ Tag permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

~~(4-6-05)~~(_____)

i~~v~~ii. Elk B Tag: Valid only for B Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Senior Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Nonresident	Any elk controlled hunt for which the permittee was drawn or any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.

TYPE OF TAG	SEASONS
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Permit and Extra Tag	Only the designated controlled and extra tag hunt for which the permittee was drawn.

(4-6-05)

iv. Super Tag.

TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and "Super" Tag	Valid for either antelope, deer or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.

(3-15-02)

g. Nonresident Junior Mentored Deer tags are not valid for bear, ~~or~~ mountain lion, or gray wolf. ~~(4-6-05)~~( )

h. Any person hunting with a Nonresident Junior Mentored License or tag must be accompanied in the field by an adult license holder close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. (4-6-05)

i. Any adult accompanying the holder of a Nonresident Junior Mentored Tag must have a tag for the same species, valid in the same area. (4-6-05)

j. Regular tags issued for gray wolf may be used ONLY as allowed by the gray wolf seasons and quotas set by Commission proclamation under Section 36-105(3), Idaho Code. The proclamation is published in a brochure available at Department offices and license vendors. ( )

02. Return of Tags by Unsuccessful Permittees. Permittees who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (5-15-95)

03. Archery and Muzzleloader Permits. Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

260. PERMITS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Permits. No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

a. A controlled hunt area with an "X" suffix is an extra tag hunt. (10-26-94)

b. In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

c. Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

d. Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

e. Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

f. Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

g. Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

h. Any person who receives a fall controlled hunt permit for black bear is prohibited from hunting in any other fall bear hunts -- September 15 to October 31. (10-26-94)

02. Nonresident Permit Limitations. (3-20-04)

a. In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-6-05)

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt permits shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In

addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt permits that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-20-04)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt. (4-6-05)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (3-15-02)

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. ~~*(10-26-94)*~~( )

d. Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram or a moose on any controlled hunt may not apply for a permit for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-5-00)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe

controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (7-1-93)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit. (7-1-93)

h. Any person who has killed an antlered moose in Idaho may not apply for a moose permit for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a permit for antlerless moose EXCEPT that any person may apply for permits remaining unfilled after the controlled hunt draw. (4-11-06)

i. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)

j. Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag. (7-1-93)

k. Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." (7-1-99)

l. Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application. (4-11-06)

04. Applications. Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (10-26-94)

a. Spring black bear - Application period - January 15 - February 15. (4-6-05)

b. Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30. (4-6-05)

c. Deer, elk, antelope, ~~*and*~~ fall black bear, and gray wolves - Application period for first drawing - May 1 - June 5. ~~*(3-30-07)*~~( )

d. Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15 - 25. (4-6-05)

e. Deer, elk, antelope, ~~*and*~~ fall black bear, and gray wolves - Application period for

second drawing - August 5 - 15. ~~*(4-6-05)*~~(____)

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)

b. Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts or controlled hunt permit/extra tag hunts. (10-26-94)

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, ~~*and*~~ lion, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, ~~*or*~~ mountain lion, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. ~~*(4-6-05)*~~(____)

e. Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-15-02)

f. A “group application” for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

g. A “group application” for moose, bighorn sheep, mountain goat, ~~*and*~~ black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. ~~*(10-26-94)*~~(____)

h. If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

i. Landowner permission hunt permits will be sold first-come, first-served basis at the ~~*Nampa, McCall and Headquarters*~~ regional offices of the Idaho Department of Fish and Game after July 15. ~~*(7-1-98)*~~( )

06. Refunds of Controlled Hunt Fees. (7-1-93)

a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar ($1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

d. Overpayment of fees of more than five dollars ($5) will be refunded. Overpayment of five dollars ($5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

07. Controlled Hunt Drawing. 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. (7-1-93)

08. Unclaimed Permits. Successful applicants for the first deer, elk, black bear, gray wolf, or antelope controlled hunt drawing must purchase and pick up their controlled hunt permit and tag by August 1. All controlled hunt tags and permits not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags and permits left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. ~~*(4-6-05)*~~( )

09. Second Drawing Exclusion. The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. ( )

(BREAK IN CONTINUITY OF SECTIONS)

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

01. Big Game Animals of Either Sex. Big game animals of either sex may be taken as noted below: (7-1-93)

a. Mountain Goat. Either sex may be taken EXCEPT nannies accompanied by kids. (7-1-93)

b. Black Bear. Either sex may be taken EXCEPT female black bears accompanied by young. (7-1-93)

c. Mountain Lion. Either sex may be taken EXCEPT spotted young or females accompanied by young. (7-1-93)

d. Gray Wolf. Either sex may be taken. ( )

02. Seasons Restricted to Antlered or Male Animals Only. (7-1-93)

a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season which is open for antlered deer only. (7-1-93)

b. Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any season which is open for two-point deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

c. Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season which is open for three-point or larger deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (3-15-02)

d. Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including the brow point or tine, may be taken in any season that is open for four-point or larger deer only. (4-6-05)

e. Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. (7-1-99)

f. Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

g. Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. (3-15-02)

h. Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. (7-1-93)

i. Bighorn Sheep. Only bighorn sheep rams having three-fourths (3/4) curl or greater horns or exceeding four (4) years of age may be taken in any hunt open for rams only. Determination of a three-fourths (3/4) curl shall be made from a broad side view of the head. A

ram shall be considered three-fourths (3/4) curl if an imaginary straight line extending downward from the front of the base of the horn through the center of the eye socket intersects any portion of the horn. (7-1-93)

03. Seasons Restricted to Antlerless or Female Animals Only. (7-1-93)

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season which is open for antlerless deer only. (7-1-93)

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season which is open for antlerless elk only. (7-1-93)

c. Antelope. Only antelope without a black "cheek patch" or horns less than three (3) inches long may be taken during doe and fawn only antelope seasons. (7-1-93)

d. Bighorn Sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. (7-1-93)

e. Moose. Only moose without antlers or with antlers less than six (6) inches long may be taken in any season which is open for antlerless moose only. (7-1-93)

301. -- 319. (RESERVED).

320. TAG VALIDATION AND ATTACHMENT AND PROXY STATEMENT.

01. Tag. Immediately after any deer, elk, antelope, moose, bighorn sheep, mountain goat, mountain lion, ~~or~~ black bear, or gray wolf is killed, the appropriate big game animal tag must be validated and securely attached to the animal. ~~(7-1-93)~~( )

a. Validation. Cut out and completely remove only the two (2) triangles indicating the date and month of kill. (7-1-93)

b. Attachment of Tag. (7-1-93)

i. Deer, elk, antelope, moose, mountain goat, black bear, and bighorn sheep: to the largest portion of the carcass to be retained by the hunter or any person transporting for the hunter. The tag must remain attached during transit to a place of processing and must remain attached until the meat is processed. The validated tag must accompany the processed meat to the place of final storage or final consumption. (10-26-94)

ii. Mountain lion and gray wolf: To the hide. ~~(7-1-93)~~( )

02. Proxy Statement. Any person transporting or possessing any portion of a carcass of a big game animal or processed big game animal meat taken by another must have in possession a written statement signed by the taker showing the number and kinds of animals, the date taken, the taker's name and address, the taker's hunting license number, and the taker's tag and/or permit number. (7-1-93)

321. -- 349. (RESERVED).

350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Evidence of Sex. Evidence of sex must be left naturally attached to the carcass of any big game animal. (4-6-05)

a. In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND the horns or antlers must accompany the carcass while in transit. (7-1-93)

b. In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit. (7-1-93)

c. In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, antelope or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption. (7-1-93)

d. The entire head of antlerless male elk, moose, deer, or antelope or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter until the carcass reaches the final place of storage or consumption. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption, AND the lower jaw must accompany the carcass while in transit. (7-1-93)

e. For black bear, ~~*and*~~ mountain lion, and gray wolf external evidence of sex (either scrotum, penis or testicles for males, or vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with. ~~*(7-1-98)*~~( )

02. Evidence of Species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass. (7-1-93)

03. Evidence of Size. Any hunter taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department. (7-1-93)

04. Other. The Department may designate seasons and areas in which the head or lower jaw must accompany the carcass in transit. (7-1-93)

351. WASTE OF GAME MEAT.
Hunters are required to remove and care for the edible meat of big game animals, except mountain lions and gray wolves. This includes the meat of the front quarters as far down as the knees, hindquarters as far down as the hock, neck meat, meat along the backbone and meat covering the ribs. It does not include meat of the head, internal organs and meat on the bones after close trimming. ~~*(4-5-00)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

410. UNLAWFUL METHODS OF TAKE.
No person shall take big game animals as outlined in this section. (7-1-93)

01. Firearms. (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

d. With a fully automatic firearm. (10-26-94)

e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope; except scopes containing battery powered or tritium lighted reticles are allowed. (4-2-08)

02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives. (3-20-97)

a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. (7-1-93)

b. With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

c. With any chemicals or explosives attached to the arrow or bolt. (7-1-93)

d. With arrows or bolts having expanding broadheads. (7-1-93)

e. With arrows or bolts having barbed broadheads. A barbed broadhead is a

broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)

f. With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)

g. With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)

h. With any compound bow with more than eighty-five percent (85%) let-off. (4-2-08)

i. With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. (4-2-08)

j. With an arrow less than twenty-four (24) inches or a crossbow bolt less than twelve (12) inches in length from the broadhead to the nock inclusive. (4-2-08)

k. With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)

l. During an "*Archery Only*" season, with any firearm, crossbow (except holders of handicapped archery permits), or other implement other than a longbow, compound bow, or recurve bow, or: (3-30-07)

i. With any device attached that holds a bow at partial or full draw (except holders of handicapped archery permits). (3-30-07)

ii. With any bow or crossbow equipped with magnifying sights. (3-20-97)

m. During a "*Traditional Archery Only*" season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-15-02)

i. With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)

ii. With any bow equipped with sights. (3-15-02)

n. With any crossbow pistol. (3-20-97)

03. Muzzleloaders. (7-1-93)

a. With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope, ~~*or*~~ mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ~~*(7-1-93)*~~(____)

b. With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)

c. During a "*Muzzleloader Only*" season, with any firearm, muzzleloading pistol or other implement other than a muzzleloading rifle or musket that: (7-1-93)

i. Is at least forty-five (.45) caliber for deer, antelope, ~~*or*~~ mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. ~~*(7-1-93)*~~( )

ii. Is capable of being loaded only from the muzzle. (7-1-93)

iii. Is equipped only with open or peep sights. (7-1-93)

iv. Is loaded only with loose black powder or, loose Pyrodex or other loose synthetic black powder. Pelletized powders are prohibited. (4-2-08)

v. Is equipped with no more than two (2) barrels. (7-1-93)

vi. Is loaded only with a projectile with a diameter within one hundredth (.01) of an inch of the bore diameter. Sabots are prohibited. (4-2-08)

vii. Is equipped only with flint, musket cap, or percussion cap. 209 primers are prohibited. (4-2-08)

viii. Is equipped with an exposed pivoting hammer and has an exposed ignition system. (4-2-08)

ix. Is loaded only with a patched round ball or conical non-jacketed projectile comprised wholly of lead or lead alloy. Sabots are not allowed. (4-11-06)

04. Short-Range Weapon. During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)

b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, ~~*or*~~ mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ~~*(7-1-99)*~~( )

c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)

d. With any handgun using straight wall centerfire cartridges not originally developed for rifles. ( )

05. Other. (7-1-93)

a. With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42

and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (3-15-02)

b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, "Rules Governing the Use of Bait for Taking Big Game Animals." (3-30-01)

c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs." (7-1-93)

d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)

e. Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule shall not apply to domestic cervidae which are lawfully privately owned elk, fallow deer, or reindeer. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

412. MOTORIZED VEHICLE USE RESTRICTION UNITS.
The motorized vehicle use restriction applies to areas and hunts in units 29, 30, 30A, 32, 32A, 36A, 37, 37A, 39, 45, 47, 48, 49, 50, 51, 52, 53, 56, 57, 58, 59, 59A, 66, 66A, 69, 70, 72 (late season), 73, 75, 76, 77, and 78. The specific hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. ~~*(4-2-08)*~~(____)

413. -- 419. (RESERVED).

420. MANDATORY CHECK AND REPORT REQUIREMENTS.
Any hunter killing black bear, ~~*Panhandle elk,*~~ moose, bighorn sheep or mountain goat, or mountain lion in a unit with no female lion quota must, WITHIN TEN (10) DAYS OF THE DATE OF KILL, or any hunter killing mountain lion in a unit with a female quota must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, or any hunter killing a gray wolf must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, comply with the mandatory check and report requirements by: ~~*(4-5-00)*~~(____)

01. Harvest Report. Completing the relevant harvest report (big game mortality report or other report form as required) for the species taken. (4-6-05)

02. Presentation of Animal Parts. Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: (7-1-93)

a. Bear: Skull and hide to be presented to a conservation officer, regional office or

official check point for removal and retention of premolar tooth and to have the hide marked. No person, who does not possess a fur buyer or taxidermist license and/or appropriate import documentation, shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear pelt which does not have an official state export tag attached (either Idaho's or another state's official export ~~*tag*~~ documentation). ~~*(7-1-93)*~~(____)

b. Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. No person, who does not possess a fur buyer or taxidermist license and/or appropriate import documentation, shall have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion pelt which does not have an official state export tag attached (either Idaho's or another state's official export ~~*tag*~~ documentation). ~~*(7-1-93)*~~(____)

c. Gray Wolf: Skull and hide to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. No person who does not possess a fur buyer or taxidermist license and/or appropriate import documentation shall have in possession, except during the open season and for five (5) days after the close of the season, any raw gray wolf pelt that does not have an official state export tag attached (either Idaho's or another state's official export documentation). (____)

~~*c*~~**d.** Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. (7-1-93)

~~*d*~~**e.** Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. (7-1-93)

~~*e*~~**f.** Mountain Goat: Horns to be presented to a conservation officer or regional office. (7-1-93)

03. Authorized Representative. A hunter may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

422. MANDATORY WOLF TELEPHONE REPORT.
In addition to other check and reporting requirements, any hunter killing a gray wolf must report the harvest within twenty-four (24) hours by calling the Wolf Reporting Number, a toll-free telephone number published in the gray wolf season brochure available at Department offices and license vendors. (____)

(BREAK IN CONTINUITY OF SECTIONS)

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

01. Restricted Areas for Big Game. Hunting, killing, or molesting of any big game animal is prohibited in the following areas: (7-1-93)

a. Craters of the Moon National Monument and Preserve in Blaine and Butte Counties; the boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. All of the lands added to the Monument and Preserve remain open to hunting, while lands within the former National Monument remain closed to hunting. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. (4-6-05)

b. All state parks, EXCEPT Farragut State Park that has a November/December deer archery season, Billingsley Creek at Malad Gorge State Park, Castle Rock State Park and state land within the City of Rocks National Reserve are all open to hunting; (4-6-05)

c. Harriman State Park Wildlife Refuge. (4-6-05)

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and the Boise City limits; (4-6-05)

f. Yellowstone National Park in Fremont County; (7-1-93)

g. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action; (7-1-93)

h. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges; and, (7-1-93)

i. All Snake River islands between the Glenns Ferry bridge and the Sailor Creek bridge in Elmore County. (7-1-93)

j. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River. The upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river. (3-20-97)

02. Mountain Lions <u>and Gray Wolves</u>. Mountain lion <u>or gray wolf</u> may not be hunted or pursued within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. ~~*(7-1-93)*~~<u>( )</u>

03. Black Bear <u>and Gray Wolves</u>. Black bear <u>or gray wolf</u> may not be hunted or pursued within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. ~~*(7-1-93)*~~<u>( )</u>

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0109-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-408 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Allow Senior and Disabled hunters to apply for leftover first come, first served youth-only controlled hunt turkey tags.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 85 to 87.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b), 36-408 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 September 16, 2009.

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:

Allows Senior and Disabled hunters to apply for leftover first come, first served youth-only controlled hunt turkey tags.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 30th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. TAGS, STAMPS, PERMITS, AND VALIDATIONS.

01. Sage Grouse or Sharp-Tailed Grouse. No person shall hunt sage or sharp-tailed grouse anywhere within the state, except licensed shooting preserves, without having in his or her possession the appropriate hunting license that has been validated for sage grouse and sharp-tailed grouse. The validation shall be valid from January 1 through December 31 of each year. (5-8-09)

02. Migratory Game Birds. No person shall hunt ducks, geese, brant, coots, common snipe, sandhill cranes, or mourning doves anywhere within the state, without having in his or her possession the appropriate hunting license that has been validated for the Federal Migratory Game Bird Harvest Information Program. The validation shall be valid from January 1 through December 31 of each year. (7-1-98)

03. Wild Turkey. No person shall hunt wild turkey without having in his or her possession the appropriate hunting license, tag, and controlled hunt permit. Persons obtaining and using tags, stamps, and permits must comply with the following requirements: (7-1-98)

a. There are three (3) turkey tags available each calendar year. These are the general tag, extra tag, and special unit tag. Only three (3) turkey tags of the following may be purchased each year; general and extra. In addition to the previously mentioned three (3) turkey tags, three (3) special unit tags may also be purchased. A hunter may not obtain both a spring general and a spring controlled turkey tag during the spring. (5-8-09)

b. Permits for Controlled Hunts: Any person who receives a controlled hunt permit for wild turkey is prohibited from using that permit/tag to hunt in any other wild turkey hunt. (4-5-00)

c. Nonresident permit limitations: On controlled hunts with ten (10) or fewer permits, not more than one (1) permit will be issued to nonresidents. On controlled hunts with more than ten (10) permits, not more than ten percent (10%) of the permits may be issued to nonresidents. (7-1-98)

d. Eligibility: The holders of valid hunting licenses are eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

i. Holders of a Type 208 Nongame Hunting License may not apply for any controlled hunt. (7-1-93)

ii 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. (7-1-93)

e. Applications: Applications for spring and fall controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than February 15 for spring hunts and July 15 for fall hunts, annually. Applications must comply with the following requirements: (5-8-09)

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. (7-1-93)

ii. Only one (1) application card per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (7-1-93)

iii. Fees: All applicants for controlled hunts must submit a non-refundable application fee with their application; one dollar ($1) of this fee may be donated to the Citizens Against Poaching Program. (5-8-09)

iv. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (2-7-95)

v. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (2-7-95)

vi. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (7-1-93)

vii. All spring wild turkey hunters may apply for a Fall turkey controlled hunt permit during the same calendar year. (3-30-01)

f. 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. (7-1-93)

g. Tag validation and attachment: Immediately after any wild turkey is killed, the turkey tag must be validated and securely attached to the wild turkey. (7-1-93)

h. To validate the tag, the hunter must cut out and completely remove two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (7-1-93)

i. The tag must remain attached so long as the turkey is in transit or storage. (7-1-93)

j. The Commission establishes youth-only controlled hunts by proclamation. Only hunters twelve (12) to seventeen (17) years of age with a valid license may apply for youth-only controlled hunts, 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. (____)

04. Early September Canada Goose Hunts. (7-1-98)

a. Controlled Hunts: No person shall hunt Canada geese during controlled, early September seasons (September 1-15) without having in his or her possession the appropriate

hunting license and controlled hunt permit. Persons obtaining and using controlled hunt permits must comply with the following requirements: (7-1-98)

i. Applications: Applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than July 15, annually. Applications must comply with the following requirements: (4-5-00)

ii. Fees: All applicants for controlled hunts must submit a nonrefundable application fee with their application; one dollar ($1) of this fee may be donated to the Citizens Against Poaching Program. Successful applicants will be issued a permit that entitles them to hunt. The Federal Migratory Bird Stamp is required by any person seventeen (17) years of age and older, respectively (Title 50 Code of Federal Regulations, Part 20). (3-30-01)

iii. The following rules previously established for wild turkey also apply to early September Canada goose hunts: Subsections 100.03.b., 100.03.c., 100.03.d., 100.03.e.ii., 100.03.e.iv. through 100.03.e.vi., and 100.03.f. (3-30-01)

iv. Any controlled hunt permits for Canada geese that remain unsold after the controlled hunt drawing may be sold by the Department on a first-come, first-served basis. (7-1-98)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0110-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-501 and 36-504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Allow the possession and sale of bones from lawfully harvested or naturally dying big game animals. Delete an obsolete reference to an antler pick-up season in Eastern Idaho.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 88 and 89.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b), 36-501 and 36-504, 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 16, 2009.

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:

Allows for the possession and sale of bones from lawfully-harvested or naturally-dying big game animals. Deletes an obsolete reference to an antler pick-up season in Eastern Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

300. RECOVERY, POSSESSION AND SALE OF WILDLIFE PARTS.

01. Wildlife Legally Killed. (3-23-94)

a. The possession, sale and purchase of wildlife or parts of wildlife that have been legally killed is lawful except as provided below and as provided in Chapter 5, Title 36, Idaho Code. (3-23-94)

i. The edible flesh of wildlife classified as big game animals, upland game animals, game birds or migratory birds taken from the wild may not be purchased, bartered or sold. (3-23-94)

ii. The edible flesh of wildlife classified as game fish or crustacea that are taken from the wild may not be purchased, bartered or sold except as provided in Idaho Code Sections 36-501 and 36-801 through 36-805 and rules promulgated pursuant thereto. (3-23-94)

b. A written statement showing the taker's name, address, license and tag numbers, date and location of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Idaho Department of Fish and Game within ten (10) days after such sale. (3-23-94)

02. Animals Found Dead. Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department of Fish and Game. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but ONLY under the conditions specified and ONLY if the wildlife has NOT been unlawfully killed. Natural causes shall not include any man-caused mortality. (7-1-98)

a. Horns of Bighorn Sheep. (7-1-93)

i. Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed but may not be sold, bartered or purchased and may not be transferred to another person without a permit issued by the Director. All such pickup horns must be presented to an Idaho Department of Fish and Game regional or subregional office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. The insertion of a pin does not in itself certify that the animal was legally taken or possessed. The pin only identifies the horn(s) and indicates that mandatory check and report requirements were complied with. (3-23-94)

ii. No person shall alter, deface or remove a pin placed in a bighorn sheep horn by the Idaho Department of Fish and Game. No person shall possess the horn(s) of a bighorn sheep that bears an altered, defaced or counterfeit Idaho pin or from which the Idaho pin has been removed. (3-23-94)

b. Antlers, bones, and horns of deer, elk, moose, pronghorn ~~*antelope*~~ and mountain goat, ~~*and*~~ parts of bear and mountain lion and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold. ~~*(3-23-94)*~~( )

~~***c.*** *Antlers of deer, elk and moose that have been naturally shed in Idaho may be recovered, possessed, purchased or sold year around, EXCEPT in units 60, 60A, 66, 66A, 67, 68, 68A, 69, 70, 71, 72, 73, 73A, 74, 75, 76, 77 and 78 antlers may be picked up in the field only from May 1 through December 31.* *(7-1-99)*~~

03. Wildlife Taken in Other States. Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such sale is not prohibited in Idaho or the state, province or country where taken, or by federal law or regulation; (3-23-94)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Biennial updating and correction of fishing rules, and addressing management and anglers' concerns. The proposed changes include:

1) **Eliminating the definition of 'no bait';**
2) **Correct wording regarding the two pole permit;**
3) **Require a sliding sinker for sturgeon fishing;**
4) **Allow unlimited poles for boat fishing on Lake Pend Oreille in conjunction with the Angler Incentive Program;**
5) **Amend requirements for trapping or seining minnows or crayfish;**
6) **Eliminate statewide bag and possession limits to allow regional limits;**
7) **Require a maximum 5/8" hook gap for steelhead fishing;**
8) **Correct wording regarding steelhead and salmon permits and recording of harvested fish.**

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 273 through 282.

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 negative fiscal impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) and 36-901, 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 21, 2009.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Biennial updating and correction of fishing rules, and addressing management and anglers' concerns. The proposed changes include:

1) **Eliminating the definition of 'no bait';**
2) **Correct wording regarding the two pole permit;**
3) **Require a sliding sinker for sturgeon fishing;**
4) **Allow unlimited poles for boat fishing on Lake Pend Oreille in conjunction with the Angler Incentive Program;**
5) **Amend requirements for trapping or seining minnows or crayfish;**
6) **Eliminate statewide bag and possession limits to allow regional limits;**
7) **Require a maximum 5/8" hook gap for steelhead fishing;**
8) **Correct wording regarding steelhead and salmon permits and recording of harvested fish.**

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal

impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Bill Horton (208) 287-2783.

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 28, 2009.

DATED this 26th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. DEFINITIONS.
For the purposes of this chapter, the following terms will be defined as follows: (3-20-97)

01. Artificial Fly. Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. (3-20-97)

02. Artificial Lure. Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. No bait of any kind may be used with artificial lures when fishing artificial flies and lures-only waters. (3-20-97)

03. Bag Limit. The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day. The term “bag limit” shall be construed to be an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his “bag limit” toward filling the “bag limit” of another. The bag and possession limits are equal except for salmon and steelhead. (3-20-97)

04. Bait. Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. (Live fish prohibited.) (See: Subsection 004.19 - NO BAIT.) (3-20-97)

05. Barbless Hook. A fish hook without barbs or on which barbs have been bent completely closed. (3-20-97)

06. Catch-and-Release. Effort, by permitted methods, to catch or attempt to catch a

fish or species of fish is lawful, with the restriction that any fish so caught must be released immediately, unharmed, back to the water. NOTE: Species of fish not specifically listed as catch-and-release may be harvested under their appropriate limits. (3-30-07)

07. Confluence of a Stream or River. The point where two (2) rivers or streams come together. (3-20-97)

08. Electric Motors Only. When fishing waters listed "electric motors only," gas (internal combustion) motors may be attached to the boat; but use of the gas motor is prohibited. (3-20-97)

09. Fishing. Any effort made to take, kill, injure, capture, or catch any fish, crayfish, or bullfrog. (3-20-97)

10. Float Tube. A floating device that suspends a single occupant, from the seat down, in the water, and is not propelled by oars, paddles, or motors. (4-6-05)

11. Fly Fishing. Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)

12. Game Fish. Brook, brown, bull (Dolly Varden), cutthroat, golden, lake (Mackinaw), rainbow (including steelhead), splake and sunapee trout; trout hybrids; Chinook, coho, Atlantic and kokanee (blueback) salmon; grayling; whitefish; cisco; crappie; perch; bass; catfish; bullheads; sunfish; sturgeon; northern pike; tiger muskie; walleye and sauger; and burbot (ling). Bullfrogs and crayfish are also defined as game fish. (4-6-05)

13. Harvest. Reduce a fish to possession. (3-20-97)

14. Hook. A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically prohibited. (3-20-97)

15. Ice Fishing. Fishing through an opening broken or cut through the ice. (3-20-97)

16. Length. The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)

17. Motor. Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)

18. Mouth of River or Stream. The place where a river or stream enters a larger body of water. (3-20-97)

~~***19. No Bait**. Requires the use of artificial flies or lures, with one (1) barbless hook ONLY per fly or lure. (3-20-97)*~~

~~***20***~~**19. No Motors**. Fishing from a boat with a motor attached is prohibited. (3-20-97)

2~~*1*~~**0. Possession Limit**. Maximum number of fish that may be lawfully in possession of

any person. "Possession limit" shall apply to fish while in the field or being transported to the final place of consumption or storage. (3-20-97)

2~~2~~1. **Reservoir**. The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-20-97)

2~~3~~2. **Season Limit**. The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)

23. **Sliding Sinker**. A method of attaching a sinker to a device that slides freely on the main line. The line used to attach the sinker to the sliding device must be of lower breaking strength than the main line. (____)

24. **Snagging**. Taking or attempting to take a 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. Game fish which are hooked other than in the jaw or mouth must be released immediately. (4-6-05)

25. **Steelhead**. Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Lemhi and the Pahsimeroi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam, and lakes). Rainbow trout longer than twenty (20) inches in length with the adipose fin clipped (as evidenced by a healed scar) are defined as steelhead in the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam~~*, and in the Payette River from its mouth upstream to Black Canyon Dam during steelhead seasons*~~. ~~*(4-6-05)*~~(____)

26. **Tributary**. A stream flowing into a larger stream or lake. (3-20-97)

27. **Trout**. Includes the following trout family fishes: brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow, splake, Sunapee; trout hybrids; and the landlocked forms of Chinook, coho, Atlantic and kokanee (blueback) salmon. (3-30-07)

28. **Unattended Line**. A line not under the immediate surveillance by the angler. (3-20-97)

29. **Unprotected Nongame Fish**. All fish species other than game fish and protected nongame fish. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

201. FISHING METHODS AND GEAR.
Unless modified by a regional exception, the following fishing methods and restrictions are applicable in all Idaho waters. (3-20-97)

01. Archery and Spear Fishing. Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of bullfrogs and unprotected nongame fish, and only in those waters during the season set for the taking of game fish. (7-1-99)

02. Bait Restricted. It is unlawful to fish with bait in waters designated as artificial flies and lures only, fly fishing only, or no bait. (3-30-07)

03. Barbed Hooks. It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead or Chinook salmon with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. It is unlawful to fish in no bait waters with barbed hooks. ~~*(3-30-07)*~~( )

04. Fishing Gear. It is unlawful to fish in any waters of Idaho with more than one (1) handline or pole with a line attached, except a person with a two (2) pole ~~*validation*~~ permit may use two (2) poles; or with more than five (5) lines while ice fishing; or by archery, spearfishing, snagging, hands, and netting except as permitted. Not more than five (5) hooks may be attached per line. The line or lines must be attended by the person fishing. In conjunction with the Angler Incentive Program, unlimited poles and lines may be used while fishing from a boat on Lake Pend Oreille. A sliding sinker must be used when fishing for sturgeon. ~~*(4-6-05)*~~( )

05. Fishing Shelters. Any enclosure or shelter which is left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. (7-1-99)

06. Gaff Hook. It is unlawful to land fish of any species with a gaff hook except through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species. (3-20-97)

07. Molesting Fish. It is unlawful to 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. (3-20-97)

08. Snagging. It is unlawful to snag game fish, unless otherwise stated by Commission rules/exceptions. Snagging of unprotected nongame fish species is permitted. (3-20-97)

09. Trapping and Seining Minnows or Crayfish. It is lawful to take unprotected nongame fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, subject to the following restrictions: ( )

a. Unprotected nongame fish, yellow perch, and crayfish may be taken only in waters open to fishing; provided the seine or net does not exceed ten (10) feet in length or width~~,~~ and nets and seines must have 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 also lawful to use. ( )

b. Nets and seines may not be left unattended. Traps must be checked at least every forty-eight (48) hours. All game fish (except yellow perch) and protected nongame fish incidentally taken while trapping or seining must be immediately released alive. All fish so taken must immediately be killed except where stated otherwise. (____)

c. All traps must have a tag attached bearing the owner's name and address. (____)

d. Minnows and crayfish may only be taken during the season set for the taking of game fish in those waters. Crayfish may be taken alive to be used as bait ONLY on the water where captured. ~~(5-8-09)~~(____)

10. Use of Bait. It is unlawful to use live fish, leeches, frogs, salamanders, waterdogs or shrimp as bait, except that live crayfish and bull frogs may be used if caught on the body of water being fished. (5-8-09)

11. Use of Hands. It is lawful to take any fish (except bull frogs and crayfish) with ~~the~~ hands. ~~(3-20-97)~~(____)

202. BAG AND POSSESSION LIMITS.

01. Bag Limit. Maximum number of fish that may be lawfully taken by one (1) person in one (1) day. The bag and possession limits are equal, except where listed in region exceptions and for salmon and steelhead. (3-20-97)

02. Possession Limit. Maximum number of fish that may be lawfully in possession of any one (1) person. Possession limit shall apply to fish while in the field or being transported. All fish that are hooked, landed and not immediately released shall be counted in the possession limit of the person hooking the fish. (3-20-97)

03. Transport or Gift. No person shall transport for another or accept as a gift any game fish unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. (7-1-99)

04. Table on Bag and Possession Limits for Specified Fish.

~~SPECIES~~	~~BAG AND POSSESSION LIMITS~~	
~~BASS - Largemouth and Smallmouth North of and including the Salmon River drainage (Panhandle, Clearwater, Salmon and northern part of Southwest regions)~~	~~6~~	~~In the aggregate of both species.~~
~~BASS - Largemouth and Smallmouth South and east of the Salmon River drainage (Upper Snake, Southeast, Magic Valley and southern part of Southwest regions)~~	~~6~~	~~In the aggregate of both species, NONE under 12 inches.~~

~~SPECIES~~	~~BAG AND POSSESSION LIMITS~~	
~~BROOK TROUT~~	~~25~~	
~~**BULL TROUT** (Dolly Varden)~~	~~NONE~~	~~There is no harvest season for bull trout. Any bull trout caught may not be removed from the water and must be released immediately.~~
~~**BURBOT** (Ling)~~	~~NONE~~	~~There is no harvest season for burbot. Any burbot caught may not be removed from the water and must be released immediately.~~
~~NORTHERN PIKE~~	~~6~~	
~~**SALMON** (Anadromous)~~		~~See Rules 500 to 599~~
~~STEELHEAD~~		~~See Rules 400 to 499~~
~~STURGEON~~	~~NONE~~	~~There is no harvest season for sturgeon. Any sturgeon caught may not be removed from the water and must be released immediately. Barbless hooks required.~~
~~TIGER MUSKIE~~	~~2~~	~~NONE under 40 inches.~~
~~**TROUT** - includes the following trout family fishes brook, brown, cutthroat, golden, grayling, lake, (Mackinaw), rainbow, splake, sunapee; trout hybrids; and the landlocked forms of chinook, coho, Atlantic and kokanee (blueback) salmon.~~	~~6~~	~~In the aggregate of all species (see Magic Valley Southeast, Upper Snake regions for special cutthroat trout restrictions).~~
~~**WALLEYE**~~	~~No Limit~~	~~SEE MAGIC VALLEY and SOUTHEAST REGIONAL EXCEPTIONS~~
~~WHITEFISH~~	~~25~~	
~~**PROTECTED NONGAME FISH** - Shoshone, Wood River and Bear Lake sculpin, sand roller, leatherside chub, Pacific lamprey.~~	~~NONE~~	~~May not be taken or possessed.~~
~~All Species other than those listed above.~~	~~NO LIMIT~~	

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons and regional exceptions by proclamation, which includes regional bag and possession limits for specified fish. The proclamation is published in a brochure available at Department offices and through license vendors. ~~(5-8-09)~~(____)

~~**05. Family Fishing Waters**. Waters designated as Family Fishing Waters shall have a year-round season: a general bag limit of six (6) trout, of six (6) bass; no length limits; and allow the use of standard fishing gear. Pursuant to Section 36-105(3), Idaho Code, the Commission sets seasons and regional exceptions, including designated Family Fishing Waters, by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (3-30-07)~~

0~~6~~5. Special Limits. No person shall fish in any waters while having fish in possession in excess of the limits for those waters. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

310. PANHANDLE REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. ~~*(3-30-01)*~~( )

311. -- 314. (RESERVED).

315. CLEARWATER REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. ~~*(3-30-01)*~~( )

316. -- 319. (RESERVED).

320. SOUTHWEST REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. ~~*(3-30-01)*~~( )

321. -- 324. (RESERVED).

325. MAGIC VALLEY REGION, EXCEPTIONS, BAG AND POSSESSION LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. ~~*(3-30-01)*~~( )

326. -- 329. (RESERVED).

330. SOUTHEAST REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. ~~*(3-30-01)*~~( )

331. -- 334. (RESERVED).

335. UPPER SNAKE REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. ~~*(3-30-01)*~~( )

336. -- 339. (RESERVED).

340. SALMON REGION EXCEPTIONS, BAG AND POSSESSION LIMITS.

Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag, possession, and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and through license vendors. ~~*(3-30-01)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

403. PERMIT VALIDATION.
When a steelhead trout has been hooked, landed, and reduced to possession, the angler hooking the fish must immediately do the following: (3-20-97)

01. Permit. Completely remove one (1) numbered notch from the permit. (3-20-97)

02. Number Code. Look up the number code from the location code list and write it in the space provided.

RIVER LOCATION CODES	
SNAKE RIVER	
Snake River, downstream from Salmon River	01
Snake River, from Salmon River to Hells Canyon Dam	02
Snake River, Hells Canyon Dam to Oxbow Dam	27
CLEARWATER RIVER	
Clearwater River, downstream from Orofino Bridge	03
Clearwater River, upstream from Orofino Bridge	04
North Fork Clearwater River	05
South Fork Clearwater River	07
SALMON RIVER	
Salmon River, downstream from Whitebird Creek	10
Salmon River, Whitebird Creek to Little Salmon	11
Salmon River, Little Salmon to Vinegar Creek	12
Salmon River, Vinegar Creek to South Fork	13
Salmon River, South Fork to Middle Fork	14
Salmon River, Middle Fork to North Fork	15
Salmon River, North Fork to Lemhi River	16
Salmon River, Lemhi River to Pahsimeroi River	17
Salmon River, Pahsimeroi River to East Fork	18
Salmon River, upstream from the East Fork	19
OTHER	

RIVER LOCATION CODES	
Little Salmon River	20
Panther Creek	24
Boise River	28
~~*Payette River*~~	~~*29*~~

~~*(3-30-07)*~~(____)

03. Date Entry. Enter the month and day the fish was caught. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

405. STEELHEAD METHODS OF TAKE.

01. Hooks. It is unlawful to use any hook larger than five-eighths (5/8) inch measured from the point of the hook to the shank. Steelhead may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead may be taken with barbed hooks in the Boise ~~*and Payette*~~ River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ~~*(4-6-05)*~~(____)

02. Snagging. No person shall kill or retain in possession any steelhead which has been hooked other than in the mouth or jaw. Any steelhead hooked other than in the mouth or jaw must be immediately released unharmed. (4-6-05)

03. Legal Catch. Any steelhead caught in a legal manner must be either released or killed immediately after it is landed. (3-20-97)

04. Cease Fishing. Once an angler has attained his bag, possession or season limit on those waters with steelhead limits, he must cease fishing for steelhead, including catch-and-release fishing. (4-6-05)

05. No Harvest or Closed to Harvest. Effort, by permitted methods, to catch or attempt to catch a steelhead is lawful with the restriction that any steelhead so caught must be released immediately, unharmed, back to the water. (3-20-97)

06. Keeping Marked Fish. Only steelhead which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage. (3-20-97)

07. Fish Counted in Limit. All fish that are hooked, landed, and ~~*not immediately released*~~ reduced to possession shall be counted in the limits of the person hooking the fish. ~~*(3-20-97)*~~(____)

08. Special Limits. No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (3-20-97)

406. ~~*FALL*~~ STEELHEAD SEASONS AND LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

501. SALMON DEFINITIONS.

01. Chinook Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes and the North Fork of the Clearwater River above Dworshak Dam), and the Boise ~~*and Payette*~~ River Drainages. ~~*(4-6-05)*~~(____)

~~***02. Jack Salmon**. Chinook salmon under twenty (20) inches in total length are commonly called jack salmon.* *(3-20-97)*~~

(BREAK IN CONTINUITY OF SECTIONS)

503. PERMIT VALIDATION.
When a Chinook salmon has been hooked, landed, and reduced to ~~*permission*~~ possession, the angler hooking the fish must immediately complete the following: ~~*(4-6-05)*~~(____)

01. Permit. Cut out and completely remove one (1) numbered notch from the permit. (3-20-97)

02. Number Code. Look up the number code from the location code list in Subsection 403.02 of these rules and write it in the space provided. (4-6-05)

03. Date Entry. Enter in the space provided, the month, and day the fish was caught. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

505. SALMON SPECIAL RESTRICTIONS.

01. Method of Take. It is unlawful to use any hook larger than five-eights (5/8) inch measured from the point of the hook to the shank. Salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Salmon may be taken with barbed hooks in the Boise ~~*and Payette*~~ River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ~~*(4-6-05)*~~( )

02. Snagging. No person shall kill or retain in possession any salmon which has been hooked other than in the mouth or jaw. Any salmon hooked other than in the mouth or jaw must be immediately released unharmed. (4-6-05)

03. Legal Catch. Any salmon caught in a legal manner must be either released or killed immediately after it is landed. (4-6-05)

04. Cease Fishing. Once an angler has attained his bag, possession, or season limit on those waters with salmon limits, he must cease fishing for salmon. (3-20-97)

05. No Harvest or Closed to Harvest. Effort, by permitted methods, to catch or attempt to catch a salmon is lawful with the restriction that any salmon so caught must be released immediately, unharmed, back to the water. (4-6-05)

06. Keeping Marked Fish. Only salmon which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages. (4-6-05)

07. Fish Counted in Limit. All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish. (4-6-05)

08. Special Limits. No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (4-6-05)

506. <u>SALMON</u> SEASONS AND LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons and regional exceptions by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~( )

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.14 - RULES GOVERNING FALCONRY

DOCKET NO. 13-0114-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1102(c), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Repeal the chapter in preparation for replacement by new proposed rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009, Book 1 Idaho Administrative Bulletin, Vol. 09-10, pages 283.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jeff Wolfe (208) 465-8470.

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 November 2, 2009.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) and 36-1102(c), 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 21, 2009.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This chapter is being repealed in preparation for replacement by new proposed rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible. The Department of Fish and Game has consulted with the Idaho Falconers Association on the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Wolfe (208) 465-8470.

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 28, 2009.

DATED this 27th day of August, 2009.

IDAPA 13.01.14 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.14 - RULES GOVERNING FALCONRY

DOCKET NO. 13-0114-0902 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1102(c), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In 2008, the U.S. Fish and Wildlife Service implemented major revisions to federal falconry regulations designed to eliminate federal permitting requirements and increase state management authority/responsibility for regulating falconry. The State of Idaho has until 2014 to promulgate rules consistent with the new federal regulations.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009, Book 1 Idaho Administrative Bulletin, Vol. 09-10, pages 284 through 291.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jeff Wolfe (208) 465-8470.

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 November 2, 2009.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) and 36-1102(c), 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 21, 2009.

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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In 2008, the U.S. Fish and Wildlife Service implemented major revisions to federal falconry regulations designed to eliminate federal oermitting requirements and increase state management authority/responsibility for regulating falconry. The state of Idaho has until 2014 to promulgate rules consistent with the new federal regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible. The Department of Fish and Game did consult with the Idaho Falconers Association on the draft rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Wolfe (208) 465-8470.

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 28, 2009.

DATED this 26th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 13
TITLE 01
CHAPTER 14

13.01.14 - RULES GOVERNING FALCONRY

000. LEGAL AUTHORITY.
The Idaho Fish and Game Commission is authorized under Sections 36-104 (b) and 36-1102 (c), Idaho Code, to adopt rules concerning falconry in the state of Idaho. ( )

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.14.000, et seq., Idaho Fish and Game Commission Rules, IDAPA 13.01.14, "Rules Governing Falconry." ( )

02. Scope. These rules establish a falconry program in the state of Idaho. ( )

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written statements which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter are available for public inspection and copying at cost at the headquarters office at 600 South Walnut, Boise, Idaho. ( )

003. ADMINISTRATIVE APPEALS.
All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission." ( )

004. INCORPORATION BY REFERENCE.
Federal Regulations. All regulations pertaining to raptors as adopted by the U.S. Secretary of the Interior pursuant to the Migratory Bird Treaty Act (50 CFR, Parts 21 & 22) are incorporated herein by reference and shall have full force and effect as state rules, with additional state restrictions and applicability to raptors not listed in 50 CFR Part 10.13 as herein set forth. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office

is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707 ( )

006. -- 009. (RESERVED)

010. DEFINITIONS.

01. Calendar Year. January 1 through December 31, as defined by the state of Idaho to address any reference to the use of the terms twelve-month (12) period, annual, or year within this rule and federal regulations. ( )

02. Captive-Bred. Any raptor raised in captivity from eggs laid by captive raptors. ( )

03. Commission. Idaho Department of Fish and Game Commissioners appointed by the governor to administer state fish and game rules and policy. ( )

04. Department. Idaho Department of Fish and Game, its employees, and designated volunteers. ( )

05. Director. Administrative head of the Idaho Department of Fish and Game, and any person authorized to act in his name. ( )

06. Falconry. Capturing, possessing, caring for, transporting, training, and using raptors to hunt wild or artificially propagated birds and animals as a recreational sport, not to include any propagation, breeding or commercial use. ( )

07. Federal. United States Code of Federal Regulations -- CFR Title 50 Parts 21 & 22 -- administered by the United States Department of Interior and U.S. Fish and Wildlife Service. ( )

08. Form 3-186A. A Migratory Bird Acquisition and Disposition Report required by the United States Fish and Wildlife Service and the Department to track and record possession and status of raptors. ( )

09. New U.S. Resident. Any person who has legally moved into the United States or a recognized U.S. Territory to reside and who may or may not have obtained U.S. citizenship. ( )

10. Non-Resident. Any person who has not met the criteria to become an Idaho resident as stated in 36- 202 (s), Idaho Code, and possesses resident status and privileges from another U.S. state, territory or tribe. ( )

11. Raptor. Any bird of prey classified under the Families Falconidae, Strigidae, Accipitridae, and hybrids thereof. ( )

12. Resident. Any person meeting the residency requirements set forth in 36-202 (s), Idaho Code. ( )

13. **Territory**. Recognized territories of the United States. ( )

14. **Tribe**. Any United States recognized Native American or territorial tribe, its members and federal lands designated as reservations administered under a sovereign tribal government. ( )

15. **Transfer**. To convey, deliver, loan, gift, give, barter, sell or move a raptor, raptor parts or any permit from one person, place or situation to another. ( )

16. **Visitor**. Any person not legally residing in the United States or a recognized territory, and who is temporarily in the U.S. as a visitor. ( )

17. **Wild-Caught.** Any raptor captured, removed or originating from the wild. Wild-caught raptors shall maintain wild-caught status throughout their life span in regard to capture, possession and transfer restrictions. ( )

011. -- 099. (RESERVED).

100. PERMITS REQUIRED, POSSESSION, IMPORTATION, AND SALE.
This Section addresses permits, importation, validity, temporary possession, expiration, transfer, renewal and the unlawful sale and possession of raptors. ( )

01. **Falconry Permit Required**. Except as otherwise provided by this rule, an Idaho Falconry Permit (at a fee set forth under 36-416, Idaho Code) is required before any person may possess, capture, transport, import, export or purchase any raptor for the purpose of falconry. ( )

02. **Raptor Captive Breeding Permit Required**. Except as otherwise provided by this rule, an Idaho Raptor Captive Breeding Permit (at a fee set forth under 36-416, Idaho Code) and a Federal Raptor Propagation Permit is required before any person may take, possess, transport, import, export, purchase, barter, sell or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes. ( )

03. **Non-Residents, New U.S. Residents Permit Purchase**. Non-Residents and New U.S. Residents may be issued Idaho Apprentice, General, Master Falconer, or Raptor Captive Breeding Permits without a waiting period upon permanently moving into the state of Idaho. ( )

a. Non-Resident and New U.S. Resident applicants shall surrender any permit(s) issued by another state or country to the Department, and must provide a written and signed statement verifying intent to become an Idaho resident. ( )

b. Non-Resident applicants will be issued an equivalent Idaho class permit(s) to the permit(s) surrendered from the applicant's past resident state, territory or tribe. ( )

c. New Residents to the U.S. will be required to pass the Department Apprentice Falconry Examination and provide documentation to support the class of permit applied for. The

Department, based on applicant experience, shall determine and assign the appropriate class of permit. ( )

04. Non-Resident, New U.S. Resident Permit Purchase within Thirty (30) Days. Non-Resident and New U.S. Resident falconers taking permanent residency in Idaho, shall, within thirty (30) consecutive days, purchase an Idaho Falconry Permit and a Raptor Captive Breeding Permit as required by Subsections 100.01 and 100.02 of this rule. ( )

05. Expiration of Permits. Idaho Falconry Permits and Raptor Captive Breeding Permits shall be valid three (3) years from date of issuance or renewal. ( )

06. Permit Renewal. Permit issuance or renewal shall be initiated with the completion and submission of a Department Falconry Application Form to the appropriate Department Regional Office accompanied by the appropriate fee(s) as set forth under 36-416, Idaho Code. ( )

07. Transfer of Permits. Idaho Falconry and Raptor Captive Breeding Permits are not transferable to another person, but may be updated to a new in-state location. ( )

08. Permit-Class Upgrades. ( )

a. Falconry Permit-class upgrades (e.g., moving from Apprentice to General status) shall be made at no cost to the applicant. Permit-class change requests shall be submitted to the appropriate Department Regional Office on a Department Falconry Permit Application Form with required documentation to verify that prerequisites for the permit-class upgrade have been satisfied. ( )

b. Permit Exemption for Temporary Possession. Except as otherwise provided, Non-Residents, Visitors and New U.S. Residents possessing a valid federal, territory, tribe, another state or country's equivalent Falconry or Raptor Captive Breeding/Propagation Permit, and not utilizing or possessing any Idaho resident privilege, may temporarily import, possess and transport raptors listed under their Falconry or Captive Breeding/Propagation Permits for up to thirty (30) consecutive days without purchasing an Idaho Falconry or Raptor Captive Breeding Permit. ( )

i. Visitors and New U.S. Residents shall comply with federal raptor importation and registration laws and shall obtain a Department Wildlife Importation Permit before importing any raptor. ( )

ii. Visitors and New U.S. Residents entering Idaho with a raptor(s) under an Idaho Wildlife Import Permit shall contact the nearest Department Regional Office to take the Idaho Falconry Examination. Only applicant's correctly answering at least eighty percent (80%) of the test questions will be issued a Temporary Idaho Falconry Permit. Wildlife Import and Temporary Falconry Permits shall be carried at all times when possessing raptors. ( )

iii. Exceptions to extend the thirty (30) day exemption period shall be at the Department's discretion and any temporary possession in excess of one hundred twenty (120) days shall require raptor housing in a falconry facility that has been approved by the Department

under an existing Falconry or Captive Breeding Permit. ( )

iv. Non-Residents, New U.S. Residents and Visitors in addition to possessing a valid Falconry or Captive Breeding/Propagation Permit from their home state, territory, tribe or country shall comply with all other Idaho and federal rules regulating hunting and the possession of wildlife to include possession of appropriate non-resident licenses, tags, permits, stamps and validations. ( )

09. Unlawful Sale and Possession of Raptors. Except as otherwise provided by this rule, no person shall sell, purchase or barter any raptor or parts thereof, or possess raptors or parts that have been unlawfully obtained, sold, purchased or bartered. ( )

a. Only live captive-bred raptors banded or micro-chipped in compliance with Subsection 400.01 of this rule may be sold, purchased or bartered between holders of valid state, federal, tribal, territory or another country's Falconry and Raptor Captive Breeding or Propagation Permit. ( )

b. Holders of valid Idaho Raptor Captive Breeding Permits and federal Raptor Propagation Permits may only sell, purchase and barter raptor eggs and semen produced and originating from raptor propagation or captive breeding programs under valid permit. ( )

101. -- 199. (RESERVED).

200. INSPECTION OF RAPTORS, FACILITIES, POSSESSION AND RECORDS.

01. Facilities Covered by Permits. All raptors, facilities, equipment and falconry records required in accordance with federal and Idaho rules shall be subject to reasonable business-hour inspection, any day of the week, in the presence of the applicant or permit holder. All raptors, equipment, and related records required by law shall be produced for inspection upon Department request. ( )

02. Inspection Prior to Possession of Raptors. ( )

a. Except as otherwise provided by Section 100 of this rule, no person shall possess any raptor(s) under the issuance of an Idaho Falconry or Raptor Captive Breeding Permit, until holding facilities and equipment have been inspected and approved by the Department to verify that facilities and equipment meet federal and Idaho standards. ( )

b. Facility inspections shall be required any time a permit holder moves his holding facilities to any physical address location that is not recorded on his current Falconry or Raptor Captive Breeding Permits. Facility location changes shall be reported to the Department within five (5) days. ( )

03. Facilities Accepted. Either indoor, including a personal residence, or outdoor falconry facilities, or a combination of both meeting federal standards of care**,** shall be authorized. ( )

201. -- 299. (RESERVED).

300. APPROVED SPECIES, WILD CAPTURE, LIMITS, PERMITS, HACKING, AND REHABILITATION.

01. Approved Raptor Species. Except as otherwise provided by this rule, any species of raptor defined under Subsection 010.11 of this rule shall be authorized for use in falconry or captive breeding. ( )

02. Capture Permits Required. Raptors may only be captured from the wild by persons possessing a valid Idaho Falconry Permit, or a Non-resident federal, state, territory or tribal Falconry Permit. Non-residents must also possess an Idaho Bird of Prey Capture Permit. ( )

03. Capture of Wild Raptors, Approved Species and Limitations. ( )

a. Resident Falconers. Except as otherwise provided by this rule, residents possessing a valid Idaho Falconry Permit shall be authorized to capture no more than two (2) wild raptors, as their permit class authorizes, each calendar year. ( )

i. Not more than one (1) Golden Eagle shall be captured in any calendar year. ( )

ii. Capture and possession of any raptor classified under federal or state law as threatened or endangered is unlawful without Department approval and a special permit. ( )

iii. The issuance of an Idaho Eagle Falconry Permit is required to capture or possess golden eagles. ( )

iv. Capture and possession of Bald Eagles is unlawful. ( )

v. Capture and possession of wild Peregrines, as listing status allows, shall be restricted to a limited number of resident Peregrine Capture Permits. ( )

vi. The Commission, pursuant to Section 36-105 (3), Idaho Code, may establish capture quotas, and a capture permit allocation system by proclamation. ( )

b. Non-Resident Falconers. Non-resident falconers intending to capture any wild Idaho raptor shall comply with the following: ( )

i. Apply to the Department Licensing Bureau in Boise for a Non-Resident Bird of Prey Capture Permit at a fee set forth under 36-416, Idaho Code. Permits shall be issued on a calendar year basis. ( )

ii. The Commission, pursuant to Section 36-105 (3), Idaho Code, will designate raptor species approved for capture, capture quotas, and a capture permit allocation system by proclamation. ( )

iii. Non-residents shall be limited to the purchase of only one (1) Bird of Prey Capture Permit per calendar year. ( )

iv. Non-residents receiving a Bird of Prey Capture Permit shall be authorized to only capture and possess the species of raptor specified on their permit. ( )

v. Non-resident Capture Permit holders, successful with the capture of a raptor shall, within seventy-two (72) hours of capture, have their Capture Permit validated by the Department at any Regional Office prior to transporting any captured raptor out of Idaho. ( )

04. Approved Capture Dates – Resident and Non-Resident Falconers. ( )

a. Immature raptors (birds less than one (1) year of age) shall be open to capture all year with no restrictions in regard to days of the week or times of capture. ( )

b. Kestrels and Great-horned Owls may be captured as immature or adult birds (birds that are one (1) year of age or older). The take of adult birds shall be prohibited from March 1st through July 31st. ( )

05. Capture Area Restrictions. ( )

a. No person shall capture or attempt to capture any raptor when such activity is unlawful under federal, state, tribal, county or city law or ordinance. ( )

b. Raptors taken in violation of any federal, state, tribal, county or city law shall be unlawful to possess. ( )

06. Capture and Possession Limits. No person shall exceed approved state and federal raptor possession and capture limits. ( )

07. Raptor Hacking. Raptor hacking in compliance with federal rules, by holders of a valid Idaho Falconry or Rehabilitation Permits, is authorized. ( )

08. Assisting with Raptor Rehabilitation. General or Master Class Falconers possessing a valid Idaho Falconry Permit may assist the Department and permitted raptor rehabilitators with the rehabilitation, conditioning and hacking of raptors. Any raptor taken into possession for rehabilitative conditioning or training shall be coordinated and pre-approved by the appropriate Department Regional Office. ( )

301. -- 399. (RESERVED).

400. RAPTOR BANDING, RADIO TRANSMITTERS REQUIRED, TRANSFERS, REPORTING, AND RELEASE.

01. Raptor Banding. Except as otherwise provided for temporary possession and housing under federal rule and Section 100 of this rule, falconers and captive breeders possessing raptors shall comply with all federal banding and micro-chipping regulations. ( )

a. Wild-caught Peregrines, Harris' Hawks, Gyrfalcons and Goshawks shall be banded with a black federal, non-reusable leg band or an approved micro-chip (ISO compliant at

134.2 kHz). ( )

b. All Captive-bred raptors shall be banded with a seamless band within two (2) weeks of hatching. Federally approved micro-chips or yellow federal, non-reusable leg bands may be used to replace seamless bands that are broken or have become unreadable. ( )

c. Raptors that suffer injury or develop health issues caused by leg bands, or routinely remove or damage bands, shall be micro-chipped. Based on unusual circumstances, the Department may approve a special written exemption to banding or micro-chipping. ( )

d. Bands or micro-chips shall be attached or placed on all federally required wild-caught raptors within five (5) days of acquisition or capture. ( )

e. Bands shall be provided by the Department. Micro-chips shall be provided by the falconer. ( )

02. Radio Transmitters Required. At least two (2) functioning radio transmitters shall be attached to any raptor hybrid, or any raptor not listed under CFR 50, Part 10.13, when being free flown. ( )

03. Raptor Transfers. Resident falconers/captive breeders shall not transfer any species of wild-caught raptor to a non-resident until the transfer is approved under an Idaho Wildlife Export Permit. ( )

a. Idaho Wildlife Export Permits may be purchased at a fee set forth under 36-416, Idaho Code, by submitting an application to the Department Wildlife Health Lab. ( )

b. With Department approval, wild-caught raptors, possessed less than two (2) years from date of capture, that have been injured and can no longer be flown for falconry purposes, as determined by a veterinarian or raptor rehabilitator, may be transferred to a Captive Breeding or Propagation Permit. ( )

04. Release of Birds. No raptor shall be permanently released into the wild without prior Department approval. ( )

05. Reporting Requirements. A Form 3-186A shall be completed and electronically submitted into the United States Fish and Wildlife Service electronic records data base at http://permits.gov/186A, or a hard copy thereof, shall be completed and submitted to the appropriate Department Regional Office within five (5) days when any raptor is acquired, captured (including captures of already banded or telemetry equipped birds), re-captured, transferred, lost, escaped, stolen, released, banded, re-banded, micro-chipped or deceased. ( )

401. -- 499. (RESERVED).

500. FALCONRY HUNTING SEASONS, BAG AND POSSESSION LIMITS.
Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, possession limits and restrictions for take by proclamation for upland game birds, upland game animals, migratory game birds, unprotected and predatory wildlife. The proclamations are

published in brochures available at Department offices and through license vendors. ( )

501. -- 599. (RESERVED).

600. TRAINING RAPTORS USING ARTIFICIALLY PROPAGATED GAME BIRDS.

01. Permit Required. A valid Idaho Falconry Training Permit is required before any person is authorized to possess, release, or use artificially propagated game birds for purposes of training raptors in the field. Training permits shall be issued at a fee set forth under 36-416, Idaho Code, currently a free permit, and are available to residents, non-residents and visitors, and all hunting license requirements apply. ( )

02. Permits Valid. Permits shall be valid two (2) years from date of issuance. ( )

03. Establishing Limitations and Guidelines. In addition to the rules set forth, the Director is authorized to establish limitations and guidelines as to dates, locations, and conditions whereupon permits may be issued allowing the party or parties listed thereon to use, release and kill game birds obtained from a private domestic source for the purpose of field training raptors. ( )

04. Raptor Field Training, Conditions of Use. Raptor field training with a valid Idaho Falconry Training Permit and the use of artificially propagated game birds is lawful when the following conditions are met: ( )

a. The owner of the raptor(s) being trained possesses a valid Idaho Falconry Training Permit, or another state, country, territory or federal Falconry Permit. ( )

b. An Idaho Falconry Training Permit and required falconry permit(s) are carried in the field and available for Department inspection at the training site. ( )

c. Artificially propagated game birds used for training purposes are certified disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ( )

d. Proof of lawful game bird origin is available for inspection. ( )

e. Permit holder complies with all additional stipulations outlined on the permit at time of issuance. ( )

601. -- 699. (RESERVED).

700. FALCONRY MEETS, PERMIT REQUIRED, NON-RESIDENTS, NEW U.S. RESIDENTS, AND VISITORS.

Non-residents, new U.S. residents and visitors shall purchase and possess an Idaho Falconry Meet Permit, at a fee set forth under 36-416, Idaho Code, or an appropriate Non-Resident hunting license to fly or hunt any raptor as a participant in any sponsored falconry meet or contest. ( )

701. -- 799. (RESERVED).

800. PENALTIES.

01. Federal Regulations. All regulations pertaining to raptors as adopted by the U.S. Secretary of the Interior pursuant to the Migratory Bird Treaty Act (50 CFR, Parts 21 & 22) are incorporated herein by reference and shall have full force and effect as state rules, with additional state restrictions and applicability to raptors not listed in 50 CFR Part 10.13, as herein set forth. ( )

02. Conviction of Violation. Conviction of a violation of these rules or federal regulations pertaining to falconry may be grounds for revocation of an Idaho falconry permit or denial of any pending applications for an Idaho falconry permit. The revocation of any permit may be appealed within thirty (30) days of such revocation. Said appeal shall be made in writing to the Director of the Idaho Department of Fish and Game. ( )

801. -- 999. (RESERVED).

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.15 - RULES GOVERNING THE USE OF DOGS

DOCKET NO. 13-0115-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Allow the use of one (1) blood-trailing dog controlled by leash during lawful hunting hours and within 72 hours of hitting a big game animal to track wounded animals and aid in recovery. Correct non-resident quota rule to reflect Commission action.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 90 through 93.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Brad Compton (208) 287-2756.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) 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 September 16, 2009.

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:

Allows for the use of one (1) blood-trailing dog controlled by leash during lawful hunting hours and within 72 hours of hitting a big game animal to track wounded animals and aid in recovery. Corrects non-resident quota rule to reflect Commission action.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 30th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. USE OF HUNTING DOGS.
Dogs may be used to hunt or pursue ONLY the following wildlife, ONLY under the conditions listed, and ONLY if not prohibited by current rules: (7-1-93)

01. Upland Game Animals, Upland Game Birds, and Migratory Game Birds. To train on or hunt upland game animals, game birds, and migratory game birds. (4-5-00)

02. Taking with Conditions. To take black bear, mountain lion, bobcat, fox and raccoon, provided that the following conditions are met: (3-30-01)

a. There is an open take season in the area to be hunted. (7-1-93)

b. Use of dogs is allowed during the take season in the area to be hunted. (7-1-93)

c. Raccoons may be taken or pursued during firearm seasons for deer or elk. (3-30-01)

d. Once an individual has harvested an animal, he may continue to pursue. (3-30-01)

e. The following persons must have a valid Hound Hunters Permit in possession when dogs are being used to hunt. (3-30-01)

i. Anyone who owns pursuit dogs. (3-30-01)

ii. Anyone having control of dogs owned by another person; or (3-30-01)

iii. Anyone that harvests an animal over dogs, except clients of licensed outfitters. (3-30-01)

03. To Pursue with Conditions. To pursue black bear, mountain lion, bobcat, and raccoon provided that the following conditions are met: (3-30-01)

a. There is an open dog training season in the area to be hunted. (7-1-93)

b. Anyone who owns or controls pursuit dogs must have purchased a black bear or a mountain lion tag to pursue the respective species. A tag which has been filled is valid for pursuit. (3-30-01)

c. The following persons must have a valid Hound Hunter's Permit in possession when dogs are being used to hunt or pursue black bear, mountain lion, bobcat, fox, or raccoon: (3-30-01)

i. Anyone who owns pursuit dogs. (3-30-01)

ii. Anyone having control of dogs owned by another. (3-30-01)

04. Unprotected and Predatory Wildlife. A Hound Hunter Permit is not required to

take and/or pursue unprotected and predatory wildlife. (3-30-01)

05. **Blood Trailing Dogs**. The use of one (1) blood-trailing dog controlled by leash during lawful hunting hours and within seventy-two (72) hours of hitting a big game animal is allowed to track animals and aid in recovery. A Hound Hunting Permit is not required. ( )

101. -- 199. (RESERVED).

200. HOUND HUNTER PERMIT.

01. Use of Hound Hunter Permits. (4-5-00)

a. The following persons must have a valid Hound Hunter Permit in possession when dogs are being used to hunt or pursue black bear, mountain lion, bobcat, fox, and raccoon: (3-30-01)

i. Anyone who owns pursuit dogs. (3-30-01)

ii. Anyone having control of dogs owned by another person. (3-30-01)

b. Permits are not transferable EXCEPT, an outfitter licensed pursuant to the authority vested in the Outfitters and Guides Board, Sections 36-2101, et seq., Idaho Code, may convey the authority of his Hound Hunter Permit to a nonresident licensed guide operating for him. A nonresident guide will be deemed to be in compliance with this requirement if the guide has a copy of the above-referenced Hound Hunter Permit in his possession. (4-5-00)

c. Hound Hunter Permits are valid from January 1 through December 31 of each year. (4-5-00)

02. Limitation on Hound Hunter Permits for Nonresidents. No more than seventy (70) nonresident hound hunter permits will be issued to nonresident hunters who are not licensed outfitters pursuant to the authority vested in the Outfitters and Guides Board, Sections 36-2101, et seq., Idaho Code. A licensed outfitter, who is a nonresident, is exempt from the limitation. Nonresident licensed outfitters and guides who have obtained a hound hunter permit under this exemption shall not use this for personal hunting. Sales of nonresident Hound Hunter Permits to the following persons shall not be counted in the quota for nonresidents: (3-30-01)

a. Unqualified Residents. Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)

b. Middle Fork Zone. Persons who hound hunt solely in big game units within the Middle Fork elk zone (Units 20A, 26, and 27) shall not be counted in the quota for nonresidents. (3-30-01)

c. Selway Zone. Persons who hound hunt solely within the Selway Zone (Units 16A, 17, 19, and 20) shall not be counted in the quota for nonresidents. A total of forty (40) permits will be issued for Units 16A, 19, 20, and all of Unit 17, excluding Hunt Area 17-1 which will have six

(6) permits. Hunt Area 17-1 is defined as that portion of Unit 17 south of the following boundary: Beginning at the junction of the Unit 17 boundary and Forest Service Trail 24, then west along Forest Service Trail 24 to the Selway River, then north along the Selway River to Forest Service Trail 40, then southwest along Forest Service Trail 40 to Forest Service Trail 3, then along Forest Service Trail 3 to the Unit 17 boundary. (3-30-01)

d. Lolo Zone. Persons who hound hunt solely in the Lolo Zone (Units 10 and 12) shall not be counted in the quota for nonresidents. ~~*Six (6) permits will be issued for each of the following four (4) hunt areas:* *(3-30-01)*~~(____)

~~*i. Hunt Area 10-1 is that portion of Unit 10 on the north side of the North Fork of the Clearwater River drainage downstream from its junction with Kelly Creek.* *(3-30-01)*~~

~~*ii. Hunt Area 10-2 is that portion of Unit 10 within the North Fork of the Clearwater River drainage upstream from its junction with Kelly Creek, and the Kelly Creek drainage excluding the Cayuse Creek drainage upstream from its junction with Forest Service Road 581.* *(3-30-01)*~~

~~*iii. Hunt Area 12-1 is that portion of Unit 12 north of U.S. Highway 12, and west of Doe Creek Road (Forest Service Road 566).* *(3-30-01)*~~

~~*iv. Hunt Area 12-2 is that portion of Unit 12 south of U.S. Highway 12 and west of Elk Summit Road (Forest Service Road 360).* *(3-30-01)*~~

03. Eligibility -- Residents. A resident Hound Hunter Permit may be obtained by a holder of a resident hunting license by paying the appropriate fee at a license vendor. (3-30-01)

04. Eligibility -- Nonresidents. (7-1-93)

a. Applications for Hound Hunter Permits shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than December 1 of the year preceding the year in which the permit is to be valid. (4-5-00)

b. Any application which is unreadable or which lacks the required information will be declared void and will not be entered in the drawing. All applications will be considered final. They may not be resubmitted after correction. (4-5-00)

c. Applicants must comply with the following requirements: (7-1-93)

i. No person may submit more than one (1) application for a Hound Hunter Permit. (4-5-00)

ii. Group applications will be accepted. A group application for a Hound Hunter Permit is defined as two (2) hunters applying for two (2) permits on the same application form. (3-30-01)

d. Hound Hunter Permits that remain unissued after the drawing may be issued by the

Department on a first-come, first-served basis at the Regional offices during normal business hours on or after December 10. (4-5-00)

05. Invalidity of Permit. In the event a permit is issued based on erroneous or fraudulent information, the permit is invalid and CANNOT be used. Any permit issued on the basis of fraudulent information is subject to the provisions of Title 36, Idaho Code, and IDAPA 13.01.01, "Rules Governing Licensing." (4-5-00)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Allow other forms of official import documentation to suffice as an export tag for possession of lawfully obtained pelts in Idaho. Correct an obsolete reference to the vendor fee.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 94 and 95.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Brad Compton (208) 287-2756.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) 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 September 16, 2009.

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:

Allows other forms of official import documentation to suffice as an export tag for possession of lawfully obtained pelts in Idaho. Corrects an obsolete reference to the vendor fee.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

500. MANDATORY CHECK AND REPORT - PELT TAG REQUIREMENTS.

01. Mandatory Check and Report. Any person trapping river otter or taking bobcat, whether by hunting or trapping, must comply with the mandatory check and report and pelt tag requirements by: (5-3-03)

a. Presenting the pelts of all bobcat taken to a regional office, the McCall office or official check point to obtain the appropriate pelt tag and complete a harvest report. To have a pelt tagged, the pelt must be legally taken in Idaho and must be presented to a regional office, the McCall office, or designated checkpoint of IDFG during normal working hours -- 8 a.m. to 5 p.m. (3-30-01)

b. Additional River Otter Requirements: (3-30-01)

i. Pelts must be tagged by IDFG personnel at the regional office in the region in which the animal was taken within seventy-two (72) hours of taking. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. Pelts not registered or presented to Department personnel within seventy-two (72) hours are subject to confiscation. (3-30-01)

ii. Otters harvested after the season has closed, or otters harvested in excess or a trapper's personal quota of two (2), must be turned into IDFG personnel. Check with the IDFG regional office for further information when reporting a harvest. (4-6-05)

iii. No person shall have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho that does not have an official state export tag attached. (3-30-01)

02. Pelt Tags. A fee of two dollars ($2) will be charged for each pelt tag. An additional ~~*one-dollar and fifty cent ($1.50)*~~ vendor fee as set forth in Section 36-306, Idaho Code, will be charged to each license holder when pelts are brought in for tagging. ~~*(3-30-01)*~~( )

a. No person, who does not possess a furbearer or taxidermist license or appropriate import documentation, or both, shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt that does not have an official state export tag attached (either Idaho's or another state's official export tag). ~~*(7-1-98)*~~( )

b. No person, who does not possess a furbearer or taxidermist license or appropriate import documentation, or both, shall sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt that does not have an official state export tag attached. ~~*(5-3-03)*~~( )

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.17 - RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Prohibit the use of salt for bear baiting. Amend language for removal of bait sites for consistency.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 96 and 97.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Brad Compton (208) 287-2756.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 36-104(b) 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 September 16, 2009.

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:

Prohibits the use of salt for bear baiting and amends language for removal of bait sites for consistency.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general funds greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 30th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. USE OF BAIT.
Bait is defined as any substance placed to attract big game animals, except liquid scent for deer and elk. Bait may be used to hunt ONLY black bear and ONLY under the following conditions. (7-9-93)

01. Time. (7-1-93)

a. No bait or bait container may be placed for the purpose of attracting or taking black bear prior to the opening of black bear take season EXCEPT in that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486, and bait may be placed one (1) week prior to the opening of bear season in Units 17, 19, 20, 20A, 26 and 27. (5-8-09)

b. All bait, bait containers and materials must be removed and all excavations refilled no later than seven (7) days after the close of each season; spring, fall, or black bear dog training. (5-8-09)

02. Location. (7-1-93)

a. No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year round free flowing spring and year round free flowing stream), or within two hundred (200) yards from any maintained trail or any road. (3-30-01)

b. No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. (7-1-93)

03. Types. (7-1-93)

a. No person shall use any part of a domestic or wild origin game bird, game animal, game fish, or protected nongame wildlife for bait or scent. (4-2-08)

b. The skin must be removed from any mammal parts or carcasses used as bait. (7-1-93)

c. <u>No person shall use salt in any form (liquid or solid) for bait.</u> <u>( )</u>

04. Containers. (7-1-93)

a. No bait may be contained within paper, plastic, glass, metal, wood or other nonbiodegradable materials, except that a single, metal container with a maximum size of fifty-five (55) gallons may be used if securely attached at the bait site. (7-1-93)

b. No bait may be contained in any excavated hole greater than four (4) feet in diameter. (7-1-93)

05. Establishment of Bait Sites. (7-1-93)

a. Any structures constructed at bait sites using nails, spikes, ropes, screws, or other materials must be removed by the permit holder within seven (7) days ~~*of*~~ after the close of ~~*the*~~ each season; spring, ~~*and*~~ fall, or black bear ~~*seasons*~~ dog training. ~~*(3-20-97)*~~( )

b. All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. (7-1-93)

IDAPA 20 - DEPARTMENT OF LANDS

20.01.01 - RULES OF PRACTICE AND PROCEDURE BEFORE THE STATE BOARD OF LAND COMMISSIONERS

DOCKET NO. 20-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6), 58-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

No changes have been made to the pending rule. The proposed rule changes correct outdated physical location information and provide current telephone, facsimile, mailing, and website information. This rule change is necessary to provide accurate information to the public. This information will enable the public to access meetings of the State Board of Land Commissioners as well as conduct business with the Idaho Department of Lands. This current office information will be reflected in other chapters of the rules of the Department of Lands.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 101 and 102.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact the undersigned.

DATED this 27th day of October, 2009.

George Bacon
Director
Department of Lands
300 North 6th Street, Suite 103

P. O. Box 83720
Boise, ID 83720-0050
Phone: (208) 334-0242
Fax: (208) 334-3698

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 by Sections 58-104(6) and 58-105, 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 August 19, 2009.

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 rule change corrects outdated physical location information and provides current telephone, facsimile, mailing, and website information. The rule change is necessary to provide accurate information to the public. This information will enable the public to access meetings of the State Board of Land Commissioners as well as conduct business with the Idaho Department of Lands. This current office information will be reflected in other chapters of the rules of the Department of Lands.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees or charges being imposed through 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 resulting from this rulemaking: There is no fiscal impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the nature of this rulemaking.

GENERAL INFORMATION: For more information about IDL's programs and activities, visit IDL's web site at http://www.idl.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before August 26, 2009.

DATED this 23rd day of June, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

007. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 7).

01. Department and Board Office. The ~~*central*~~ office of the Board and the Department of Lands is the Director's Office of the Department of Lands, ~~1215 W. State~~ 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-~~70~~00050, ~~switchboard~~ telephone number (208) 334-0200, and fax number (208) 334-2339. The Board's website is http://www.idl.idaho.gov/. Office hours are from 8 a.m. to 5 p.m., Monday through Friday. Subsection 007.02 lists another ~~The~~ Department of Lands ~~has several other statewide offices~~ facility from which information on various Board matters may be obtained, or where comments on rulemaking may be filed in some instances~~; these offices are located as follows:~~. ~~(7-1-93)~~(____)

0~~1~~2. Coeur d'Alene Headquarters. ~~P.O. Box 670, 701 River~~ 3780 Industrial Avenue South, Coeur d'Alene, Idaho ~~83616-0670~~ 83815, telephone number (208) ~~664-2171~~ 769-1525, fax number (208) ~~664-3840~~ 769-1524. ~~(7-1-93)~~(____)

~~***02. Coeur d'Alene Headquarters***, Navigable Waters, 1910 NW Boulevard, Suite 201, Coeur d'Alene, Idaho 83814-2615, Telephone number (208) 765-5235, Fax number (208) 765-5308. (7-1-93)~~

~~***03. Priest Lake Area Office***, Cavanaugh Bay #132, Coolin, Idaho 83821, Telephone number 443-2516. (7-1-93)~~

~~***04. Pend Oreille Lake Area Office***, P.O. Box 909, Hwy 200 at Westwood, Sandpoint, Idaho 83864, Telephone number (208) 263-5104, Fax number (208) 263-0724. (7-1-93)~~

~~***05. St. Joe Area Office***, 1806 Main Avenue, St. Maries, Idaho 83861, Telephone number (208) 245-4551, Fax number (208) 245-4867. (7-1-93)~~

~~***06. Clearwater Area Office***, 10230 Highway 12, Orofino, Idaho 83544, Telephone number (208) 476-4587, Fax number (208) 476-7175. (7-1-93)~~

~~***07. Payette Lakes Area Office***, P.O. Box AS, McCall, Idaho 83638, Telephone number (208) 634-7125, Fax number (208) 634-4320. (7-1-93)~~

~~***08. Southwest Idaho Area Office***, 8355 W. State Street, Boise, Idaho 83703, Telephone number (208) 334-3488, Fax number (208) 853-6372. (7-1-93)~~

~~***09. South Central Idaho Area Office***, P.O. Box 149, 329 Washington Street, Gooding, Idaho 83330, Telephone number (208) 934-5606. (7-1-93)~~

~~***10. Eastern Idaho Area Office***, 3563 Ririe Highway, Idaho Falls, Idaho 83401, Telephone number (208) 523-5398, Fax number (208) 528-2834. (7-1-93)~~

IDAPA 20 - DEPARTMENT OF LANDS

20.03.14 - GRAZING LEASES AND CROPLAND LEASES

DOCKET NO. 20-0314-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 1, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 58-104(6), Idaho Code.

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

The rule provides for (1) acceptance of lease applications for competing uses; (2) development of lease terms by the Department and the applicant based on pre-identified criteria; (3) minimum bids at conflict auctions; (4) penalties for applicant withdrawal prior to or after a conflict auction; and (5) new improvement crediting procedures for improvements approved after July 1, 2009.

Section 010, Definitions, is amended to reinsert the term Animal Unit Month (AUM). The amendment serves to eliminate confusion regarding the use of AUMs in the calculation of rental rates. Section 090, Trespass, was removed to eliminate redundancy. Trespass is appropriately addressed in existing lease language, existing Department policy, and existing statutes.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, Department of Lands amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes different from the proposed text are printed in this Bulletin. The original text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 103 through117.

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 negative fiscal impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Bob Brammer, Division Administrator (208) 334-0239.

DATED this 28th day of October, 2009.

Bob Brammer
Division Administrator
Idaho Department of Lands
300 N Sixth St. Suite 103
P.O. Box 83720, Boise, ID 83720-0500
Phone (208) 334-0239
Fax (208) 334-3698

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

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, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 59-104(6), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

WEDNESDAY, AUGUST 19, 2009	THURSDAY, AUGUST 20, 2009
9:00 am to 11:00 am MDT Nampa Civic Center Central Banquet Room 311 Third Street South Nampa, Idaho	**10:00 am to Noon MDT Idaho Dept. of Fish & Game 1345 Barton Rd. Pocatello, Idaho**
1:00 pm to 3:00 pm MDT Idaho Dept. of Fish & Game 324 South 417 East, Suite 1 Jerome, Idaho	**1:00 pm to 3:00 pm MDT Idaho Dept. of Fish & Game 99 Hwy. 93 North Salmon, Idaho**
2:00 pm to 4:00 pm Pacific Time (NOTE: 3:00 pm to 5:00 pm MDT) Idaho Dept. of Fish & Game 3316 16th Street Lewiston, Idaho	**3:00 pm to 5:00 pm MDT Idaho Dept. of Fish & Game 4279 Commerce Circle Idaho Falls, Idaho**

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:

The revisions provide for (1) acceptance of lease applications for competing uses; (2) development of lease terms by the Department and the applicant based on pre-identified criteria; (3) minimum bids at conflict auctions; (4) penalties for applicant withdrawal prior to or after a conflict auction; and (5) new improvement crediting procedures for improvements approved after July 1, 2009.

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

The procedures for lease applications and conflict auctions provided for in the current rules have resulted in administrative inefficiencies, uncertainty, and litigation for the Land Board, the Department, and lease applicants. The procedural changes provided by this temporary rule are necessary to establish transparency, fairness, and consistency to the lease application and conflict auction processes—which confers a benefit on all affected groups and citizens. These changes will reduce personnel and operating costs thereby improving the financial performance of the Endowment Land Grazing Program consistent with the Land Board's and Departments constitutional mandate to maximize financial returns to endowment beneficiaries. The Department further anticipates that the new procedures will benefit the general welfare by increasing competition for state endowment land leases, thereby increasing financial return to endowment beneficiaries.

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

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a temporary rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Bob Brammer, Division Administrator (208) 334-0239.

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 August 26, 2009.

DATED this 6th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 20
TITLE 03
CHAPTER 14

20.03.14 - RULES GOVERNING GRAZING ~~*LEASES AND CROPLAND*~~, FARMING, CONSERVATION, NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE LEASES

000. LEGAL AUTHORITY.
These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Section 58-104, Idaho Code. (3-13-02)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.03.14, "Rules Governing Grazing ~~*Leases and Cropland*~~, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases." ~~*(3-13-02)*~~( )

02. Scope. These rules constitute the Idaho Department of Lands' administrative procedures for leasing of state endowment trust land ~~*that is classified as*~~ for grazing ~~*land or cropland*~~, farming, conservation, noncommercial recreation, communication sites and other uses that are treated similarly under the provisions of Section 58-307, Idaho Code, regarding a ten (10) year lease term restriction, and under the provisions of Section 58-310, Idaho Code regarding lease auctions. These rules shall be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7 and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. ~~*(3-13-02)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
Idaho Department of Lands, 300 N~~*orth*~~. ~~*6*~~ Sixth Street, Suite 103, Boise, Idaho 83720; office hours are 8 a.m. to 5 p.m. ~~*Monday through Friday, except legal holidays*~~ (MST); mailing address is Idaho Department of Lands, PO Box 83720, Boise, Idaho 83720-0050. ~~*(3-13-02)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

~~***007. STATEMENT OF PURPOSE.***~~
~~*These rules apply to the lease of state lands for grazing of domestic livestock and for cropping purposes. The leasing of state lands designated by the Department as grazing and/or cropping lands, for purposes other than grazing and/or cropping, are governed by Section 030 of these rules.* (3-13-02)~~

00~~8~~7. -- 009. (RESERVED).

010. DEFINITIONS.

01. Amortization. The purchase of Department authorized, lessee installed, lease improvements by the Department through allowance of credit to the lessee's annual lease payments. (3-13-02)

***02. Animal Unit Month (AUM)**. The amount of forage necessary to feed one (1) cow or one (1) cow with one (1) calf under six (6) months of age or one (1) bull for one (1) month. One (1) yearling is considered seven tenths (.7) of an AUM. Five (5) head of sheep, or five (5) ewes with lambs are considered one (1) AUM. One (1) horse is considered one and one-half (1 1/2) AUM.* ~~(3-13-02)(7-1-09)T(____)~~

~~***03. Appraisal**. The act or process of estimating the value of Department authorized improvements associated with a lease.* (3-13-02)~~

0~~4~~3. Assignment. The Department approved transfer of all, or a portion of, a lessee's right to another person wherein the second person assumes the lease contract with the Department. (3-13-02)

0~~5~~4. Board. The Idaho State Board of Land Commissioners or such representatives as may be designated. (3-13-02)

0~~6~~5. Conflict Applica~~n~~tion. An ~~*timely*~~ application to lease state endowment trust land for grazing ~~*or cropland purposes and that is submitted by someone other than the current/former lessee, or, in the case of unleased land, a situation*~~, farming, conservation, noncommercial recreation or communication site use when ~~*more than*~~ one (1) or more applications ~~*is*~~ have been submitted for the same parcel ~~*and use*~~ of ~~*the*~~ state endowment trust land and for the same or an incompatible use. ~~(3-13-02)~~(____)

0~~7~~6. Department. The Idaho Department of Lands. (6-14-88)

0~~8~~7. Director. The Director of the Department of Lands, or such representative as may be designated by the Director. (3-13-02)

0~~9~~8. **Extension**. An approved delay in the due date of the rental owed on a ~~*cropland*~~ farming lease without risk of loss of the lease. ~~*(3-13-02)*~~(7-1-09)T

~~***10.***~~ ~~***Grazing****. The consumption of forage by domestic livestock.*~~ ~~*(3-13-02)*~~

0~~8~~9. **Improvement Valuation**. The Land Board approved process or processes of estimating the value of Department authorized improvements associated with a lease. *(____)*

~~***11***~~***10.*** ~~***Grazing Management Plan***~~ **Lease**. A written agreement between the ~~*lessee and the*~~ Department~~*, or between the lessee and another public agency and approved by the Department, designed to meet the resource objectives identified by the Department*~~ and a person containing the terms and conditions upon which the person will be authorized to use state endowment trust land. ~~*(3-13-02)*~~*(____)*

~~***12.***~~ ~~***Herd Stock****. Livestock leased or managed, but not owned, by the lessee.*~~ ~~*(3-13-02)*~~

1~~3~~1. **Lease Application**. An application to lease state endowment trust land for grazing ~~*or cropping*~~, farming, conservation, noncommercial recreation, or communication site purposes. ~~*(3-13-02)*~~*(____)*

1~~4~~2. **Manageable Unit**. A unit of state endowment trust land designated by the Department, geographically configured and sufficiently large to ~~*efficiently graze livestock or raise crops*~~ achieve the proposed use. ~~*(3-13-02)*~~*(____)*

1~~5~~3. **Mortgage Agreement**. Department authorization for the lessee to obtain a mortgage on a state ~~*grazing or cropland*~~ lease. ~~*(3-13-02)*~~*(____)*

1~~6~~4. **Person**. An individual, partnership, association, corporation or any other entity qualified to do business in the state of Idaho and any federal, state, county, or local unit of government. (3-13-02)

1~~7~~5. **Sublease**. An agreement in which the state lease holder conveys the right of use and occupancy of the property to another party on a temporary basis. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

020. APPLICATIONS AND PROCESSING.

01. **Eligible Applicant**. Any person legally competent to contract may submit an application to lease state ~~*owned*~~ endowment trust land provided ~~*he has reached his eighteenth birthday, or if not eighteen (18) is married, is a citizen of the United States or has declared his intentions to become such, and is not indebted to the state of Idaho or*~~ such person is not delinquent on any payments to the state of Idaho. ~~*To be eligible for a grazing or cropland lease, an applicant must intend to use the land for domestic livestock grazing or for cropping purposes, and must certify such.*~~ ~~*(3-13-02)*~~*(____)*

02. Application Process. All lease applications ~~*for a state cropland or grazing lease*~~ must be submitted to the Department on the appropriate Department form. The applications must be signed by the applicant, must be submitted in such manner as determined by the Department, and must meet the following criteria: ~~*(3-13-02)*~~(____)

a. Non-refundable Fee. Each application for a lease shall be accompanied by a non-refundable application fee in the amount specified by the Board. (3-13-02)

b. Application Deadline. The deadline to apply to lease a parcel of state endowment trust land already covered by a lease shall be as established by the Department for the year the existing lease expires. Applications to lease unleased state endowment trust land may be submitted at any time, or at such time as designated by the Department. ~~*Applications will be accepted for unleased land when there is no disruption of other designated uses or the Department's long-term management objectives.*~~ ~~*(3-13-02)*~~(____)

c. Legal Description on Application. All applications must include a legal description of the state endowment trust land applied on. The Department reserves the right to require an amendment of the legal description of state endowment trust lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason deemed appropriate by the Department. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, ~~*within thirty (30) days after mailing such notice,*~~ the application shall be considered invalid. ~~*(3-13-02)*~~(____)

d. ~~*Management Proposal. All applicants for state grazing leases must submit a grazing management proposal, which addresses Department identified resource concerns, within thirty (30) days of the deadline to apply for the lease*~~ Nonconflicted Applications.~~*(3-13-02)*~~(____)

i. If the current lessee is the only applicant and the Department does not have concerns with the lessee's current management of the leased state endowment trust land, a new lease will be issued. (____)

ii. If the current lessee is the only applicant and the Department has concerns with the lessee's current management of the state endowment trust lands, or if the only applicant is not the current lessee, the applicant shall meet with the Department to develop the terms and conditions of a proposed lease specific to the applicant's proposed use. (____)

e. Conflicted Applications. (____)

i. All applicants submitting conflict applications shall meet with the Department to develop the terms and conditions of a proposed lease specific to each applicant's proposed use. (____)

ii. The Department will provide all applicants for conflicted leases with the list of criteria that will be used to develop lease provisions. Among the factors to be addressed in the criteria are the following: (____)

(1) The applicant's proposed use and the compatibility of that use of the state

endowment trust parcel with preserving its long-term leasing viability for purposes of generating maximum return to trust beneficiaries; i.e., the impact of the proposed use and any anticipated improvements on the parcel's future utility and leasing income potential. ( )

(2) The applicant's legal access to and/or control of land or other resources that will facilitate the proposed use and is relevant to generating maximum return to trust beneficiaries. ( )

(3) The applicant's previous management of land leases, land management plans, or other experience relevant to the proposed use or ability/willingness to retain individuals with relevant experience. ( )

(4) Potential environmental and land management constraints that may affect or be relevant to assessing the efficacy or viability of the proposed use. ( )

(5) Mitigation measures designed to address trust management concerns such as: ( )

(a) Construction of improvements at lessee's expense. ( )

(b) Payment by lessee of additional or non-standard administrative costs where the nature of the proposed use and/or the applicant's experience raises a reasonable possibility that greater monitoring or oversight by the Department than historically provided will be necessary to ensure lease-term compliance. ( )

(c) Bonding to ensure removal of any improvements installed for the lessee's benefit only and which would impair the future utility and leasing income potential of the state endowment trust land. ( )

(d) Bonding to ensure future rental payments due under the lease in cases where the lessee is determined by the Department to pose a significant financial risk because of lack of experience or uncertain financial resources. ( )

(6) Any other factors the Department deems relevant to the management of the state endowment trust parcel for the proposed use. ( )

f. Proposed Lease. Within ten (10) days of the final meeting with the applicant to discuss lease provisions, the Department will provide the applicant with a proposed lease containing those terms and conditions upon which it will lease the state endowment trust land. If the applicant does not accept in writing the lease as proposed by the Department within seven (7) days of receipt, the application will be rejected in writing by the Department. Within twenty (20) days of the date of mailing of the rejection notice, the applicant may appeal the Department's determination as to the lease's terms and conditions to the Land Board. No auction shall be held until the Land Board resolves any such appeal. ( )

~~***03. Applications for Lands Included in a Cancelled Land Sale Certificate****. The prior land sale certificate holder will be given the first option to obtain a lease for those lands covered by the cancelled land sale certificate. If the previous certificate holder is indebted to the state of*~~

~~*Idaho, the debt must be satisfied before the certificate holder is eligible to lease the land. If the previous certificate holder declines the opportunity to lease the land, the Department may solicit other applications. The initial lease offered on lands covered under a cancelled land sale certificate must be limited to two (2) years to coincide with the contract reinstatement period.*~~
~~*(3-13-02)*~~

0~~*4*~~3. ~~***Renewals***~~ **Expiring Leases**. Lease ~~*renewal*~~ applications will be mailed by the Department to all holders of expiring leases no less than thirty (30) days prior to the application deadline. Signed ~~*renewal*~~ applications and the application fee must be returned to the Department by the established deadline or postmarked no later than midnight of that date. It shall be the lessee's responsibility to ~~*i*~~ensure applications are delivered or postmarked by the deadline.
~~*(3-13-02)*~~(____)

0~~*5*~~4. Rental Deposit. (3-13-02)

a. Existing Lessee. ~~*An existing lessee is the current lessee of the expiring lease.*~~ If the existing lessee is the sole applicant, the ~~*existing*~~ lessee may submit the rental deposit at the normal due date. If a conflict application is also filed on the expiring lease~~,~~ and the existing lessee ~~*places*~~ is awarded the ~~*highest bid at auction,*~~ lease by the ~~*existing*~~ Land Board, the lessee must deposit, with the Department, the estimated first year's rental for the lease ~~*by the conclusion of the auction*~~ at the time the lease is submitted to the Department with lessee's signature. ~~*(3-13-02)*~~(____)

b. New Applicants. (____)

i. ~~*A new applicant is one who submits an application, but does not hold the current lease. All applicants for unleased land are deemed new applicants.*~~ Expiring Lease. New applicants for expiring leases must submit~~, *with the Department,*~~ the estimated first year's rental to the Department at the time of the application's submission. (____)

ii. Unleased State Endowment Trust Land. All applicants for unleased state endowment trust land are deemed new applicants. If an applicant for unleased state endowment trust land is the sole applicant, the applicant may submit the rental deposit at the normal billing cycle, unless the time of application and desired time of use do not coincide with the normal billing cycle, in which case payment must be rendered at the direction of the Department. When more than one (1) application is received for unleased state endowment trust land, ~~*the*~~ all applicants must deposit, with the Department, the estimated first year's rental for the lease prior to auction. ~~*(3-13-02)*~~(____)

~~***021. RIGHTS RESERVED TO THE DEPARTMENT.***~~
~~*The Department expressly reserves the right:*~~ ~~*(3-13-02)*~~

~~***01. Reservations****. To all mining rights, timber rights, water rights, easements and rights of way, and the fee title to the leased land.*~~ ~~*(3-13-02)*~~

~~***02. Other Leases****. To maintain present, and to issue future mineral, oil and gas, geothermal and other subsurface leases as provided by Title 47, Idaho Code. Annual rental may be adjusted to reflect any utility loss to the lessee from such activities.*~~ ~~*(3-13-02)*~~

~~***03. Grazing Restrictions****. To restrict or prohibit grazing on all, or portions of, the leased land to accommodate other resource management objectives. The lessee will be given one hundred eighty (180) days written notice, prior to turn out of livestock on the lands leased, of any such restrictions or termination of grazing use together with a map of the restricted area. The Department will work with lessee to find alternate forage sources on endowment lands to minimize the financial impact to the endowment. Annual rental will be adjusted to reflect any utility loss to the lessee from such activities should alternate sources of forage not be found.*~~
~~*(3-13-02)*~~

~~***04. Seed Harvest****. To harvest seed from plants on land not under a cropland lease. The Department will coordinate harvesting activities with lessee to minimize impacts on livestock operations. If loss of use occurs from harvesting activities the rental will be adjusted in the amount of lost use.*~~ ~~*(3-13-02)*~~

~~***05. Entry****. To enter upon and inspect the lands leased at any reasonable time to insure protection of the Department's interest.*~~ ~~*(3-13-02)*~~

~~***06. Easements****. To grant easements and rights of way across or upon the lands leased. The Department shall coordinate with the lessee before processing any easement applications on the leased land. Annual rental will be adjusted to reflect any utility loss to the lessee from any such easements or rights of way. Acreage of the lands described within the lease may be adjusted to reflect any such easements or rights of way that permanently remove such lands from grazing use.*~~ ~~*(3-13-02)*~~

~~***07. Public Access****. To exclusively regulate public access on state lands. Grazing or cropland leases will not be considered exclusive use leases as described under Title 36, Chapter 16, Idaho Code. These rules do not authorize or purport to authorize trespass on private lands to reach state-owned lands. Use of state lands shall not be restricted without prior written approval of the Department.*~~ ~~*(3-13-02)*~~

~~***08. Water Rights****. To all water rights appurtenant to state lands. Lessees may not appropriate any water rights that are appurtenant to state lands, including instream livestock use or stock watering rights. Any water right appropriated on state land shall be appropriated in the name of the state of Idaho.*~~ ~~*(3-13-02)*~~

~~***09. Road Closures****. To close roads for road protection, wildlife protection or administrative purposes. Planned road closures will be reviewed with the lessee prior to action. The lessee will have the right of due process when decisions affect the lessee's use of the lease.*~~
~~*(3-13-02)*~~

~~***10. Special Leases****. To grant special leases upon the lands described in the grazing lease. If the special lease conflicts with the grazing use or makes consumptive use of forages, the grazing rental will be adjusted to reflect such loss of use.*~~ ~~*(6-14-88)*~~

~~***11. Permanent Improvements****. To claim all permanent improvements placed upon the land remaining after six (6) months in cases of abandonment by the lessee or to take possession immediately in cases of cancellation upon breach of any of the conditions of the lease. No improvements will be disposed of by the Department until all appeals have been exhausted.*~~

~~*(3-13-02)*~~

02~~2~~1. LENGTH OF LEASE.
The Department may issue a lease for any period of time up to ~~*that*~~ the maximum term provided by law. ~~*(3-13-02)*~~(____)

02~~3~~2. - 029. (RESERVED).

030. ~~*RECLASSIFICATION OF*~~ CHANGE IN LAND USE.
The Director may ~~*reclassify*~~ change the use of any state endowment trust land, in whole or in part, for other uses that will better achieve the objectives of the Board. ~~*(3-13-02)*~~(____)

01. Termination of Existing Lease. In case of ~~*reclassification*~~ a change in land use to a use other than provided for under these rules, the existing lease may be terminated, in whole or in part, upon one hundred eighty (180) days written notice to the lessee. If a lease is terminated due to ~~*reclassification*~~ a change in land use, improvement credit will be addressed in accordance with these rules. ~~*(3-13-02)*~~(____)

~~***02. Petition****. Any party may petition the Department to change the designated primary use of the endowment land. The petition shall detail the reasons such a change would be in the best long-term interest of the endowed institution and shall include an accurate legal description of the petitioned lands. The Department will consider such petition, along with supplementary information the Department deems appropriate, and revise the designation, if it believes such redesignation is in the best interest of the beneficiary institution. During the period a petition for redesignation is under consideration, the designated uses of the endowment land will continue.*~~
~~*(3-13-02)*~~

031. -- 039. (RESERVED).

040. RENTAL.

01. Rental Rates. Rental rates shall be determined by the Board. ~~*The rental rate for livestock grazing leases shall be based on the number of allowable AUMs. The rental rate for cropland leases shall be based on the number of acres used for crop production.*~~ ~~*(3-13-02)*~~(____)

02. Special Uses. Fees for special uses requested by the lessee and approved by the Department~~*, including, but not limited to, concentrated feeding areas or structures/buildings enhancing management of the land*~~ in writing as consistent with the primary use granted by the lease, shall be determined by the Department. ~~*(3-13-02)*~~(____)

03. Rental Due Date. ~~*Cropland l*~~Lease rentals are due ~~*on or before January 1 and grazing lease rentals are due on or before May 1*~~ in accordance with the terms of the lease.
~~*(3-13-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

042. LATE PAYMENTS.
Rental not paid by the due date shall be considered late. Late payment charges from the due date forward shall be ~~*added to the rental amount. Late payment charges shall be determined by the Board*~~ specified in the lease. ~~*(3-13-02)*~~(____)

043. -- 048. (RESERVED).

049. BREACH.

01. Non-Compliance. A lessee is in breach if the lessee's use is not in compliance with the provisions of the lease. ~~*This includes, but is not limited to, unauthorized variance in the season of use, in the numbers or class of livestock, in pasture rotation, in improvement construction/ maintenance, or in agricultural use.*~~ ~~*(3-13-02)*~~(____)

02. Damages for Breach. A lessee is responsible for all damages resulting from breach and other damages as provided by law. (3-13-02)

050. LEASE CANCELLATION.
Leases may be cancelled by the Director for the following reasons: (3-13-02)

~~***01. Non-Payment of Rental****. If the rental is not paid by the due date, the Department shall notify the lessee in writing of the non-payment. Leases not paid within thirty (30) days of the due date may be cancelled without further notice.* *(3-13-02)*~~

0~~2~~1. Non-Compliance with Lease Provisions. If the lessee is not complying with the lease provisions or ~~*management plan provisions or*~~ if resource damage attributable to the lessee's management is occurring to state endowment trust land within a lease, the lessee shall be provided written notification of the violation by regular and certified mail. The letter shall set forth the reasons for the Department's cancellation of the lease and shall provide the lessee thirty (30) days notice of the cancellation. ~~*(3-13-02)*~~(____)

0~~3~~2. ~~*Reclassification*~~ Change in Land Use. A lease may be cancelled in whole or in part upon one hundred eighty (180) days written notice by the Department if the state endowment trust lands are ~~*reclassified*~~ to be leased for any other use as designated by the Board or the Department and the new use is incompatible with the existing lease. In the event of early cancellation due to ~~*reclassification*~~ a change in land use, the lessee will be entitled to a prorat~~*a*~~ed refund of the premium bid for a conflicted lease. ~~*(3-13-02)*~~(____)

0~~4~~3. Land Sale. The Department reserves the right to sell state endowment trust lands covered under the lease. The lessee will be notified that the state endowment trust lands are being considered for sale prior to submitting the sales plan to the Board for approval. The lessee will also be notified of a scheduled sale at least thirty (30) days prior to sale. In the event of early cancellation due to land sale, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. ~~*(3-13-02)*~~(____)

0~~5~~4. **Mutual Agreement**. Leases may be cancelled by mutual agreement between the Department and the lessee. (3-13-02)

051. LEASE REINSTATEMENT.

01. **After Cancellation for Non-Payment**. A lease may be reinstated within thirty (30) days after cancellation for non-payment when the rental, late payment charges, and a reinstatement fee have been paid. If not reinstated within the time specified the delinquent lessee must file a new lease application to lease the state endowment trust land or the lease may be offered to other parties. ~~(3-13-02)~~(____)

02. **After Cancellation for Other Causes**. Leases cancelled for violation of lease terms or for resource damage may be reinstated by the Department provided the former lessee submits a written request for reinstatement and ~~*identifies*~~ commits to implement management actions that will address the resource management concerns and mitigate damages that may have occurred, as determined by the Department. ~~(3-13-02)~~(____)

~~***03.*** ***Reinstatement****. Leases cancelled for non-payment may be reinstated within one (1) year of cancellation if the lands are still unleased and the lessee pays reinstatement fees, plus back rental and interest.*~~ ~~(3-13-02)~~

(BREAK IN CONTINUITY OF SECTIONS)

053. EXTENSIONS OF ANNUAL ~~*CROPLAND*~~ FARMING LEASE PAYMENT.

01. ~~***Cropland***~~ **Farming Lease Extensions**. An extension of the annual lease payment may be approved for ~~*cropland*~~ farming leases only. Each lease is limited to no more than two (2) successive or five (5) total extensions during any ten (10) year lease period. Requests for extensions must be submitted in writing and must include the extension fee determined by the Board. The lessee must provide a written statement from a financial institution verifying that money is not available for the current year's farming operations. ~~(3-13-02)~~(____)

02. **Liens**. When an extension is approved, the Department will file a lien on the lessee's pertinent crop in a manner provided by Idaho Code. If the subject state endowment trust land is covered under a Conservation Reserve Program contract with the federal government, the lessee must sign a transfer of payment, or a similar form provided by the federal government, transferring the federal payment to the Department if the rental payment is not received by the newly established deadline. ~~(3-13-02)~~(____)

03. **Due Date**. Rental plus interest at a rate established by the Board will be due not later than November l of the year the extension is granted. (3-13-02)

~~***054. CROPLAND LEASE HARDSHIP CLAIMS.***~~

~~***01.*** ***Crop Loss****. Adjustments in rental may be made because of unusual crop loss that occurs through no fault of the lessee. Such loss must be thoroughly substantiated by the lessee.*~~

~~*(3-13-02)*~~

~~***02. Conditions to Meet**. To qualify for a hardship claim the following conditions must be met:* *(3-13-02)*~~

~~***a.** All requests for hardship claims must be submitted to the Department in writing immediately after the damage has occurred.* *(3-13-02)*~~

~~***b.** Claims will be considered for the current growing season only.* *(6-14-88)*~~

~~***c.** Any adjustments will be credited to next year's rental.* *(3-13-02)*~~

~~***d.** Claims will only be approved for losses beyond the control of the lessee.* *(3-13-02)*~~

~~***e.** The lessee will only receive a reduction in rental for yield losses that occur beyond the normal variation expected for similar land in the situated county. Normal variation will be calculated from the Idaho Statistical Reporting Service records.* *(3-13-02)*~~

~~***f.** Average yields used to calculate the rental on the subject lands will be used to determine any lease rental adjustments for this purpose. The lease rental will only be adjusted for losses that exceed thirty-five percent (35%) of the average crop yield.* *(3-13-02)*~~

~~***g.** Adjustments will not be made for losses if lessee is compensated through another government program or crop insurance.* *(6-14-88)*~~

05~~5~~4. -- 059. (RESERVED).

060. FEES.

~~*Miscellaneous f*~~Fees for lease administration will be periodically set by the Board and must be paid in full before a transaction can occur. All lease administration fees are non refundable. The Board shall have the authority to set fees ~~*in*~~ related to administration of the leasing process including, but not limited to the following ~~*areas*~~: ~~*(3-13-02)*~~( )

01. Lease Applications. (3-13-02)

02. Full Lease Assignment. (3-13-02)

03. Partial Lease Assignment. (3-13-02)

04. Mortgage Agreement. (3-13-02)

05. Subleases. (3-13-02)

06. Late Rental Payment. (3-13-02)

07. Lease Reinstatement. (3-13-02)

08. Minimum Lease Fee. (3-13-02)

09. Lease Payment Extension Request. (3-13-02)

~~***10. Request For Reclassification Of Land Use***. ***(3-13-02)***~~

061. -- 069. (RESERVED).

070. SUBLEASING.
A lessee shall not authorize another person to ~~*farm or graze livestock on*~~ use state endowment trust land without prior written approval from the Department. The lessee must provide the name and address of sublessee, purpose of sublease, and a copy of the proposed sublease agreement. ~~*The sublease must be consistent with the Department resource objectives for the land and will only be approved on an annual basis.*~~ Lessee controlled ~~*H*~~herd ~~*S*~~stock does not require sublease approval. ~~*(3-13-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

072. MORTGAGE AGREEMENTS.
The lessee shall not enter into a mortgage agreement that involves ~~*a*~~ state ~~*grazing or cropland*~~ endowment trust land lease without prior written approval of the Department. The lessee must submit the required filing fee. The term of a mortgage agreement shall not exceed the lease term. ~~*(3-13-02)*~~(____)

073. -- 0~~*7*~~~~*8*~~99. (RESERVED).

~~***080. GRAZING MANAGEMENT PLANS.***~~
~~*Prior to issuance of a lease, the lessee and the Department must agree to a written grazing management plan.* *(3-13-02)*~~

~~***01. Federal Plan***. *When state land is managed in conjunction with federal land, the management plan prepared for the federal land may be deemed by the Department, at its discretion, to satisfy the requirements of a management plan.* *(3-13-02)*~~

~~***02. Modification of Plan***. *The Department may review and modify any grazing management plan upon changes in conditions, laws, or regulations, provided that the Department shall give the lessee thirty (30) days notice of any such modifications prior to the effective date thereof. Modifications mutually agreeable to both the Department and lessee may be made at any time.* *(3-13-02)*~~

~~***081. -- 089. (RESERVED).***~~

~~***090. TRESPASS.***~~

~~***01. Loss or Waste***. *The lessee shall use the property within the lease in such manner as will best protect the state of Idaho against loss or waste. Unauthorized activities occurring on*~~

~~*state endowment trust land shall be considered trespass; these include dumping of garbage, constructing improvements without a permit, and other unauthorized actions. (3-13-02)(7-1-09)T*~~

~~***02. Civil Action by Lessee**. The lessee is encouraged to take civil action against owners of trespass livestock on state endowment trust lands to recover damages to the lessee for lost forage or other values incurred by the lessee. (3-13-02)(7-1-09)T*~~

~~***03. Continuing Trespass**. When continued trespass causes resource damage, the Department will initiate proceedings to restrict further trespass and recover damages as necessary. (3-13-02)*~~

~~***04. Trespass Claims**. Trespass claims initiated by the Department will be assessed as triple the current State AUM rate for forage taken. (3-13-02)*~~

~~***091. – 099. (RESERVED).***~~

100. CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS.

01. Prior Written Approval. The lessee must secure the written approval of the Department prior to constructing any improvements or buildings, or clearing any state endowment trust land. Failure to secure such approval shall eliminate any right to an improvement credit and may, at the Department's discretion, be deemed a material breach of the lease and cause for cancellation. Any arrangement for cost sharing or improvement crediting will be ~~*expressly stated*~~ identified in the improvement permit. Routine farming practices identified in a farm plan will not require prior approval. ~~*(3-13-02)*~~(____)

02. Maintenance. All authorized improvements shall be maintained in functional condition by the lessee. The lessee may be required to remove or reconstruct improvements in poor or non-serviceable condition. Existing maintenance agreements on state endowment trust lands acquired from the federal government shall remain in effect until amended by the parties involved. If maintenance is not being accomplished, the Department shall provide a certified letter to the lessee informing the lessee of the rule violation. If work is not begun within thirty (30) days, the Department may contract repairs and add the amount to the annual rental. Any improvement credit also may be reduced to account for lessee failure to maintain the improvement. ~~*(3-13-02)*~~(____)

03. Bond. ~~*If there is a risk of damage to state lands, t*~~The Department may require the lessee to furnish a bond prior to constructing improvements as deemed necessary to protect endowment assets or to ensure performance under the lease. ~~*(3-13-02)*~~(____)

101. IMPROVEMENT CREDIT.

01. Sale ~~O~~or Auction. In the event of sale of the state endowment trust land~~s~~ covered under the lease or if the existing lessee is not the successful bidder at the auction of the lease, the ~~*appraised and*~~ creditable value of the authorized improvements, as determined by the Department, shall be paid to the former lessee by the Department or the purchaser where a sale occurs or by the successful bidder where a new lease is issued. ~~*(3-13-02)*~~(____)

02. Exchange. ~~*If the existing lessee has creditable improvements on the land being considered for exchange, the acquiring party, if other than the existing lessee, will be required to enter into agreement with the existing lessee to equitably recognize the value of the improvements.*~~ In the event of exchange of the state endowment trust land covered under the lease, the creditable value of authorized improvements, as determined by the Department, shall be paid to the former lessee by the acquiring party, if other than the existing lessee. ~~*(3-13-02)*~~( )

03. Crediting. Improvement credit may be allowed ~~*if the improvement would be of value to anyone who might lease or purchase the land in the future and use it for the purpose for which the land is classified at the time*~~ when the Department determines that such credit would further the objective of maximizing long-term financial return to trust beneficiaries if the improvements are: ~~*placed on the land and the Department wants the improvement to remain for management purpose.*~~ ~~*(3-13-02)*~~( )

a. Authorized in writing by the Department or lacking written authorization, but in existence prior to 1970; ( )

b. Not expressly permitted "for lessee's benefit only"; and ( )

c. Maintained during the lease term. ( )

04. Value Only to Lessee. Where improvements are approved, but due to their nature, are not acceptable to receive improvement credit because no value exists for a future lessee, a notation shall be made in the permit, "For lessee's benefit only." If the succeeding lessee or assignee chooses not to purchase the non-creditable improvements, the former lessee will be required to remove them. (3-13-02)

05. Maintenance Costs. Maintenance of improvements will be considered a normal cost of doing business and no improvement credit will be allowed, except that, with prior written approval from the Department, improvement crediting may be allowed for materials used for the maintenance of Department-funded improvements. (3-13-02)

06. Unauthorized Improvements. No credit will be allowed for unauthorized improvements. At the discretion of the Department, the lessee may be required to remove unauthorized improvements. (3-13-02)

07. Cost Sharing. Federal or state cost-share amounts shall not be included in the allowable improvement credit. (3-13-02)

102. VALUATION OF IMPROVEMENTS.

01. Existing Improvements. Credit~~*ed*~~able improvements existing as of July 1, 2009, will be valued on the basis of replacement cost, including lessee provided labor, equipment and materials, less depreciation based on loss of utility unless otherwise specified in the lease or improvement permit. Improvements cannot be appraised higher than current market value, regardless of lessee's cost. Any improvement amortization or cost limitations identified by the Department will be considered in determining a final value. ~~*(3-19-07)*~~( )

02. **New Improvements**. Creditable improvements authorized after July 1, 2009 will be subject to an initial value determined by the Department using NRCS improvement cost worksheets or the lessee's actual costs, whichever is less. Such initial value shall be the maximum recognized improvement credit value for any future determinations, provided that the improvements are maintained throughout the term of the lease. ( )

0~~1~~3. Applicant Review of Department Improvement Credit Valuation. All applicants for a conflicted lease will be provided a copy of the Department's improvement credit valuation for review and a notice of objection form. Any applicant objecting to the appraisal will have twenty-one (21) days from the date of the valuation mailing to submit the notice of objection form to the Department. If no objections are received during the twenty-one (21) day review period, the lease auction will be scheduled and will proceed using the Department's improvement credit valuation. (3-19-07)

0~~2~~4. Failure to File a Timely Notice of Objection. Failure to submit a notice of objection within the specified twenty-one (21) day period will preclude any applicant from further administrative remedies and the auction will proceed using the Department's improvement credit valuation. (3-19-07)

0~~3~~5. Notice of Objection. Any applicant objecting to the Department improvement credit valuation must submit a complete and timely notice of objection form, and payment of two thousand five hundred dollars ($2,500) or ten percent (10%) of the total Department improvement credit valuation whichever is greater, to pay for the services of an independent third party. Within five (5) days of receipt of the notice of objection, the Department will notify all applicants in writing that an objection has been received and provide them with a list of certified appraisers. (3-19-07)

0~~4~~6. Selection of an Independent Third Party. The applicants will have twenty-one (21) days from the date of the Department's notification of an objection to select by mutual agreement, one individual from the list of certified appraisers to serve as an independent third party. If the applicants cannot agree on an independent third party within the twenty-one (21) day time period, the Department will randomly select one individual from the list to serve as the independent third party. (3-19-07)

0~~5~~7. Duties of the Independent Third Party. The independent third party will review the Department improvement credit valuation and alternate valuations provided by the applicants. Following this review, the independent third party will select from among the Department valuation and alternate valuations, the one value that (s)he determines is the most accurate value of the improvements. The independent third party will notify the Department of this value in writing. (3-19-07)

0~~6~~8. Notification of Final Improvement Value. Within five (5) days of receiving the independent third party's final determination of improvement credit value, the Department will mail to each applicant an auction notice which shall reference the independent third party's determined value of improvements. The determination by the independent third party of the improvement value will be deemed final, and the appraised value of improvements will not be allowed as a basis for appeal of the auction. (3-19-07)

103. -- 104. (RESERVED).

105. CONFLICT AUCTIONS.

01. Two or More Applicants. When two (2) or more eligible applicants apply to lease the same state endowment trust land ~~*that is currently classified*~~ for grazing ~~*or cropland use*~~, farming conservation, noncommercial recreation, or communication site purposes and the Department determines the proposed uses are not compatible, the Department shall hold an auction. ~~*(3-13-02)*~~(____)

02. Applicant Notification. At least fourteen (14) days prior to the date of such auction, the Department shall give notice by letter, which notice shall be sent in the course of certified mail to each of the applicants for the lease, notifying them of the time and place such auction is to be held. The notice shall be sent to the name and address as it is given in the application. (3-13-02)

03. Minimum Bid. Bidding shall begin at two hundred fifty dollars ($250) or the cost of preparing any required improvement valuation in connection with the expiring lease, whichever is greater. (____)

0~~3~~4. Auction Bidding. Each applicant who appears in person or by proxy at the time and place so designated in said notice and bids for the lease shall be deemed to have participated in the auction. A proxy must be authorized by the lease applicant in writing prior to the start of the auction. (3-13-02)

~~***04. Appearance****. Failure to appear at a scheduled lease auction or to notify the Department of an intent to withdraw from an auction at least three (3) working days prior to a scheduled auction will result in forfeiture of funds deposited, absent extraordinary circumstances. Any applicant not present or represented to bid at the time and place specified shall lose all rights or interest in leasing the parcel.*~~ ~~*(3-13-02)*~~

05. Withdrawal Prior to Auction. Applicants who withdraw their applications prior to the auction or fail to participate at the auction forfeit an amount equal to the lesser of the following: (____)

a. The Department's cost of making any required improvement credit valuation; (____)

b. For existing lessee applicants, any improvement credit payment that would otherwise be due if not awarded the lease; or (____)

c. For conflict applicants, the rental deposit made. (____)

06. High Bid Deposit. The high bidder is required to submit payment in the amount of the high bid at the conclusion of the auction. (____)

0~~5~~7. Auction Procedures. The Department shall ~~*establish*~~ prescribe the procedures for conducting ~~*grazing and cropland*~~ conflicted lease auctions. ~~*(3-13-02)*~~(____)

08. Withdrawal After Auction. ( )

a. If the high bidder withdraws or refuses to accept the lease, the high bid payment will be retained by the Department. ( )

i. If the auction involved only two (2) participants, the second high bidder shall be awarded the lease. ( )

ii. If the auction involved more than two (2) participants, the lease will be reauctioned. ( )

b. If an auction bidder other than the high bidder withdraws a bid before Land Board review and action on the auction results, no adjustment will be made in the payment deposited by the high bidder. ( )

106. BOARD REVIEW OF AUCTION.
The Board ~~*may*~~ will review ~~*all bids submitted at a lease auction and shall have the power to reject any and all bids made at such auctions when, in their judgement:*~~ the proposed leases and auction results and make the determination required under Section 58-310, Idaho Code, consistent with its obligations under Article IX, Section 8 of the Idaho Constitution and all relevant statutory provisions. ~~*(3-13-02)*~~( )

~~***01. Fraud or Collusion**. There has been fraud or collusion. (3-13-02)*~~

~~***02. Other Reasons**. There are other reasons that justify the rejection of said bids. (3-13-02)*~~

107. -- 110. (RESERVED).

111. NOXIOUS WEED CONTROL.

01. Weed Control. The lessee shall cooperate with the Department, or any other authorized agency, to undertake programs for control or eradication of noxious weeds on state endowment trust land. The lessee shall take measures to control noxious weeds on the leased land in accordance with Title 22, Chapter 24, Idaho Code~~*, except those resulting from activities beyond the lessee's control*~~. ~~*(3-13-02)*~~( )

02. Responsibility. The lessee will not be held responsible for the control of noxious weeds resulting from other land management activities such as temporary permits, easements, special leases and timber sales. Costs for ~~*C*~~control of noxious weeds on the leased state ~~*grazing*~~ endowment trust lands shall be ~~*shared by*~~ the responsibility of the lessee ~~*and Department, with the Department's share subject to funds appropriated for that purpose*~~ unless otherwise provided for in the lease. ~~*(3-13-02)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

114. LIABILITY (INDEMNITY).
The lessee shall indemnify and hold harmless the state of Idaho, it~~'~~s departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased ~~*premises*~~ parcel, or the occupation of the leased ~~*premises*~~ parcel by any of the lessee's agents or by any person occupying the same with the lessee's permission. ~~*(3-13-02)*~~(____)

115. RULES AND LAWS OF THE STATE.
The lessee shall comply with all applicable rules, regulations and laws of the state of Idaho and the United States insofar as they affect the use of the state endowment trust lands described in the lease. ~~*(3-13-02)*~~(____)

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5221, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4249, Idaho Code.

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

This amended rule clarifies that no person may endanger the life of any person or creature on Department administered lands and that no person may indiscriminately discharge a firearm on state park property, except when such use is for legal hunting as authorized by Board rule, or for exhibition or at designated ranges as authorized by the Director.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 106 and 107.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Merrill, 208.514.2250; Nancy.Merrill@idpr.idaho.gov.

DATED this November 13, 2009.

Nancy Merrill, Director
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue, Boise ID 83716
PO Box 83720, Boise ID 83720-0065
Phone: 208.334.4199 / FAX: 208.334.3741

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

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, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4249, 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 July 15, 2009.

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:

This amended rule clarifies that no person may endanger the life of any person or creature on Department administered lands and that no person may indiscriminately discharge a firearm on state park property, except when such use is for legal hunting as authorized by Board rule, or for exhibition or at designated ranges as authorized by the Director.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: it is reasonably necessary to protect the public health, safety, or welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the brief period of time available prior to the July 1, 2009 effective date.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dean Sangrey at 208-514-2260.

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 July 22, 2009.

DATED this 29th day of May, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

600. PERSONAL SAFETY, FIREARMS.
No person may ~~*discharge firearms or any other projectile firing device, or otherwise*~~ purposefully or negligently endanger the life of any person or creature within any land administered by the Department. ~~*All firearms brought onto*~~ No person may discharge firearms or other projectile firing devices within any lands administered by the Department ~~*shall be unloaded at all times and either out of sight, or in a vehicle*~~, except ~~*when used for legal*~~ in the lawful defense of person, persons, or property or in the course of lawful hunting ~~*as authorized in Section 575 in this chapter*~~, or for exhibition or at designated ranges as authorized by the Director. ~~*(3-7-03)*~~(____)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, May 6, 2009, Vol. 09-5, pages 23 through 33. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/water/58_0102_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this rule are not broader in scope, nor more stringent, than federal regulations and do regulate an activity regulated by the federal government. Furthermore, the standards are less stringent than those recommended by EPA. If this rule is not successfully adopted by the Board of Environmental Quality and approved by the Idaho Legislature, EPA may be compelled to take action by promulgating water quality standards for Idaho that would be more stringent than the standards included in this proposed rule.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Dated this 30th day of July, 2009.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before May 22, 2009. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to protect human health from adverse effects of elevated arsenic (As) and protect sensitive aquatic life from cadmium (Cd) toxicity in low hardness waters. The Department of Environmental Quality (DEQ) proposes to lower Idaho's arsenic (As) human health criteria from 50 ug/L to 10 ug/L and lower the low-end hardness cap used in calculation of cadmium (Cd) aquatic life criteria from 25 mg/L to 10mg/L (Section 210). In addition, DEQ proposes to make nonsubstantive revisions to portions of Section 210 identified as needing correction or clarification.

DEQ is also initiating this rulemaking in an effort to forestall pending legal action against the U.S. Environmental Protection Agency (EPA) that would force EPA to disapprove Idaho's As standard and require EPA to promulgate a federal rule to lower the As human health criteria applicable to Idaho waters. EPA is also prepared to disapprove Idaho's Cd standard to remove the low end hardness cap for calculating criteria. DEQ proposes to reduce the low end hardness cap for Cd from 25 mg/L to 10 mg/L. Idaho's current As human health criteria are also several times higher than EPA's recommendation for protecting human health.

Anyone with an interest in the quality of surface water in Idaho may be interested in commenting on this proposed rule. For arsenic (As), those affected include Idahoans that eat fish caught from Idaho surface waters and dischargers of As to surface water. For cadmium (Cd), those affected include those who enjoy or profit from healthy communities of aquatic life in, and dischargers of Cd to, Idaho's surface waters with hardness below 25 mg/L. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the July 2009 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the adjournment of the 2010 legislative session if adopted by the Board and approved by the Legislature.

NEGOTIATED RULEMAKING: The text of the rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-

5220 and IDAPA 04.11.01.812-815. On December 3, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-12, pages 106 and 107, and a preliminary draft rule was made available for public review. One meeting was held on December 17, 2008. Members of the public participated in this negotiated rulemaking process by attending the meeting and submitting written comments.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do regulate an activity regulated by the federal government. Furthermore, the proposed standards are less stringent than those recommended by EPA. If this proposed rule is not successfully adopted by the Board of Environmental Quality and approved by the Idaho Legislature, EPA may be compelled to take action by promulgating water quality standards for Idaho that would be more stringent than the standards included in this proposed rule.

FISCAL IMPACT STATEMENT: 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: not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before June 5, 2009.

DATED this 3rd day of April, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)

b. Column C2 of the following table applies to waters designated for recreation use. (5-3-03)

c. Column C1 of the following table applies to waters designated for domestic water

supply use.

A			B Aquatic life				Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1		[b] CCC (µg/L) B2		Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
1	Antimony	7440360					5.6	c	640	c
2	Arsenic	7440382	340	e	150	e	~~5~~10	d	~~5~~10	d
3	Beryllium	7440417						h		h
4	Cadmium	7440439	1.3	i	0.6	i		h		h
5a	Chromium III	16065831	570	i	74	i		h		h
5b	Chromium VI	18540299	16	e	11	e		h		h
6	Copper	7440508	17	i	11	i				
7	Lead	7439921	65	i	2.5	i		h		h
8a	Mercury	7439976		g		g				
8b	Methylmercury	22967926							0.3 mg/kg	p
9	Nickel	7440020	470	i	52	i	610	c	4600	c
10	Selenium	7782492	20	f	5	f	170		4200	
11	Silver	7440224	3.4	i						
12	Thallium	7440280					0.24	c	0.47	c
13	Zinc	7440666	120	i	120	i	7400		26000	
14	Cyanide	57125	22	j	5.2	j	140	c	140	c
15	Asbestos	1332214					7,000,000 fibers/L	k		
16	2, 3, 7, 8-TCDD Dioxin	1746016					0.000000005	l	0.0000000051	l
17	Acrolein	107028					190		290	
18	Acrylonitrile	107131					0.051	cl	0.25	cl
19	Benzene	71432					2.2	cl	51	cl
20	Bromoform	75252					4.3	cl	140	cl
21	Carbon Tetrachloride	56235					0.23	cl	1.6	cl
22	Chlorobenzene	108907					130	c	1600	c
23	Chlorodibromomethane	124481					0.40	cl	13	cl
24	Chloroethane	75003								
25	2-Chloroethylvinyl Ether	110758								
26	Chloroform	67663					5.7	l	470	l

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
27	Dichlorobromomethane	75274			0.55	cl	17	cl
28	1,1-Dichloroethane	75343						
29	1,2-Dichloroethane	107062			0.38	cl	37	cl
30	1,1-Dichloroethylene	75354			330	l	7100	l
31	1,2-Dichloropropane	78875			0.50	cl	15	cl
32	1,3-Dichloropropene	542756			0.34		21	
33	Ethylbenzene	100414			530	c	2100	c
34	Methyl Bromide	74839			47	c	1500	c
35	Methyl Chloride	74873				h		h
36	Methylene Chloride	75092			4.6	cl	590	cl
37	1,1,2,2-Tetrachloroethane	79345			0.17	cl	4.0	cl
38	Tetrachloroethylene	127184			0.69	l	3.3	l
39	Toluene	108883			1300	c	15000	c
40	1,2-Trans-Dichloroethylene	156605			140	c	10000	c
41	1,1,1-Trichloroethane	71556				h		h
42	1,1,2-Trichloroethane	79005			0.59	cl	16	cl
43	Trichloroethylene	79016			2.5	l	30	l
44	Vinyl Chloride	75014			0.025	l	2.4	l
45	2-Chlorophenol	95578			81	c	150	c
46	2,4-Dichlorophenol	120832			77	c	290	c
47	2,4-Dimethylphenol	105679			380	c	850	c
48	2-Methyl-4,6-Dinitrophenol	534521			13		280	
49	2,4-Dinitrophenol	51285			69	c	5300	c
50	2-Nitrophenol	88755						
51	4-Nitrophenol	100027						
52	3-Methyl-4-Chlorophenol	59507						
53	Pentachlorophenol	87865	20 m	13 m	0.27	cl	3.0	cl
54	Phenol	108952			21000	c	1700000	c
55	2,4,6-Trichlorophenol	88062			1.4	cl	2.4	cl

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
56	Acenaphthene	83329			670	c	990	c
57	Acenaphthylene	208968						
58	Anthracene	120127			8300	c	40000	c
59	Benzidine	92875			0.000086	cl	0.00020	cl
60	Benzo(a)Anthracene	56553			0.0038	cl	0.018	cl
61	Benzo(a)Pyrene	50328			0.0038	cl	0.018	cl
62	Benzo(b)Fluoranthene	205992			0.0038	cl	0.018	cl
63	Benzo(ghi)Perylene	191242						
64	Benzo(k)Fluoranthene	207089			0.0038	cl	0.018	cl
65	Bis(2-Chloroethoxy) Methane	111911						
66	Bis(2-Chloroethyl)Ether	111444			0.030	cl	0.53	cl
67	Bis(2-Chloroisopropyl) Ether	108601			1400	c	65000	c
68	Bis(2-Ethylhexyl) Phthalate	117817			1.2	cl	2.2	cl
69	4-Bromophenyl Phenyl Ether	101553						
70	Butylbenzyl Phthalate	85687			1500	c	1900	c
71	2-Chloronaphthalene	91587			1000	c	1600	c
72	4-Chlorophenyl Phenyl Ether	7005723						
73	Chrysene	218019			0.0038	cl	0.018	cl
74	Dibenzo (a,h) Anthracene	53703			0.0038	cl	0.018	cl
75	1,2-Dichlorobenzene	95501			420	c	1300	c
76	1,3-Dichlorobenzene	541731			320		960	
77	1,4-Dichlorobenzene	106467			63		190	
78	3,3'-Dichlorobenzidine	91941			0.021	cl	0.028	cl
79	Diethyl Phthalate	84662			17000	c	44000	c
80	Dimethyl Phthalate	131113			270000		1100000	
81	Di-n-Butyl Phthalate	84742			2000	c	4500	c
82	2,4-Dinitrotoluene	121142			0.11	l	3.4	l

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
83	2,6-Dinitrotoluene	606202						
84	Di-n-Octyl Phthalate	117840						
85	1,2-Diphenylhydrazine	122667			0.036	cl	0.20	cl
86	Fluoranthene	206440			130	c	140	c
87	Fluorene	86737			1100	c	5300	c
88	Hexachlorobenzene	118741			0.00028	cl	0.00029	cl
89	Hexachlorobutadiene	87683			0.44	cl	18	cl
90	Hexachloro-cyclopentadiene	77474			40		1100	
91	Hexachloroethane	67721			1.4	cl	3.3	cl
92	Ideno (1,2,3-cd) Pyrene	193395			0.0038	cl	0.018	cl
93	Isophorone	78591			35	cl	960	cl
94	Naphthalene	91203						
95	Nitrobenzene	98953			17	c	690	c
96	N-Nitrosodimethylamine	62759			0.00069	cl	3.0	cl
97	N-Nitrosodi-n-Propylamine	621647			0.0050	cl	0.51	cl
98	N-Nitrosodiphenylamine	86306			3.3	cl	6.0	cl
99	Phenanthrene	85018						
100	Pyrene	129000			830	c	4000	c
101	1,2,4-Trichlorobenzene	120821			35		70	
102	Aldrin	309002	3		0.000049	cl	0.000050	cl
103	alpha-BHC	319846			0.0026	cl	0.0049	cl
104	beta-BHC	319857			0.0091	cl	0.017	cl
105	gamma-BHC (Lindane)	58899	2	0.08	0.98	l	1.8	l
106	delta-BHC	319868						
107	Chlordane	57749	2.4	0.0043	0.00080	cl	0.00081	cl
108	4,4'-DDT	50293	1.1	0.001	0.00022	cl	0.00022	cl
109	4,4'-DDE	72559			0.00022	cl	0.00022	cl
110	4,4'-DDD	72548			0.00031	cl	0.00031	cl
111	Dieldrin	60571	2.5	0.0019	0.000052	cl	0.000054	cl

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
112 alpha-Endosulfan	959988	0.22	0.056	62 c	89 c
113 beta-Endosulfan	33213659	0.22	0.056	62 c	89 c
114 Endosulfan Sulfate	1031078			62 c	89 c
115 Endrin	72208	0.18	0.0023	0.059 c	0.060 c
116 Endrin Aldehyde	7421934			0.29 c	0.30 c
117 Heptachlor	76448	0.52	0.0038	0.000079 cl	0.000079 cl
118 Heptachlor Epoxide	1024573	0.52	0.0038	0.000039 cl	0.000039 cl
119 Polychlorinated Biphenyls PCBs:	n		0.014 n	0.000064 clo	0.000064 clo
120 Toxaphene	8001352	0.73	0.0002	0.00028 cl	0.00028 cl
121 Chlorine		19 k	11 k		

Table Footnotes

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. See definitions of Acute Criteria (CMC) and Chronic Criteria (CCC), Section 010 of these rules.

c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of May 17, 2002. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.

d. Inorganic form only.

e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.

f. Criterion expressed as total recoverable (unfiltered) concentrations.

g. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.

h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.

i. Aquatic life criteria for these metals are ~~*expressed as*~~ a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii. and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the example values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).

j. Criteria are expressed as weak acid dissociable (WAD) cyanide.

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2

k. Total chlorine residual concentrations.

l. EPA guidance allows states to choose a risk factor of 10^{-4} to 10^{-6}. Idaho has chosen to base this criterion on carcinogenicity of 10^{-6} risk.

m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8).
CMC = exp(1.005(pH)-4.830)
CCC = exp(1.005(pH)-5.290)

n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.

o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).

p. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: TRC = [BW x {RfD – (RSCxRfD)}] / Σ TL. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.

~~*(4-11-06)*~~(_____)

02. Factors for Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a. CMC=WER exp{mA[ln(hardness)]+bA} X Acute Conversion Factor. (5-3-03)

b. CCC=WER exp{mc[ln(hardness)]+bc} X Chronic Conversion Factor.

Metal	mA	bA	mc	bc	aAcute Converson Factor	aChronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	0.8367	-3.560	0.6247	-3.344	0.944 see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962

Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i.) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table. The conversion factor shall not exceed one (1).

Cadmium

Acute: CF=1.136672–[(ln hardness)(0.041838)]NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.

Chronic: CF=1.101672–[(ln hardness)(0.041838)]

Lead (Acute and Chronic): CF=1.46203–[(ln hardness)(0.145712)

b. Not applicable

c. No chronic criteria are available for silver.

~~(4-11-06)~~(_____)

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

a. For all waters for which the Department has determined mixing zones to be applicable, the criteria apply at the appropriate locations specified within or at the boundary of the mixing zone(s); otherwise the criteria apply through the waterbody including at the end of any discharge pipe, canal or other discharge point. (4-11-06)

b. Low flow design discharge conditions. Numeric chemical standards can only be exceeded in perennial streams permitted discharges outside any applicable mixing zone when flows are less than the following values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	30Q5
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(4-11-06)

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedence of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedence for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

v. Where "30Q5" is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For metals other than cadmium, for purposes of calculating hardness dependent aquatic life criteria ~~*for metals*~~ from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. For cadmium, the minimum hardness for use in those equations shall not be less than ten (10) mg/l, as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. ~~*(4-6-05)*~~(____)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water

representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC5O) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC5O) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (4-6-05)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and www.deq.idaho.gov. (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

v. Frequency and duration for toxics criteria. Column B1 criteria are concentrations not to be exceeded for a one-hour average more than once in three (3) years. Column B2 criteria are concentrations not to be exceeded for a four-day average more than once in three (3) years. (4-11-06)

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

a. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October 1993. (4-5-00)

b. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993. (4-5-00)

c. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993. (4-5-00)

d. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994. (4-5-00)

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (4-5-00)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in

these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health, a fish consumption rate of seventeen point five (17.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of 10-6 shall be utilized. (4-11-06)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.16 - WASTEWATER RULES

DOCKET NO. 58-0116-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. This rule was adopted as a temporary rule by the Board in February 2009 and is currently effective.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, June 3, 2009, Vol. 09-6, pages 111 through 122. DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/wastewater/58_0116_0802_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does regulate an activity not regulated by the federal government. There is no federal law or regulation comparable to the provisions governing wastewater treatment and collection system classification set forth in the Wastewater Rules; therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

FISCAL IMPACT STATEMENT: 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Ester Ceja at ester.ceja@deq.idaho.gov, (208)373-0585.

Dated this 13th day of October, 2009.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before June 17, 2009. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking to allow for the creation of a combined very small wastewater treatment and collection system classification for communities with 500 connections or less. Operators struggle with obtaining the various licenses currently required for the different aspects of very small facility operation. This difficulty in obtaining more than one license results in there being too few properly licensed operators. This lack of properly licensed operators places the facilities in danger of being out of compliance with the rules that require they use the services of properly licensed operators. Smaller systems, due to their relative simplicity of operation, are good candidates for operation by individuals with combined licenses. Associated with this rulemaking is the need for the Idaho Bureau of Occupational Licenses (IBOL) to establish a very small wastewater system operator license. DEQ is working with IBOL to coordinate rulemaking activities.

Cities, water and sewer districts, homeowner associations, private wastewater contractors, operators, the Association of Idaho Cities, the Idaho Rural Water Association, and the Pacific Northwest Clean Water Association - Idaho Sections (North Idaho, Southeast and Southwest Idaho Operator Sections) may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2009 Board meeting for adoption as a pending rule. The pending rule is expected to be final and effective upon the adjournment of the 2010 legislative session if adopted by the Board and approved by the Legislature. This rule was adopted as a temporary rule by the Board in February 2009 and is currently effective.

NEGOTIATED RULEMAKING: The text of the rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. On December 3, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-12, pages 123 through 124, and a preliminary draft rule was made available for public review. One meeting was held on December 16, 2008. Members of the public participated in this

negotiated rulemaking process by attending the meeting.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does regulate an activity not regulated by the federal government. There is no federal law or regulation comparable to the provisions governing wastewater treatment and collection system classification set forth in the Wastewater Rules; therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

FISCAL IMPACT STATEMENT: 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: not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Ester Ceja at ester.ceja@deq.idaho.gov, (208)373-0585. Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 1, 2009.

DATED this 1st day of May, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.
For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply: (4-11-06)

01. Available. Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-11-06)

02. Adequate Emergency Storage Capacity. The emergency storage capacity of a lift station wet well is the volume of the wet well measured between the high water alarm and the gravity sewer invert into the wet well. The collection system shall not be used in the calculation for emergency storage. For the purpose of this definition, "adequate" shall be defined as twice the estimated emergency response time multiplied by the peak hour flow to the wet well. The high water alarm shall be placed at an elevation below the wet well invert sufficient to achieve the defined volumetric emergency storage capacity. (5-8-09)

03. Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. See also the definition of Wastewater Flows.

(5-8-09)

04. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (4-11-06)

05. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (4-11-06)

06. Blackwaste. Human body waste, such as excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (5-8-09)

07. Blackwater. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (5-8-09)

08. Board. The Idaho Board of Environmental Quality. (4-11-06)

09. Capacity. The capabilities required of a wastewater system in order to achieve and maintain compliance with these rules. It is divided into three (3) main elements: (5-8-09)

a. Technical capacity means the system has the physical infrastructure to safely collect wastewater and consistently meet discharge standards and treatment requirements, and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (5-8-09)

b. Financial capacity means the financial resources of the wastewater system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (5-8-09)

c. Managerial capacity means that the management structure of the wastewater system embodies the aspects of wastewater system operations, including, but not limited to; (5-8-09)

i. Short and long range planning; (5-8-09)

ii. Personnel management; (5-8-09)

iii. Fiduciary responsibility; (5-8-09)

iv. Emergency response; (5-8-09)

v. Customer responsiveness; and (5-8-09)

vi. Administrative functions such as billing and consumer awareness. (5-8-09)

10. Class A Effluent. Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. For comprehensive Class A Effluent criteria and permitting requirements refer to IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." (3-30-07)

11. Class A Effluent Distribution System. The delivery system for Class A effluent. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements in Section 203 of these rules. (4-11-06)

12. Collection System. That portion of the wastewater system or treatment facility in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. (3-30-07)

13. Compliance Schedule or Compliance Agreement Schedule. A schedule of remedial and preventative measures and sequence of actions leading to compliance with a regulation, statute or rule, enforceable as set forth in Sections 39-116 and 39-116A, Idaho Code, respectively. (5-8-09)

14. Department. The Idaho Department of Environmental Quality. (4-11-06)

15. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (4-11-06)

16. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. (4-11-06)

17. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-11-06)

18. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (4-11-06)

19. Disinfection. A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (4-11-06)

20. Disposal Facility. Any facility used for disposal of any wastewater. Facilities for the disposal of sludge are regulated under Section 650 of these rules. (3-30-07)

21. Effluent. Any treated wastewater discharged from a treatment facility. (5-8-09)

22. Environmental Review. An environmental review document for a specific project includes a description of purpose and need for the project; a description of the affected environment and environmental impacts including, but not limited to, endangered species, historical and archaeological impacts, air impacts, surface and ground water impacts, and noise and visual impacts; a description of the planned mitigation for these impacts; and descriptions of the public process, agencies consulted, referenced documents, and a mailing list of interested parties. A checklist, which can be used as guidance, can be found at http://www.deq.idaho.gov/water/permits_forms/forms/waste_water/form_j_eid_outline_checklist.doc. This checklist is for Department grant and loan projects, but can be used in part or in whole as a guide. (5-8-09)

23. EPA. The United States Environmental Protection Agency. (4-11-06)

24. Equivalent Dwelling Unit (EDU). A measure where one (1) unit is equivalent to wastewater generated from one (1) single-family detached housing unit. For example, a business generating three (3) times as much wastewater as an average single-family detached housing unit would be considered three (3) equivalent dwelling units. (5-8-09)

25. Facility Plan. The facility plan for a municipal wastewater treatment and disposal facility describes the overall system, including the collection system, the treatment systems, and the disposal systems. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the systems, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A Facility Plan is sometimes referred to as a master plan or facilities planning study. In general, a Facility Plan is an overall system-wide plan as opposed to a project specific plan. (5-8-09)

26. Facility and Design Standards. Facility and design standards are described in Sections 400 through 599 of these rules. Facility and design standards found in Sections 400 through 599 of these rules must be followed in the planning, design, construction, and review of municipal wastewater facilities. (3-30-07)

27. Geometric Mean. The geometric mean of “n” quantities is the “nth” root of the product of the quantities. (4-11-06)

28. Gray Water. Domestic wastewater that does not contain wastewater from toilets, kitchen sinks, dishwashers, cloth washing machines, and water softeners. (5-8-09)

29. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-11-06)

30. Industrial Wastewater. Any waste, together with such water as is present, that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater. (4-11-06)

31. Land Application. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant

removal, or ground water recharge. (4-11-06)

32. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-11-06)

33. Major Wastewater Collection System Project. A wastewater collection system project that is not a simple wastewater main extension. (5-8-09)

34. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

35. Material Modification. Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. Any project that increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing wastewater system components, or affects the wastewater flow of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (5-8-09)

36. Maximum Day Flow. The design maximum day flow is the largest volume of flow to be received during a continuous twenty four (24) hour period expressed as a volume per unit time. See also Wastewater Flows. (5-8-09)

37. Maximum Month Flow. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)

38. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (4-11-06)

39. Municipal Wastewater. Unless otherwise specified, sewage and associated solids, whether treated or untreated, together with such water that is present. Also called domestic wastewater. Industrial wastewater may also be present, but is not considered part of the definition. (4-11-06)

40. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (4-11-06)

41. Natural Background Conditions. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (4-11-06)

42. Non-Contact Cooling Water. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water is not considered wastewater. Non-contact cooling water can be land applied as recharge water as discussed in Section 600 based on a Department approval as described in Subsections 600.04 and 600.05. (3-30-07)

43. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (4-11-06)

44. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (4-11-06)

45. Non-Potable Mains. The pipelines that collect and convey non-potable discharges from or to multiple service connections. Examples would include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and reclaimed wastewater mains. (3-30-07)

46. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-11-06)

47. Operating Personnel. Any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. (4-11-06)

48. Owner. The person, company, corporation, district, association or other organizational entity that owns the public wastewater system, and who provides, or intends to provide, wastewater service to system users and is ultimately responsible for the public wastewater system operation. (3-30-07)

49. Peak Instantaneous Flow. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. See also the definition of Wastewater Flows. (5-8-09)

50. Peak Hour Flow. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)

51. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (4-11-06)

52. Point Source. Any discernible, confined, and discrete conveyance, including, but

not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (4-11-06)

53. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (4-11-06)

54. Potable Water. A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (4-11-06)

55. Potable Mains. Pipelines that deliver potable water to multiple service connections. (3-30-07)

56. Potable Service. Pipelines that convey potable water from a connection to the potable water main across private property to individual consumers. (3-30-07)

57. Preliminary Engineering Report. The preliminary engineering report for the municipal wastewater treatment or disposal facility is the report that addresses specific portions of the systems as they are being contemplated for design. These reports address specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 411. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. (5-8-09)

58. Primary Treatment. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (4-11-06)

59. Private Municipal Wastewater Treatment Plant. A wastewater facility that treats municipal wastewater and is under private ownership. These systems are typically initially owned, operated, and maintained by a developer with the ownership, operation and maintenance transferring to a homeowners association, or similar entity as lots are sold within the development. (5-8-09)

60. Public Wastewater System or Wastewater System. ~~*For purposes of Sections 202 through 204, a*~~ A public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, ~~*or*~~ treats, or disposes of two thousand five hundred (2,500) or more gallons of wastewater per day. This does not include: ~~*any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any wastewater system with individual septic tanks and individual pump stations that discharge to a common gravity flow subsurface treatment and*~~

~~*distribution system when ownership of each septic tank and pumping station is by individual property owner and ownership of the common system is by a public or private entity;*~~ (____)

a. ~~*a*~~Any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds~~,~~; or ~~*industrial wastewater systems under private ownership.*~~ (____)

b. ~~*This definition also does not include a*~~Any industrial or other nonmunicipal wastewater system which is covered under Section 401 of these rules. ~~*(3-30-07)*~~(____)

61. Qualified Licensed Professional Engineer (QLPE). A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (5-8-09)

62. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. (4-11-06)

63. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (4-11-06)

64. Recharge. The process of adding water to the zone of saturation. (4-11-06)

65. Recharge Water. Water that is specifically utilized for the purpose of adding water to the zone of saturation. (4-11-06)

66. Redundancy. Redundancy for wastewater treatment and disposal facilities is generally focused on supplying or installing backup equipment and facilities to make the operation of the systems more reliable. These redundant systems are sometimes required to provide backup for emergencies, taking certain processes off-line, or for treating spikes in wastewater flow or strength. (3-30-07)

67. Reliability. Reliability for wastewater collection and treatment and disposal facilities is usually based on its ability to consistently handle the wastewater flows in the community and to meet the requirements of its permit. This reliability is in part based on the redundancy built into the wastewater infrastructure and proper maintenance of the system. (3-30-07)

68. Reasonably Accessible. The following criteria shall be used to determine whether a project proposing a new private municipal wastewater treatment plant, or a material modification or expansion of an existing private municipal wastewater treatment plant, is reasonably accessible to a public municipal wastewater collection system. (5-8-09)

a. For an existing private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system becomes located within a minimum of one thousand (1,000) feet of any portion of the discharge piping of a private

municipal wastewater treatment plant, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. (5-8-09)

b. For a proposed project which includes a new private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system is located within a minimum of one thousand (1,000) feet of any portion of the proposed development or existing development property boundary, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. (5-8-09)

c. The Department may determine that a private municipal wastewater treatment plant may be reasonably accessible to the public municipal wastewater collection system at distances greater than those distances specified in Paragraphs a. or b. of this Subsection based on site-specific factors. (5-8-09)

69. Responsible Charge (RC). For purposes of Sections 202 through 204, responsible charge means, active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site or on-call direction of employees and assistants. (5-8-09)

70. Responsible Charge Operator. For purposes of Sections 202 through 204, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site or on-call presence at the specified facility. (5-8-09)

71. Reuse. The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, ground water recharge using surface spreading, seepage ponds, or other unlined surface water features. (3-30-07)

72. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.03.b. of these rules, the Qualified Licensed Professional Engineer (QLPE) is also the reviewing authority. (5-8-09)

73. Sanitary Sewer Extension. As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system. (4-11-06)

74. Secondary Treatment. Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (4-11-06)

75. Septage. Septage is a general term for the contents removed from septic tanks, portable vault toilets, privy vaults, wastewater holding tanks, very small wastewater treatment plants, or semi-public facilities (i.e., schools, motels, mobile home parks, campgrounds, small commercial endeavors) receiving wastewater from domestic sources. Non-domestic (industrial)

wastes are not included in this definition. This does not include drinking water treatment residuals that may be held in a holding tank. (3-30-07)

76. Septage Transfer Station. A place where septage from more than one (1) hauler is accumulated for collection and subsequent removal without processing to a treatment facility. (5-8-09)

77. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (4-11-06)

78. Simple Wastewater Main Extension. New or replacement wastewater main(s) that require plan and specification review per these rules and that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow. (5-8-09)

79. Sludge. The semi-liquid mass produced and removed by the wastewater treatment process. (3-30-07)

80. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: (4-11-06)

a. To preserve outstanding or unique characteristics; or (4-11-06)

b. To maintain current beneficial use. (4-11-06)

81. State. The state of Idaho. (4-11-06)

82. Substitute Responsible Charge Operator. A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-11-06)

83. Surface Water Body. All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. (4-11-06)

84. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (3-30-07)

85. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (4-11-06)

86. Treatment Facility. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, or wastewater treatment plant. (3-30-07)

87. User. Any person served by a public wastewater system. (4-11-06)

88. Very Small Wastewater System. A public wastewater system that serves five hundred (500) connections or less and includes a collection system with a system size of six (6) points or less on the system classification rating form (Section 202) and is limited to only one (1) of the following wastewater treatment processes: ( )

a. Aerated lagoons; ( )

b. Non-aerated lagoon(s); ( )

c. Primary treatment; or ( )

d. Primary treatment discharging to a large soil absorption system (LSAS). ( )

8~~8~~9. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. (5-8-09)

~~8~~90. Wastewater Flows. The following flows for the design year shall be identified as required and used as a basis for design of sewer systems including sewer mains, lift stations, wastewater treatment plants, treatment units, and other wastewater handling facilities. The definition contained in this Subsection applies where any of the terms defined in Paragraphs a. through e. are used in these rules. (5-8-09)

a. Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. (5-8-09)

b. Maximum Day Flow. The design maximum day flow is the largest volume of flow to be received during a continuous twenty-four (24) hour period expressed as a volume per unit time. (5-8-09)

c. Maximum Month Flow. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. (5-8-09)

d. Peak Instantaneous Flow. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. (5-8-09)

e. Peak Hour Flow. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. (5-8-09)

9~~0~~1. Wastewater Lagoon. Manmade impoundments for the purpose of storing or treating wastewater. (4-11-06)

9~~1~~2. Wastewater Pipelines. The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

9~~2~~3. Wastewater Pumping Station. A wastewater facility that collects wastewater from the collection system or the treatment system and pumps it to a higher elevation. Also called lift station or wastewater lift station. (3-30-07)

9~~3~~4. Wastewater System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment or collection system in order to safeguard the public health and environment. (4-11-06)

9~~4~~5. Water Main Extension. An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (4-11-06)

9~~5~~6. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (4-11-06)

9~~6~~7. Waters and Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-11-06)

9~~7~~8. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

202. CLASSIFICATION OF PUBLIC WASTEWATER SYSTEMS.

01. Classification Requirement. All public wastewater systems shall be classified based on indicators of potential health risks. (4-11-06)

a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals ~~*detailing existing conditions*~~ or when directed by the Department to submit a revised classification rating form. ~~*(4-11-06)*~~( )

b. The Department shall review system classification rating forms ~~*submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals*~~ and issue the final system classification.
~~*(4-11-06)*~~( )

02. Classification Criteria. Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-11-06)

a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-11-06)

b. Complexity or size of collection systems. (4-11-06)

c. Other criteria deemed necessary to completely classify systems. (4-11-06)

203. PUBLIC WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.

01. System Operator Licensure Requirement. Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system or each very small wastewater system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of ~~*the wastewater treatment system and collection system*~~ each treatment system and each collection system or each very small wastewater system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection, with the exception of a very small wastewater system for which the responsible charge operator may hold a single very small wastewater system license. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ~~*ten*~~ thirty (~~*1*~~30) days of such change.
~~*(4-11-06)*~~( )

02. Responsible Charge Operator License Requirement. An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system~~*, where present,*~~ and each collection system or each very small wastewater system, as determined by the Department. ~~*(4-11-06)*~~( )

03. Substitute Responsible Charge Operator. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-11-06)

04. Wastewater System Operator Licensure. All other operating personnel at public wastewater systems, including each treatment system and each collection system or each very small wastewater system, must hold a valid license issued by the Idaho Bureau of Occupational Licenses. ~~*(4-11-06)*~~( )

05. ~~*Class A Reclaimed*~~ Wastewater System Operator Licensure Exceptions. ( )

a. Any public wastewater system operating personnel that exclusively operate a Class A Effluent Distribution System of a Class A Municipal Reclaimed Wastewater System permitted in accordance with IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater," ~~*is*~~ are not subject to operator ~~*licensing*~~ licensure requirements as outlined in these rules. ~~*(3-30-07)*~~( )

b. Any non-pressurized drainfield and associated septic tank and collection system operating personnel are not subject to operator licensure requirements. ( )

06. General Compliance Deadline. All public wastewater systems addressed in Sections 202 and 203 shall be in compliance with these rules by April 15, 2006. (4-11-06)

07. Land Application/Reuse Operator Compliance Deadline. Each public wastewater land application/reuse system addressed in these rules shall employ, retain or contract with licensed land application/reuse operating personnel by April 15, 2007. (3-30-07)

~~***08. Qualifications for Operator Licensure***. *All public wastewater system operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses.* *(4-11-06)*~~

204. CONTRACTING FOR SERVICES.
Public wastewater systems may contract with ~~*a*~~ properly licensed ~~*public wastewater system operator or with a public wastewater system having licensed operators to provide supervision*~~ operating personnel to provide responsible charge operators and substitute responsible charge operators. ~~*The contracted public wastewater system operator or contracted entity shall employ and assign to that system an operator licensed at the grade equal to or greater than the classification of the system.*~~ Proof of such contract shall be submitted to the Department prior to the contracted operating personnel performing any services at the public wastewater system. ~~*(4-11-06)*~~( )